

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|-----------------------------------------|----------------------------------------|-----------------------------------------|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. Empower families? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |

For any principle that received a “no” above, please explain:

The bill increases the fee for obtaining copies of certified birth certificates.

B. EFFECT OF PROPOSED CHANGES:

Supervised visitation programs have been in existence in Florida and other states for only the past 12-15 years. These programs were developed to allow parents safe access to their children in cases involving visitation and custody disputes, in which a parent alleges physical or sexual abuse, domestic violence, or other harmful behaviors against a spouse or partner and a court has made a determination that that custody or unsupervised contact with the parent may endanger the child. Supervised visitation has been welcomed as “an essential component of an integrated community intervention system” to eliminate domestic violence and protect its victims, and described as an “equitable remedy serving the dual purpose of preserving the constitutionally protected and emotionally vital parent-child relationship while protecting the child and sometimes, the other parent.”¹

The American Bar Association has approved a policy encouraging courts to provide or identify and make use of locations in which supervised visitation can safely occur. This judicial creation of safe times, places and procedures for visitation was viewed as being crucial to the safety of some parents and their children.² In addition, the National Council of Juvenile and Family Court Judges issued a Model Code on Domestic and Family Violence which contains provisions related to supervised visitation.³

The initiative to implement family visitation programs has been primarily a grass-roots effort to respond to the basic human need of parents and children to have contact with one another. Typically the centers are under-funded and rely heavily on the time and efforts of volunteers. Some supervised visitation programs are created and run by the court; some are independent, not-for-profit entities; and some are program components of non-profit organizations such as the Children’s Home Society or the Salvation Army. Programs also differ according to the types of referrals they accept. Some accept family court and domestic violence referrals only, whereas others accept only dependency referrals. Most programs in Florida now accept all three types of referrals.⁴

¹ See Stern, N. and Oehme, K. The Troubling Admission of Supervised Visitation Records in Custody Proceedings, Temple Law Review, Vol. 75, pp. 271-312.

² See Policy OOA109A, American Bar Association Commission on Domestic Violence, American Bar Association. July 2000.

³ See §§ 405-406, Model Code on Domestic and Family Violence, National Council of Juvenile and Family Court Judges, 1994.

⁴ See A Competency-Based Training Manual for Florida’s Supervised Visitation Centers, The Clearinghouse of Supervised Visitation, School of Social Work, Florida State University. 1999.

In 1996, the Florida Legislature created chapter 753, Florida Statutes, related to the Family Visitation Network.⁵ The Network was charged with, among other things: serving as a clearinghouse on resources and research related to supervised visitation programs; providing technical assistance and other support services to existing and emerging supervised visitation programs; compiling a directory of state-supervised programs containing referral information; formulating a newsletter for supervised visitation programs; and organizing workshops and conferences to address issues and concerns of the programs.⁶

Since 1997, the number of supervised visitation programs in Florida has grown from 15 to 43 programs that are operating 50 supervised visitation sites. In 2002 those programs supervised over 40,000 visits. Often, the clientele served by a program are among the most high-risk for violence. In spite of this, there are currently no guidelines or monitoring capabilities to assure the safety of the clients, the staff, and the community and no standards by which to assess the quality of a supervised visitation program in Florida. In an attempt to remedy this situation, in 1999 the Chief Justice of the Supreme Court of Florida established by administrative order minimum guidelines for supervised visitation programs used by the courts. According to the Chief Justice, “[s]upervised visitation programs are one element of a model family court and an important resource for the family court judge. These programs help to: provide a safe environment for a child to visit with a non-custodial parent; facilitate family cooperation; support the family’s independence from the court system; and may provide crucial information to the judge. These programs have developed on an informal basis and do not operate under any uniform standards or guidelines. No entity is responsible for providing oversight of the programs that operate outside of the court system.” The chief judge of each circuit is directed to enter into an agreement with supervised visitation centers that are willing to comply with the standards. The courts are required to use only those programs that have entered into the agreement with each circuit, effective July 1, 2000.⁷ However, in spite of the order, in some circuit court jurisdictions, agreements which stipulate the supervised visitation programs’ agreement to comply with the guidelines are still not in place. Further, there are no standards by which to assess the quality of the programs and only limited tracking of the services provided.

In addition, the Chief Justice, in correspondence to the Speaker of the House of Representatives and the President of the Senate, requested that the Legislature address concerns related to supervised visitation programs. The Chief Justice stated “[s]upervised visitation programs in Florida are a recent phenomena. They have developed on an informal basis and they vary greatly in how they are organized, funded, staffed, and the nature of services they provide. The lack of guidelines or standards for these programs and lack of oversight of these programs, particularly as to staff and visitor safety and staff training, is of great concern.”⁸ Legislation was filed during the 2000, 2001, and 2003 legislative sessions to address these issues but, to date, no legislation has been enacted.⁹

Funding has consistently remained problematic for supervised visitation programs, with programs relying on ever-diminishing funds that provide portions of their budgets from a variety of funding sources: Access and Visitation Grants for the Department of Children and Families, Victims of Crime Act (VOCA) funds through the office of the attorney general, city/county funds, the United Way, Junior League, and small private foundations. Only four programs receive Department of Justice, Office of Violence Against Women funds. These federal funds are provided by the Violence Against Women Act Safe Havens for Children Pilot Program. In May 2003, the Office of the Attorney General notified programs that it would no longer use VOCA funds to support supervised visitation services because the dollar amounts of federal grants under VOCA were declining, and because the Florida attorney general’s office did not consider supervised visitation a direct service to victims of crime and their

⁵ See Chapter 96-402, Laws of Florida.

⁶ See §753.002, Florida Statutes.

⁷ See In re Supervised Visitation, Fla. Admin. Order (Nov. 18, 1999) (on file with Clerk, Fla. Sup. Ct.).

⁸ See Letter from Major B. Harding, Chief Justice, Fla. Sup. Ct., to Sen. Toni Jennings, President, Fla. S., and Rep. John Thrasher, Speaker, Fla. H.R. (Nov. 17, 1999) (in archived files from House Family Law and Children Committee).

⁹ See HB 1871 (2000), SB 1574 (2001) and SB 1226 (2002).

children. Even as the number of Florida programs has continued to grow, directors annually report shrinking budgets, shortened hours of operation, and trouble paying staff, which creates even more dependence on volunteers and hourly wage monitors who have little expertise in critical areas such as domestic violence dynamics, child development, sexual abuse, and substance abuse issues.¹⁰

Finally, the unstable nature of the relationship between the family members that created the need for supervised visitation programs has given rise to security concerns at the programs. Incidents that have raised safety concerns at supervised visitation programs in this state include incidents of threats or actual acts of physical aggression toward staff or custodial parents, incidents where the noncustodial parent is openly intoxicated or under the influence of illegal drugs, and incidents where the noncustodial parent arrives at the program exhibiting delusional behavior or even hallucinating. In some areas of the state, law enforcement officers have provided security services for supervised visitation programs either through volunteer service or paid employment. However, it has been reported that supervised visitation programs often do not have the resources to provide adequate security.

The bill repeals the sections contained in chapter 753, Florida Statutes, regarding the Family Visitation Network. It replaces these repealed sections with ten new sections related to supervised visitation programs. These newly created sections provide definitions and require the clearinghouse to develop statewide standards that programs must meet in order to be certified. The sections delineate a certification and monitoring process for programs and provide for security, training, the development of community partnerships, and data collection.

The bill also contains provisions for encouraging volunteerism among law enforcement officers at supervised visitation programs by allowing the use of volunteer time at programs that serve children and families at risk of abuse to meet continuing education requirements and authorizing the administration of voluntary security services for off-duty officers at these programs. The bill requires that officers be allowed to meet up to 3 hours of the 40 hours of required continuing education or training through this volunteer effort.

Current law provides for a \$5 fee for a certified birth certificate with an additional surcharge of \$4 added that is to be deposited into the Child Welfare Training Trust Fund.¹¹ The bill increases the fee to obtain a certified birth certificate is by \$1.00 to provide funding for supervised visitation programs.

C. SECTION DIRECTORY:

Section 1. Repeals §§753.001, 753.002, and 753.004, Florida Statutes, related to the Family Visitation Network.

Section 2. Creates §§753.01, 753.02, 753.03, 753.04, 753.05, 753.06, 753.07, 753.08, 753.09, and 753.10, Florida Statutes, related to supervised visitation centers. The newly created sections provide the following:

- Section 753.01, Florida Statutes, provides legislative findings and intent.
- Section 753.02, Florida Statutes, provides definitions.
- Section 753.03, Florida Statutes, provides for the development of standards for supervised visitation programs and supervised exchange centers by the Clearinghouse on Supervised Visitation and requires a program to become certified before families can be referred for services.
- Section 753.04, Florida Statutes, provides for a phased in certification process for supervised visitation programs and requires that once the certification process is fully

¹⁰ See Oehme, K. and Maxwell, S. Florida's Supervised Visitation Programs: The Next Phase. The Florida Bar Journal, January 2004.

¹¹ See §383.0255, Florida Statutes.

implemented, programs must be certified in order to accept referrals and receive state or federal funding.

- Section 753.05, Florida Statutes, requires supervised visitation programs to comply with the "Minimum Standards for Supervised Visitation Programs Agreement" adopted by the Supreme Court in 1999 and enter into agreements with their circuit court attesting to the program's willingness to comply. Programs may not receive federal access and visitation funds without proof of the required agreement.
- Section 753.06, Florida Statutes, requires that security be a priority for supervised visitation programs and encourages programs to collaborate with local law enforcement to facilitate voluntary security services.
- Section 753.07, Florida Statutes, provides for the development of training for supervised visitation and exchange programs by the Clearinghouse on Supervised Visitation and provides for the clearinghouse to train program and center staff.
- Section 753.08, Florida Statutes, provides for data collection related to supervised visitation.
- Section 753.09, Florida Statutes, encourages supervised visitation programs to develop community partnerships in order to maximize resources and strengthen services provided.
- Section 753.10, Florida Statutes, provides for the Clearinghouse on Supervised Visitation, in collaboration with an advisory board, to develop standards and a certification process for supervised visitation programs and exchange centers. The section also provides for membership on the board and reports to the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court.

Section 3. Amends §943.135, Florida Statutes, related to requirements for continued employment, to allow time spent by law enforcement officers providing security services under certain specified circumstances to meet up to 3 hours of continuing education credit.

Section 4. Creates §943.254, Florida Statutes, related to volunteer work by law enforcement officers, to provide authority to law enforcement agencies to administer a program to have law enforcement officers provide volunteer security services during off duty hours at community-based, not-for-profit programs that serve children or families who have experienced or are at risk for child abuse or domestic violence and where there is a potential danger to staff or clients, including, but not limited to, a supervised visitation program. The section provides that the community-based programs are responsible for the acts or omissions of the law enforcement officer and contains provisions related to workers' compensation. This section also allows an exemption from the licensing requirements for security and investigating services pursuant to chapter 493, Florida Statutes, for law enforcement officers volunteering pursuant to this section.

Section 5. Amends §382.0255, Florida Statutes, related to vital statistics and fees, to add an additional fee in the amount of \$1 for each request received by the Department of Health for a certified birth certificate. Fees collected pursuant to this section shall be used to fund supervised visitation centers.

Section 6. Provides for an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Department of Children and Family Services estimates that the bill will generate approximately \$141,000 annually as a result of the fee increase. The Department of Health predicts the amount of revenue resulting from the bill to be approximately \$165,000.

2. Expenditures:

The Department of Health predicts the bill will cost the agency a non-recurring \$6000 to implement as a result of modifications that will have to be made to the existing accounting system software used by the Office of Vital Statistics. In addition, it will increase costs incurred by state government entities that must obtain certified birth certificates for official purposes.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The bill will increase costs incurred by local government entities that must obtain certified birth certificates for official purposes.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will increase costs incurred by individual citizens who need to obtain a certified copy of a birth certificate.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not affect county or municipal government.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The Department of Health reports a rule will be necessary to implement the fee increase. The bill does not specifically provide for that rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill will increase the cost to government entities and individuals for obtaining a certified birth certificate to support supervised visitation centers even though those entities and individuals may never have a need for the services provided by such centers.

Since parents are ordered to use the services of family visitation programs because of their inability to safely visit with their children due to their own unstable or violent behavioral tendencies, it would appear reasonable to expect parents utilizing the services of supervised visitation centers to be responsible for bearing at least a portion of the costs of operating those programs and centers.

During the 2000 legislative session, HB 1871 contained provisions similar to those in HB 1329. It was estimated that it would cost the Clearinghouse on Supervised Visitation approximately \$180,461 to certify and monitor supervised visitation centers annually. At that time there were 27 centers statewide. The same legislation also contained an appropriation of \$3,340,000 for supervised visitation program development which included the certification of centers.¹² HB 1329 is estimated to generate between \$141,000 and \$165,000 to be used for supervised visitation programs functions, which would appear to be insufficient to certify and monitor the now 43 centers and would provide no funding to enable centers to meet minimum standards in order to be certified. HB 1329 provides that such centers must be certified in order to accept referrals.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On April 13, 2004, the Committee on the Future of Florida's Families adopted a strike everything amendment that incorporated stylistic differences in order to conform to the Senate bill.

¹² See HB 1871, Bill Analysis, House Committee on Family Law and Children, May 19, 2000.