

By Senator Wise

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1 A bill to be entitled
2 An act relating to supervised visitation and exchange
3 monitoring; creating s. 753.06, F.S.; adopting state
4 standards for supervised visitation programs;
5 providing for modification; requiring the standards to
6 be published on the website of the Clearinghouse on
7 Supervised Visitation; requiring each program to
8 annually affirm compliance with the standards to the
9 court; providing that after a specified date only
10 those programs that adhere to the state standards may
11 receive state funding; creating s. 753.07, F.S.;
12 providing factors for the court or child-placing
13 agency to consider when referring cases for supervised
14 visitation or exchange monitoring; specifying training
15 requirements for persons providing such services;
16 authorizing supervised visitation programs to alert
17 the court to problems with referred cases; creating s.
18 753.08, F.S.; requiring supervised visitation programs
19 to conduct security background checks of employees and
20 volunteers; providing requirements for such checks;
21 requiring that an employer furnish a copy of the
22 personnel record for the employee or former employee
23 upon request; providing immunity to employers who
24 provide information for purposes of a background
25 check; requiring that all applicants hired or
26 certified by a program after a specified date undergo
27 a level 2 background screening; delegating
28 responsibility for screening criminal history
29 information and for costs; authorizing a supervised

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30 visitation program to participate in the Volunteer and
31 Employee Criminal History System in order to obtain
32 criminal history information; providing that certain
33 persons providing services at a supervised visitation
34 program are presumed to act in good faith and are
35 immune from civil or criminal liability; providing an
36 effective date.

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38 Be It Enacted by the Legislature of the State of Florida:

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40 Section 1. Section 753.06, Florida Statutes, is created to
41 read:

42 753.06 Standards; funding limitations.-

43 (1) The standards announced in the final report submitted
44 to the Legislature pursuant to s. 753.03(4) shall be the basis
45 for the state's standards for supervised visitation and exchange
46 monitoring, and may be modified only by the advisory board
47 created under s. 753.03(2) after reasonable notice to the
48 programs, but not more often than annually. The clearinghouse
49 shall publish the standards, as modified, on its website. The
50 published standards shall be the state standards for supervised
51 visitation programs.

52 (2) Each supervised visitation program must annually affirm
53 in a written agreement with the court that it abides by the
54 standards. If the program has a contract with a child-placing
55 agency, that contract must include an affirmation that the
56 program complies with the standards. A copy of the agreement or
57 contract must be made available to any party upon request.

58 (3) On or after January 1, 2012, only a supervised

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59 visitation program that has affirmed in a written agreement with
60 the court that it abides by and is in compliance with the state
61 standards may receive state funding for supervised visitation or
62 exchange monitoring services.

63 Section 2. Section 753.07, Florida Statutes, is created to
64 read:

65 753.07 Referrals.-

66 (1) Courts and referring child-placing agencies must adhere
67 to the following priorities when determining where to refer
68 cases for supervised visitation or exchange monitoring:

69 (a) For cases that are filed under chapter 61 or chapter
70 741 in which the courts are the primary source of referrals, the
71 court shall direct referrals as follows:

72 1. The order must refer the parties to a supervised
73 visitation program that has a written agreement with the court
74 as provided in s. 753.06(2) if such a program exists in the
75 community.

76 2. If a program does not exist, or if the existing program
77 is not able to accept the referral for any reason, the court may
78 refer the case to a local mental health professional. Such
79 professional is not required to abide by the state standards
80 established in s. 753.06; however, the professional must affirm
81 to the court in writing that he or she has completed the
82 clearinghouse's free, online supervised visitation training
83 program and has read and understands the state standards.

84 (b) In cases governed by chapter 39, the referring child-
85 placing agency must adhere to the following:

86 1. The agency that has primary responsibility for the case
87 must ensure that each family is assessed for problems that could

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88 present safety risks during parent-child contact. If risks are
89 found, agency staff shall consider referring the parties to a
90 local supervised visitation program that has affirmed in writing
91 that it adheres to the state standards if such a program exists
92 in the community.

93 2. If agency staff determines that there is no need for a
94 supervised visitation, such program does not exist, or the
95 existing program is unable to accept the referral for any
96 reason, the child protective investigator or case manager who
97 has primary responsibility for the case may:

98 a. Supervise the parent-child contact himself or herself.
99 However, before a child protective investigator or case manager
100 may supervise visits, he or she must review or receive training
101 on the online training manual for the state's supervised
102 visitation programs and affirm in writing to his or her own
103 agency that he or she has received training on, or has reviewed
104 and understands, the state standards.

105 b. Designate a foster parent or relative to supervise the
106 parent-child visits in those cases that do not warrant the
107 supervision of the child protective investigator or case
108 manager. However, the designated foster parent or relative must
109 first be apprised that the case manager conducted a safety
110 assessment described in subparagraph 1., and must be provided
111 access to free training material on the foster parent's or
112 relative's role in supervised visitation. Such materials may be
113 created by the clearinghouse using existing or new material and
114 must be approved by the department. Such training may be
115 included in any preservice foster parent training conducted by
116 the agency.

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117 3. If a program does not exist, or if the existing program
118 is unable to accept the referral and the child protective
119 investigator or case manager is unable to supervise the parent-
120 child contact or designate a foster parent or relative to
121 supervise the visits as described in subparagraph 2., the agency
122 that has primary responsibility for the case may refer the case
123 to other qualified staff within that agency to supervise the
124 contact. However, before such staff member may supervise any
125 visits, he or she must review or receive training on the online
126 training manual for supervised visitation programs and affirm in
127 writing to his or her own agency that he or she has received
128 training on, or has reviewed and understands, the training
129 manual and the state standards.

130 4. The agency that has primary responsibility for the case
131 may not refer the case to a subcontractor or other agency to
132 perform the supervised visitation unless that subcontractor's or
133 other agency's child protective investigators or case managers
134 who supervise onsite or offsite visits have reviewed or received
135 training on the clearinghouse's online training manual for
136 supervised visitation programs and affirm to their own agency
137 that they have received training on, or have reviewed and
138 understand, the training manual and the state standards.

139 (2) This section does not prohibit the court from allowing
140 a litigant's relatives or friends to supervise visits if the
141 court determines that such supervision is safe. However, such
142 informal supervisors must be made aware of the free online
143 clearinghouse materials that they may voluntarily choose to
144 review. These materials must provide information that helps
145 educate the informal supervisors about the inherent risks and

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146 complicated dynamics of supervised visitation.

147 (3) Supervised visitation programs may alert the court in
148 writing if there are problems with referred cases and the court
149 may set a hearing to address these problems.

150 Section 3. Section 753.08, Florida Statutes, is created to
151 read:

152 753.08 Security background checks; immunity.-

153 (1) Because of the special trust or responsibility placed
154 on volunteers and employees of supervised visitation programs,
155 such program must conduct a security background investigation
156 before hiring an employee or certifying a volunteer.

157 (a) A security background investigation must include, but
158 need not be limited to, employment history checks, reference
159 checks, local criminal history records checks through local law
160 enforcement agencies, and statewide criminal history records
161 checks through the Department of Law Enforcement.

162 (b) Upon request, an employer shall furnish a copy of the
163 personnel record for the employee or former employee who is the
164 subject of a security background investigation. The information
165 contained in the record may include, but need not be limited to,
166 disciplinary matters and the reason the employee was terminated
167 from employment, if applicable. An employer who releases a
168 personnel record for purposes of a security background
169 investigation is presumed to have acted in good faith and is not
170 liable for information contained in the record without a showing
171 that the employer maliciously falsified the record.

172 (c) All employees hired or volunteers certified on or after
173 October 1, 2011, must undergo a state and national criminal
174 history record check. Supervised visitation programs shall

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175 contract with the department, the court administrator, or the
176 clerk of court to conduct level 2 background checks under
177 chapter 435. The cost for the fingerprint processing may be
178 borne by the program or the person subject to the background
179 check. The department, court administrator, or clerk of court
180 shall screen the criminal history results to determine if an
181 applicant meets the minimum requirements and is responsible for
182 payment to the Department of Law Enforcement by invoice to the
183 department, the court administrator, or the clerk of court or
184 via payment from a credit card by the applicant or a vendor on
185 behalf of the applicant. If the department, court administrator,
186 or clerk of court is unable to conduct the background check, the
187 supervised visitation program may participate in the Volunteer
188 and Employee Criminal History System, as authorized by the
189 National Child Protection Act of 1993 and s. 943.0542, to obtain
190 criminal history information.

191 (d) The security background investigation must ensure that
192 a person is not hired as an employee or certified as a volunteer
193 if the person has an arrest awaiting final disposition for, has
194 been convicted of, regardless of adjudication, has entered a
195 plea of nolo contendere or guilty to, or has been adjudicated
196 delinquent and the record has not been sealed or expunged for,
197 any offense prohibited under s. 435.04(2).

198 (e) In analyzing and evaluating the information obtained in
199 the security background investigation, the program must give
200 particular emphasis to past activities involving children,
201 including, but not limited to, child-related criminal offenses
202 or child abuse. The program has sole discretion in determining
203 whether to hire or certify a person based on his or her security

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204 background investigation.

205 (2) Any person who is providing supervised visitation or
206 exchange monitoring services through a supervised visitation
207 program and who affirms to the court in writing that he or she
208 abides by the state standards described in s. 753.06 is
209 presumed, prima facie, to be acting in good faith and is immune
210 from any liability, civil or criminal, which otherwise might be
211 incurred or imposed with regard to the provision of such
212 services.

213 Section 4. This act shall take effect October 1, 2011.