

By the Committees on Judiciary; and Children, Families, and Elder Affairs; and Senators Wise and Lynn

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

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30 criminal history information; providing that certain
31 persons providing services at a supervised visitation
32 program are presumed to act in good faith; providing
33 that such persons acting in good faith are immune from
34 civil and criminal liability; providing an effective
35 date.

36
37 Be It Enacted by the Legislature of the State of Florida:

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

41 753.06 Standards; funding limitations.-

42 (1) The standards provided in the final report submitted to
43 the Legislature pursuant to s. 753.03(4) shall be the state's
44 standards for supervised visitation and exchange monitoring.

45 (2) Each supervised visitation program must annually affirm
46 in a written agreement with the court that it abides by the
47 standards. If the program has a contract with a child-placing
48 agency, that contract must include an affirmation that the
49 program complies with the standards. A copy of the agreement or
50 contract must be made available to any party upon request.

51 (3) On or after January 1, 2013, only a supervised
52 visitation program that has affirmed in a written agreement with
53 the court that it abides by and is in compliance with the state
54 standards may receive state funding for supervised visitation or
55 exchange monitoring services.

56 Section 2. Section 753.07, Florida Statutes, is created to
57 read:

58 753.07 Referrals.-

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

62 (a) For cases that are filed under chapter 61 or chapter
63 741 in which the courts are the primary source of referrals, the
64 court shall direct referrals as follows:

65 1. The order must refer the parties to a supervised
66 visitation program that has a written agreement with the court
67 as provided in s. 753.06(2) if such a program exists in the
68 community.

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

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

79 1. The agency that has primary responsibility for the case
80 must ensure that each family is assessed for problems that could
81 present safety risks during parent-child contact. If risks are
82 found, agency staff shall consider referring the parties to a
83 local supervised visitation program that has affirmed in writing
84 that it adheres to the state standards if such a program exists
85 in the community.

86 2. If agency staff determines that there is no need for a
87 supervised visitation, such program does not exist, or the

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88 existing program is unable to accept the referral for any
89 reason, the child protective investigator or case manager who
90 has primary responsibility for the case may:

91 a. Supervise the parent-child contact himself or herself.
92 However, before a child protective investigator or case manager
93 may supervise visits, he or she must review or receive training
94 on the online training manual for the state's supervised
95 visitation programs and affirm in writing to his or her own
96 agency that he or she has received training on, or has reviewed
97 and understands, the state standards.

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

110 3. If a program does not exist, or if the existing program
111 is unable to accept the referral and the child protective
112 investigator or case manager is unable to supervise the parent-
113 child contact or designate a foster parent or relative to
114 supervise the visits as described in subparagraph 2., the agency
115 that has primary responsibility for the case may refer the case
116 to other qualified staff within that agency to supervise the

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117 contact. However, before such staff member may supervise any
118 visits, he or she must review or receive training on the online
119 training manual for supervised visitation programs and affirm in
120 writing to his or her own agency that he or she has received
121 training on, or has reviewed and understands, the training
122 manual and the state standards.

123 4. The agency that has primary responsibility for the case
124 may not refer the case to a subcontractor or other agency to
125 perform the supervised visitation unless that subcontractor's or
126 other agency's child protective investigators or case managers
127 who supervise onsite or offsite visits have reviewed or received
128 training on the clearinghouse's online training manual for
129 supervised visitation programs and affirm to their own agency
130 that they have received training on, or have reviewed and
131 understand, the training manual and the state standards.

132 (2) This section does not prohibit the court from allowing
133 a litigant's relatives or friends to supervise visits if the
134 court determines that such supervision is safe. However, such
135 informal supervisors must be made aware of the free online
136 clearinghouse materials that they may voluntarily choose to
137 review. These materials must provide information that helps
138 educate the informal supervisors about the inherent risks and
139 complicated dynamics of supervised visitation.

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

143 Section 3. Section 753.08, Florida Statutes, is created to
144 read:

145 753.08 Security background checks; immunity.-

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

150 (a) A security background investigation must include, but
151 need not be limited to, employment history checks, reference
152 checks, local criminal history records checks through local law
153 enforcement agencies, and statewide criminal history records
154 checks through the Department of Law Enforcement.

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

165 (c) All employees hired or volunteers certified on or after
166 October 1, 2012, must undergo a state and national criminal
167 history record check. Supervised visitation programs shall
168 contract with the department, the court administrator, or the
169 clerk of court to conduct level 2 background checks under
170 chapter 435. The cost for the fingerprint processing may be
171 borne by the program or the person subject to the background
172 check. The department, court administrator, or clerk of court
173 shall screen the criminal history results to determine if an
174 applicant meets the minimum requirements and is responsible for

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175 payment to the Department of Law Enforcement by invoice to the
176 department, the court administrator, or the clerk of court or
177 via payment from a credit card by the applicant or a vendor on
178 behalf of the applicant. If the department, court administrator,
179 or clerk of court is unable to conduct the background check, the
180 supervised visitation program may participate in the Volunteer
181 and Employee Criminal History System, as authorized by the
182 National Child Protection Act of 1993 and s. 943.0542, to obtain
183 criminal history information.

184 (d) The security background investigation must ensure that
185 a person is not hired as an employee or certified as a volunteer
186 if the person has an arrest awaiting final disposition for, has
187 been convicted of, regardless of adjudication, has entered a
188 plea of nolo contendere or guilty to, or has been adjudicated
189 delinquent and the record has not been sealed or expunged for,
190 any offense prohibited under s. 435.04(2).

191 (e) In analyzing and evaluating the information obtained in
192 the security background investigation, the program must give
193 particular emphasis to past activities involving children,
194 including, but not limited to, child-related criminal offenses
195 or child abuse. The program has sole discretion in determining
196 whether to hire or certify a person based on his or her security
197 background investigation.

198 (2) Any person who is providing supervised visitation or
199 exchange monitoring services through a supervised visitation
200 program and who affirms to the court in writing that he or she
201 abides by the state standards described in s. 753.06 is
202 presumed, prima facie, to be acting in good faith. Such persons
203 acting in good faith are immune from civil and criminal

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204 liability with regard to the provision of the services.

205 Section 4. This act shall take effect October 1, 2012.