

By the Committee on Children, Families, and Elder Affairs; and  
Senator Wise

586-02383-12

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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

586-02383-12

2012370c1

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.

37  
38 Be It Enacted by the Legislature of the State of Florida:

39  
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, 2013, only a supervised

586-02383-12

2012370c1

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 licensed mental health professional.  
79 Such professional is not required to abide by the state  
80 standards established in s. 753.06; however, the professional  
81 must affirm to the court in writing that he or she has completed  
82 the 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

586-02383-12

2012370c1

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.

586-02383-12

2012370c1

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

586-02383-12

2012370c1

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, 2012, must undergo a state and national criminal  
174 history record check. Supervised visitation programs shall

586-02383-12

2012370c1

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

586-02383-12

2012370c1

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, 2012.