

39.0139 Visitation or other contact; restrictions.—

(1) SHORT TITLE.—This section may be cited as the "Keeping Children Safe Act."

(2) LEGISLATIVE FINDINGS AND INTENT.—

(a) The Legislature finds that:

1. For some children who are abused, abandoned, or neglected by a parent or other caregiver, abuse may include sexual abuse.
2. These same children are at risk of suffering from further harm during visitation or other contact.
3. Visitation or other contact with the child may be used to influence the child's testimony.

(b) It is the intent of the Legislature to protect children and reduce the risk of further harm to children who have been sexually abused or exploited by a parent or other caregiver by placing additional requirements on judicial determinations related to ~~visitation and other contact~~ contact between a parent or caregiver who meets the criteria under paragraph (3)(a) and a child victim in any proceeding under Florida law.

(3) PRESUMPTION OF DETRIMENT.—

(a) A rebuttable presumption of detriment to a child is created when ~~a parent or caregiver:~~

1. A court of competent jurisdiction has that found probable cause exists that a parent or caregiver has sexually abused a child as defined in s.39.01(66) ~~Has been the subject of a report to the child abuse hotline alleging sexual abuse of any child as defined in s. 39.01;~~

2. A parent or caregiver has ~~Has~~ been found guilty of, regardless of adjudication, or has entered a plea of guilty or nolo contendere to, charges under the following statutes or substantially similar statutes of other jurisdictions:

- a. Section 787.04, relating to removing minors from the state or concealing minors contrary to court order;
- b. Section 794.011, relating to sexual battery;
- c. Section 798.02, relating to lewd and lascivious behavior upon or in the presence of a child;
- d. Chapter 800, relating to lewdness and indecent exposure in the presence of a child;
- e. Section 826.04, relating to incest; or
- f. Chapter 827, relating to the abuse of children; or

3. A court of competent jurisdiction has ~~Has been determined by the court~~ a parent or caregiver to be a sexual predator as defined in s. 775.21 or the parent or caregiver has received a substantially similar designation under laws of another jurisdiction.

(b) For purposes of this subsection, "substantially similar" has the same meaning as in s. 39.806(1)(d)2.

(c) A person who meets any of the criteria set forth in paragraph (3)(a) may not visit or have contact with a child without a hearing and order by the court.

(4) HEARINGS.—A person who meets any of the criteria set forth in paragraph (3)(a) ~~may visit or have other contact with a child only after a hearing and an order by the court that allows the visitation or other contact. At such a hearing~~ who seeks to begin or resume contact with the child victim shall have the right to an evidentiary hearing to determine whether contact is appropriate.

(a) Prior to the hearing the court shall ~~The court must~~ appoint an attorney ad litem or a guardian ad litem for the child if one has not already been appointed. Any attorney ad litem or guardian ad litem appointed shall have special training in the dynamics of child sexual abuse.

(b) At the hearing the ~~The court may~~ receive and rely upon any relevant and material evidence submitted to the extent of its probative value, including written and oral reports and or recommendations, from the child protection team, child's therapist, the child's guardian ad litem, and attorney ad litem ~~to the extent of its probative value in its effort to determine the action to be taken with regard to the child, even if these reports, recommendations and evidence may not be competent in an adjudicatory hearing~~ admissible under the rules of evidence.

(c) If the court finds the person proves by clear and convincing evidence that the safety, well-being, and physical, mental, and emotional health of the child is not endangered by such visitation or other contact, the presumption in subsection (3) is rebutted and the court may allow visitation or other contact. The court shall enter a written order setting forth findings of fact and specifying any conditions it finds necessary to protect the child.

(d) If the court finds the person did not rebut the presumption established in subsection (3), the court shall enter a written order setting forth findings of fact and prohibiting or restricting visitation or other contact with the child.

(5) CONDITIONS.—Any visitation or other contact ordered under paragraph (4)(d) shall be:

(a) Supervised by a person who has previously received special training in the dynamics of child sexual abuse; or

(b) Conducted in a supervised visitation program, provided that the program has an agreement with the court and a current affidavit of compliance on file with the chief judge of the circuit in which the program is located affirming that the program has agreed to comply with the minimum standards contained in the administrative order issued by the Chief Justice of the Supreme Court

on November 17, 1999, and provided the program has a written agreement with the court and with the department as described in s. 753.05 containing policies and guidelines specifically related to referrals involving child sexual abuse.

6) ADDITIONAL CONSIDERATIONS.—

(a) Once a rebuttable presumption of detriment has arisen under paragraph (3) or if visitation is ordered under paragraph (4) and a party or participant, based on communication with the child or other firsthand knowledge, informs the court that a person is attempting to influence the testimony of the child, the court shall ~~immediately suspend visitation or other contact. The court shall then hold a hearing and~~ hold a hearing within 7 business days to determine whether it is in the best interests of the child to prohibit or restrict visitation or other contact with the person who is alleged to have influenced the testimony of the child.

(b) If a child is in therapy as a result of any ~~of the allegations~~ finding or convictions contained in paragraph (3)(a) and the child's therapist reports that the visitation or other contact is impeding the child's therapeutic progress, the court shall convene a hearing within 7 business days to review the terms, conditions, or appropriateness of continued visitation or other contact.  
History.—s. 1, ch. 2007-109.

**MINUTES**  
**Chapter 39 glitch workgroup Subcommittee Meeting**  
**Meeting Date: 8/25/09**  
**Meeting Time: Noon**

**Attendees:** Abigail Beebe- Chair of Sub- Committee  
Kimberly Rommel- Enright  
Amy Hickman  
Thomas Duggar

**Non-Attendees-** Laura Davis Smith  
Ray Mcneal  
Ashley Myers  
Maria Gonzalez  
Toni Butler  
Kleinberg

**CALL TO ORDER**

The meeting was called to order at 12:10 pm.

- Abigail Beebe gave a brief overview of the glitch bill and the changes that were made two years ago. Both Amy and Thomas agreed that the bill was in a good form for this year. All members agreed the bill was revised with limited changes to help it move through and that we should keep any changes to a minimum. All attending members agreed the language was good as is.

No members attending the call recommended any changes be made. However, Abigail Beebe suggested a few changes or thoughts on changes to be open for discussion.

**(4) HEARINGS.**

- (a) "special training" in the dynamics of sexual abuse

Abby explained to the group that this may cause a problem in having GAL or AAL appointed for these victims. The other members of the call agreed that the language was vague, but that it was better left in then taken out. Abby explained that training in this area could be very difficult and costly and that a lot of kids would lose the benefit of an attorney ad litem if this was a stringent requirement.

**(5) CONDITIONS – any visitation or other contact ordered under paragraph (4)(d) shall be:**

Abby suggested that this should read (4) alone since a judge may order contact under both 4(c) and (d).

**(6) ADDITIONAL CONSIDERATIONS-** Abby suggested that this paragraph should possibly be split to separate the differences b/t (3) and (4), but Amy and Thomas added that read in the context of requiring a hearing under both circumstances, that this paragraph read properly was written appropriately.

The subcommittee members in attendance all agreed to leave all language as it was re-written 2 years ago, however, we decided as a group to submit these comments to the committee for suggestion or vote.

**ADJOURNMENT**

The call was adjourned at 12:35 pm.