



## JUDICIAL COUNCIL OF CALIFORNIA

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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on: October 28, 2014

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Title	Agenda Item Type
Family Law: Uniform Standards of Practice for Providers of Supervised Visitation	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
Amend Cal. Stds. Jud. Admin., std. 5.20; revise form FL-341(A)	January 1, 2015
Recommended by	Date of Report
Family and Juvenile Law Advisory Committee	September 8, 2014
Hon. Jerilyn L. Borack, Cochair	Contact
Hon. Kimberly J. Nystrom-Geist, Cochair	Tracy Kenny, 916-263-2838 <a href="mailto:tracy.kenny@jud.ca.gov">tracy.kenny@jud.ca.gov</a>
	Shelly LaBotte, 415-865-7565 <a href="mailto:shelly.labotte@jud.ca.gov">shelly.labotte@jud.ca.gov</a>

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### Executive Summary

The Family and Juvenile Law Advisory Committee recommends amending standard 5.20 of the California Standards of Judicial Administration, governing providers of supervised visitation, to conform to the requirements of recently enacted Family Code section 3200.5. The committee also recommends making additional changes to standard 5.20 to enhance its internal consistency. In addition, the committee recommends revising the *Supervised Visitation Order* (form FL-341(A)) to eliminate references to “therapeutic visitation” to maintain consistency with the provisions of section 3200.5 and to make technical changes to make the form consistent with other Judicial Council forms that relate to child custody matters.

### Recommendation

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2015:

1. Amend standard 5.20 of the California Standards of Judicial Administration to conform to recently enacted Family Code section 3200.5, which directs the council to incorporate new requirements into the standard, and to update the standard and enhance its internal clarity and consistency; and
2. Revise *Supervised Visitation Order* (form FL-341(A)) to eliminate references to “therapeutic visitation” consistent with the provisions of section 3200.5 and to make technical changes to make the form consistent with other Judicial Council forms that relate to child custody matters.

The text of the amended standard is attached at pages 9–16. The revised form is attached at page 17.

### **Previous Council Action**

Standard 5.20, on standards for providers of supervised visitation, was adopted as section 26.2, effective January 1, 1998, under legislation requiring the council to adopt such standards. Minor amendments were made when the standard was renumbered effective January 1, 2007.

The council adopted form FL-341(A) effective January 1, 1999 as form 1296.31(A)(1) as a mandatory attachment for ordering supervised visitation, and renumbered it effective January 1, 2003, when all family law forms were renumbered.

### **Rationale for Recommendation**

The Judicial Council adopted standard 5.20 to implement the provisions of Family Code section 3200, which was enacted in 1996. The legislation required the Judicial Council to enact standards for supervised visitation providers and identified the specific provisions that the council was required to consider in developing the standards of practice. In 2012, the Legislature enacted Assembly Bill 1674 (Stats. 2012, ch. 692), which added section 3200.5 to the Family Code. Section 3200.5 sets forth an array of mandatory provisions that are required to be included in the standards for supervised visitation that implement section 3200. Much of the language of Family Code section 3200.5 is drawn from the current text of standard 5.20. The key difference is that where standard 5.20 presents all of its provisions as suggested policies and best practices that supervised visitation providers *should* comply with, many of the provisions of section 3200.5 are mandatory requirements for the providers of supervised visitation (using the term *shall*). The legislative history for section 3200.5 shows that the intent of the Legislature in enacting it was to identify those provisions of standard 5.20 that needed to be required of all providers and to add in requirements that the Legislature identified as missing in the standard (e.g., a specific number of hours of training for providers).<sup>1</sup>

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<sup>1</sup> See, for example, the July 2, 2012, Senate Judiciary Committee analysis of AB 1674.

### **Existing suggested provisions of standard 5.20 that would become mandatory**

As described above, section 3200.5 codifies certain provisions of standard 5.20 and makes them mandatory.<sup>2</sup> For the standard to conform to those provisions, it needs to be reorganized and amended to substitute the term *must* for *should* with regard to the mandatory statutory provisions stated under Family Code section 3200.5. Specifically, standard 5.20 would be amended to:

- Break up the current subdivisions on nonprofessional and professional providers and specify those requirements for nonprofessional providers that are mandatory and those that remain suggested;
- Make all of the eligibility requirements for professional providers mandatory;
- Make the training requirements for professional providers mandatory;
- Require that professional providers keep certain case records;
- Require all providers to implement appropriate terms and conditions during each visit;
- Require professional providers to carry out specified legal obligations, including reporting suspected abuse and suspending or terminating visitation when required.
- Require all providers to make every effort to provide a safe visit, to make a record of any visit that is suspended or terminated, and to advise the parties of the reasons for the suspension or termination; and
- Require professional providers to prepare a written statement of the reasons for suspension or termination of a visit and provide that written statement to the parties and the court.

### **New requirements incorporated into standard 5.20**

Although the majority of the language in section 3200.5 comes verbatim from the current standard, section 3200.5 did add additional requirements that are incorporated into amended standard 5.20 as follows:

- The requirement that the court specifically consider whether to use a professional or nonprofessional provider in any case in which the court has determined that domestic violence, child abuse, or neglect exists is incorporated into subdivision (c).
- The requirement that all professional providers receive 24 hours of training in specified areas is added.

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<sup>2</sup> The committee recognizes that it is unusual to have mandatory provisions in a standard of judicial administration, but section 3200.5 specifically uses the term “standards” with reference to what the council is required to adopt; thus the committee has opted to modify the standard to make mandatory those items required by the statute while leaving the remainder of the standard’s provisions as permissive best practices.

- The training areas are expanded to include basic knowledge of family and juvenile law.
- All professional providers are required to sign a declaration or a *Declaration of Supervised Visitation Provider* (form FL-324) stating that they have met all of the requirements to be a professional provider.

### **Elimination of references to therapeutic visitation providers**

In its current form, standard 5.20 identifies three types of supervised visitation providers: nonprofessional, professional, and therapeutic. Family Code section 3200.5 identifies only two types of providers: professional or nonprofessional. To ensure that standard 5.20 is consistent with Family Code section 3200.5, this proposal deletes all references to therapeutic visitation providers. In addition, form FL-341(A) is revised to delete the option to order therapeutic visitation (at item 4c on the current form) because this option is not contemplated by the statute.

### **Additional changes to enhance internal consistency**

In its review of standard 5.20, the committee identified a number of provisions that were internally inconsistent with the overall approach of the standard and proposes additional changes unrelated to Family Code section 3200.5 to ensure that the standard is clear and consistent, i.e.:

- Deleting the sentence excluding supervised exchange from subdivision (b) because supervised exchange clearly falls into the definition of supervised visitation described in the preceding sentence;
- Deleting “providers of supervised visitation” from the list of individuals in subdivision (c) who may make a recommendation to the court about the manner in which supervision is provided, and deleting from paragraph (3) of subdivision (j) (current subdivision (h)) the authority of the court to order a provider to give an opinion or recommendation on future visitation because the remainder of the standard makes clear that providers are to be neutral and thus should not be in the position of making recommendations;
- Changing the word “assess” in paragraph (2) of subdivision (g) ((e) in the current standard) to “understand” to make clear that providers are not in an evaluative role;
- Clarifying subdivision (g) ((e) in the current standard) to provide that all professional providers, and not just supervised visitation centers, should have written protocols addressing local law enforcement responses;
- In subdivision (i) on conflict of interest provisions ((g) in the current standard), clarifying that the specific requirements about having no outside relationship with a client apply only to professional providers and not to nonprofessional providers, who are often related to the parties;

- Adding the court to the list of those who should be given a copy of a court-ordered report of a visitation in paragraph (3) of subdivision (j) (current (h)) to make that section consistent with subdivision (q) (current (o)), which requires that the court, along with the parties and their attorneys, receive all reports of suspended or interrupted visits;
- Adding a provision to subdivision (l) (current (j)) concerning terms and conditions for supervised visitation to require that there be no contact between the parents unless ordered by the court; and
- In subdivision (m) (current (k)) regarding special considerations concerning sexual abuse allegation cases, deleting the word “prolonged” as a modifier of “hugging” to make clear that the parent should have no physical contact with the child, as the earlier clause indicates.

## **Comments, Alternatives Considered, and Policy Implications**

### **Comments**

This proposal circulated for comment as part of the spring 2014 invitation-to-comment cycle, from April 18 to June 18, 2014, to the standard mailing list for family and juvenile law proposals. Included on the list were appellate presiding justices, appellate court administrators, trial court presiding judges, trial court executive officers, judges, court administrators and clerks, attorneys, social workers, probation officers, and other juvenile law professionals. Sixteen individuals or organizations provided comment; 6 agreed with the proposal, 7 agreed if modified, 2 disagreed with the proposal, and 1 expressed no position but included comments. A chart with the full text of the comments received and the committee’s responses is attached at pages 18–60.

The committee sought comment on three proposed modifications to standard 5.20, and most of the substantive comments were in response to the following issues: whether supervised exchanges should be subject to the standard; whether providers of supervised visitation services should be making recommendations about future visitation to the court; and whether the standard or the form should make any reference to therapeutic visitation. Each is discussed below. In addition, some commentators made suggestions for ensuring provider compliance with the training and qualification requirements of Family Code section 3200.5 and the amended standard beyond what is required by the statute.

***Supervised exchanges.*** Current standard 5.20 provides that supervised visitation is “contact between a noncustodial party and one or more children in the presence of a neutral third person” but then goes on to state that the standards and this definition do not include supervision of exchanges only. The committee proposed deleting this exception from the standard in the proposal circulated for comment based on feedback from professional providers of supervised visitation who opined that the exception was unwarranted and that supervised exchanges require the same care and standards as supervised visitation. The committee adopted their suggestion, but sought specific comment on this change. Five commentators specifically addressed this

issue: three were in support of applying the standards to supervised exchange—one by expressly including it in the definition and two by eliminating the exception as proposed; one supported the current exception; and one suggested new separate standards to be adopted for supervised exchange. The committee opted to maintain the deletion of the exception for supervised exchanges from the definition section thereby ensuring that all cases in which a neutral party is monitoring contact between a noncustodial parent and children would be subject to the same standards of practice.

***Recommendations by supervised visitation providers.*** Standard 5.20 sets forth a list of individuals who may make recommendations to the court about the manner in which supervision should be provided. Supervised visitation providers are on this list, along with the parties, their attorneys, and the attorney for the child as well as Family Court Services staff, child custody evaluators, and therapists. Because of concerns that making recommendations is fundamentally in conflict with the otherwise neutral role of the supervised visitation provider, the committee proposed to delete these providers from the list of those whose recommendations the court may consider in making its determination on visitation. The committee then sought specific comment on this change to determine its impact. Five commentators addressed this issue, with two arguing that providers continue to be allowed to make recommendations, two supporting the proposal to eliminate this authority as incompatible with the neutral role of the provider, and one expressing concern about the impact on the court without taking an express position. With the knowledge that many other professionals would still be available to the court for recommendations on future visitation, the committee was persuaded that the role conflict was sufficient to delete supervised visitation providers from the list.

***Therapeutic visitation.*** Standard 5.20 currently defines three types of supervised visitation providers: nonprofessional, professional, and therapeutic. Nonprofessional providers are not paid for their services, any provider who is paid is a professional provider, and a therapeutic provider is defined as a licensed mental health professional paid for supervising visitation. Because Family Code Section 3200.5 expressly provides that a provider “shall be a professional or a nonprofessional provider,” the committee deleted all references to therapeutic providers from the standard and form FL-341(A), but sought comment on whether this deletion was necessary or if it was preferable to retain distinct references to these providers as a subcategory within the professional provider category. Seven commentators addressed this issue; of these four were in support of deleting all references to therapeutic visitation, one opposed such deletion, one wanted to include a subcategory on form FL-341(A), and one expressed some concern about current confusion about what therapeutic visitation includes. Given the express statutory language, and the fact that the Legislature appears to have purposefully deleted references to therapeutic visitation in section 3200.5 as versions prior to the enacted version of the statute included the term, the committee felt constrained to eliminate this term from the standard and the form consistent with the statute. The committee notes, however, that the proposed changes will not prevent licensed mental health professionals from offering supervised visitation services, nor will it restrict the authority of the court to order visitation with these licensed professionals.

***Compliance with the requirements of Family Code Section 3200.5.*** While Family Code section 3200.5 placed new mandatory requirements on supervised visitation providers, it did not enact any system for ensuring compliance with these requirements other than a requirement that each professional provider sign a declaration indicating that they meet the training and qualification requirements. To assist providers with this responsibility the council approved optional form FL-324 for providers to use to make their declaration. While the amended standard does require providers to sign the form or another declaration, it does not require them to take any other action with the declaration. Some commentators suggested requiring more in terms of compliance—one suggested requiring that the form be filed with the court in every case in which supervision is provided, while two others suggested requiring that each professional provider’s case record contain a copy of the FL-324 and some verification that it was provided to the parties. The committee concluded that imposing requirements for filing in each case would be overly burdensome on the courts, and similarly concluded that it had no authority to require providers to maintain a form for each case and provide it to their clients, although providers are free to implement this practice if they deem it optimal.

The committee did make some minor amendments to the standard to ensure it was in complete conformance with section 3200.5, that providers were required to provide court-ordered reports, and that the standard was clarified as specifying that only those persons included in the visitation order may participate in a supervised visit. A number of commentators made suggestions that were either incompatible with the statutory requirements (e.g., relaxing the qualifications for providers or requiring additional training or education) or beyond the scope of this proposal.

### **Alternatives Considered**

The committee considered amending standard 5.20 to make it mirror Family Code section 3200.5, leaving out any content that was not included in that section. It determined that addressing each of the issues stated in section 3200 (not all of which are included in section 3200.5) was necessary and that it would be preferable to leave intact suggested best practices in the current standard as continuing guidance to those providing supervised visitation services rather than reducing the standard to only those provisions included in section 3200.5. The committee also refrained from adding new requirements for the courts or providers to enforce compliance with the standard (e.g., requiring courts to have a process to document the declarations of the professional providers), preferring instead to allow each court and/or provider flexibility to determine how best to comply with the requirements.

Additionally, the Family and Juvenile Law Advisory Committee intended to include technical changes to form FL-341(A) in response to public comments received in January 2014, to the proposal titled “SPR14-12, Family Law: Changes to Request for Order Rules and Form.” The committee intended to recommend that the Judicial Council revise form FL-341(A), along with other child custody attachments in the above proposal, effective January 1, 2015, to add entries for “Other Parent/Party” where appropriate throughout the form. This change would allow the court to make orders applicable to another parent or party involved in the child custody matter,

and would also make the form consistent with other Judicial Council forms that relate to child custody matters, including the *Request for Order* (form FL-300).

In March 2014, the committee decided to defer the SPR14-12 proposal to the Winter 2015 public comment cycle. If adopted by the Judicial Council, revisions to the forms in the Winter 2015 cycle would become effective July 1, 2015. To avoid additional costs to the courts by revising form FL-341(A) in two consecutive cycles, the committee decided to include the technical changes to the form along with the other changes that are mandated by statute in this report to take effect on January 1, 2015.

### **Implementation Requirements, Costs, and Operational Impacts**

The committee recognizes that making many of the eligibility requirements for supervised visitation providers mandatory, rather than suggested best practices, may limit the available pool of supervised visitation providers. However, all of these changes are statutorily required and thus had to be included. The committee also notes that section 3200.5 and standard 5.20 do allow a court to order or the parties to stipulate to nonprofessional providers who do not meet these requirements, when appropriate. The court's ability to maintain discretion to meet the unique needs of its local jurisdiction and the circumstances of particular cases should mitigate some of the impact of the legislative change incorporated into amended standard 5.20.

### **Relevant Strategic Plan Goals and Operational Plan Objectives**

Because this proposal will ensure that standard 5.20 and form FL-341(A) are in conformity with statutory requirements and provide clear guidance to providers of supervised visitation services on the uniform standards of practice that they must and should follow, this proposal will advance Strategic Plan Goal III: Modernization of Management and Administration.

### **Attachments**

1. Cal. Stds. Jud. Admin., std. 5.20, at pages 9–16
2. Form FL-341(A), at page 17
3. Chart of comments, at pages 18–60



Standard 5.20 of the California Standards of Judicial Administration is amended, effective January 1, 2015, to read:

1 **Standard 5.20. Uniform standards of practice for providers of supervised visitation**

2  
3 **(a) Scope of service**

4  
5 This standard defines the standards of practice, including duties and obligations, for  
6 providers of supervised visitation under Family Code sections 3200 and 3200.5. Unless  
7 specified otherwise, the standards of practice are designed to apply to all providers of  
8 supervised visitation, whether the provider is a friend, relative, paid independent  
9 contractor, employee, intern, or volunteer operating independently or through a supervised  
10 visitation center or agency. The goal of these standards of practice is to assure the safety  
11 and welfare of the child, adults, and providers of supervised visitation. Once safety is  
12 assured, the best interest of the child is the paramount consideration at all stages and  
13 particularly in deciding the manner in which supervision is provided. Each court is  
14 encouraged to adopt local court rules necessary to implement these standards of practice.  
15

16 **(b) Definition**

17  
18 Family Code section 3200 defines the term “provider” as including any individual or  
19 supervised visitation center that monitors visitation. Supervised visitation is contact  
20 between a noncustodial party and one or more children in the presence of a neutral third  
21 person. ~~These standards of practice and this definition do not apply to supervision of~~  
22 ~~visitation exchanges only, but may be useful in that context.~~  
23

24 **(c) Qualifications of the Type of provider**

25  
26 Who provides the supervision and the manner in which supervision is provided depends on  
27 different factors, including local resources, the financial situation of the parties, and the  
28 degree of risk in each case. While the court makes the final decision as to the manner in  
29 which supervision is provided and any terms or conditions, the court may consider  
30 recommendations by the attorney for the child, the parties and their attorneys, Family  
31 Court Services staff, evaluators, and therapists, and providers of supervised visitation. As  
32 specified in Family Code section 3200.5, in any case in which the court has determined  
33 that there is domestic violence or child abuse or neglect, as defined in section 11165.6 of  
34 the Penal Code, and the court determines supervision is necessary, the court must consider  
35 whether to use a professional or nonprofessional provider based on the child’s best interest.  
36

37 **(d) Qualifications of nonprofessional providers**

38  
39 (1) A “nonprofessional provider” is any person who is not paid for providing supervised  
40 visitation services. Unless otherwise ordered by the court or stipulated by the parties,  
41 the nonprofessional provider ~~should~~ must:  
42

- 1           (A) ~~Be 21 years of age or older;~~
- 2
- 3           (B) ~~Have no conviction for driving under the influence (DUI) within the last 5~~
- 4                 ~~years;~~
- 5
- 6           (C) ~~Not have been on probation or parole for the last 10 years;~~
- 7
- 8           ~~(D)~~(A)     Have no record of a conviction for child molestation, child abuse, or
- 9                 other crimes against a person;
- 10
- 11          ~~(E)~~(B)     Have proof of automobile insurance if transporting the child;
- 12
- 13          (F) ~~Have no civil, criminal, or juvenile restraining orders within the last 10 years;~~
- 14
- 15          ~~(G)~~(C)     Have no current or past court order in which the provider is the person
- 16                 being supervised; and
- 17
- 18          (H) ~~Not be financially dependent on the person being supervised;~~
- 19
- 20          (I) ~~Have no conflict of interest under (g); and~~
- 21
- 22          ~~(J)~~(D)     Agree to adhere to and enforce the court order regarding supervised
- 23                 visitation.
- 24

25       (2) Unless otherwise ordered by the court or stipulated by the parties, the

26         nonprofessional provider should:

- 27
- 28          (A) Be 21 years of age or older;
- 29
- 30          (B) Have no record of conviction for driving under the influence (DUI) within the
- 31                 last 5 years;
- 32
- 33          (C) Not have been on probation or parole for the last 10 years;
- 34
- 35          (D) Have no civil, criminal, or juvenile restraining orders within the last 10 years;
- 36                 and
- 37
- 38          (E) Not be financially dependent on the person being supervised.
- 39

40       (e) **Qualifications of professional providers**

41

42       ~~(2)~~ A “professional provider” is any person paid for providing supervised visitation

43         services, or an independent contractor, employee, intern, or volunteer operating

1 independently or through a supervised visitation center or agency. The professional  
2 provider ~~should~~ must:

3  
4 ~~(A)~~(1) Be 21 years of age or older;

5  
6 ~~(B)~~(2) Have no record of conviction for driving under the influence (DUI) within the  
7 last 5 years;

8  
9 ~~(C)~~(3) Not have been on probation or parole for the last 10 years;

10  
11 ~~(D)~~(4) Have no record of a conviction for child molestation, child abuse, or other  
12 crimes against a person;

13  
14 ~~(E)~~(5) Have proof of automobile insurance if transporting the child;

15  
16 ~~(F)~~(6) Have no civil, criminal, or juvenile restraining orders within the last 10 years;

17  
18 ~~(G)~~(7) Have no current or past court order in which the provider is the person being  
19 supervised;

20  
21 ~~(H)~~(8) Be able to speak the language of the party being supervised and of the child, or  
22 the provider must provide a neutral interpreter over the age of 18 who is able to do  
23 so;

24  
25 ~~(I)~~ Have no conflict of interest under (g); and

26  
27 ~~(J)~~(9) Agree to adhere to and enforce the court order regarding supervised visitation;

28  
29 ~~(10)~~ Meet the training requirements stated in (f); and

30  
31 ~~(11)~~ Sign a declaration or *Declaration of Supervised Visitation Provider* (form FL-324)  
32 stating that all requirements to be a professional provider have been met.

33  
34 ~~(3) A “therapeutic provider” is a licensed mental health professional paid for providing~~  
35 ~~supervised visitation services, including a psychiatrist, a psychologist, a clinical~~  
36 ~~social worker, a marriage and family counselor, or an intern working under direct~~  
37 ~~supervision of a qualified licensed mental health professional. A therapeutic provider~~  
38 ~~should meet the qualifications provided in (c)(2). A judicial officer may order~~  
39 ~~therapeutic supervision for cases requiring a clinical setting.~~

40  
41 ~~(d)~~(f) Training for providers  
42

- 1 (1) Each court is encouraged to make available to all providers informational materials  
2 about the role of a provider, the terms and conditions of supervised visitation, and  
3 the legal responsibilities and obligations of a provider under this standard.  
4
- 5 (2) In addition, professional ~~and therapeutic~~ providers ~~should~~ must receive 24 hours of  
6 training that ~~should~~ includes the following subjects:  
7
- 8 (A) The role of a professional ~~and therapeutic~~ provider;
  - 9
  - 10 (B) Child abuse reporting laws;
  - 11
  - 12 (C) Record-keeping procedures;
  - 13
  - 14 (D) Screening, monitoring, and termination of visitation;
  - 15
  - 16 (E) Developmental needs of children;
  - 17
  - 18 (F) Legal responsibilities and obligations of a provider;
  - 19
  - 20 (G) Cultural sensitivity;
  - 21
  - 22 (H) Conflicts of interest;
  - 23
  - 24 (I) Confidentiality; ~~and~~
  - 25
  - 26 (J) Issues relating to substance abuse, child abuse, sexual abuse, and domestic  
27 violence; and
  - 28
  - 29 (K) Basic knowledge of family and juvenile law.
  - 30

31 ~~(e)(g)~~ **Safety and security procedures**

32  
33 All providers ~~should~~ must make every reasonable effort to assure the safety and welfare of  
34 the child and adults during the visitation. ~~Supervised visitation centers~~ Professional  
35 providers should establish a written protocol, with the assistance of the local law  
36 enforcement agency, that describes the emergency assistance and responses that can be  
37 expected from the local law enforcement agency. In addition, the professional ~~and~~  
38 ~~therapeutic~~ provider should:

- 39
- 40 (1) Establish and state in writing minimum security procedures and inform the parties of  
41 these procedures before the commencement of supervised visitation;
  - 42
  - 43 (2) Conduct comprehensive intake and screening to ~~assess~~ understand the nature and  
44 degree of risk for each case. The procedures for intake should include separate

1 interviews with the parties before the first visit. During the interview, the provider  
2 should obtain identifying information and explain the reasons for temporary  
3 suspension or termination of a visit under this standard. If the child is of sufficient  
4 age and capacity, the provider should include the child in part of the intake or  
5 orientation process. Any discussion should be presented to the child in a manner  
6 appropriate to the child's developmental stage;  
7

8 (3) Obtain during the intake process:

9  
10 (A)–(D) \* \* \*

11  
12 (E) An account of the child's health needs if the child has a chronic health  
13 condition; and

14  
15 (4) Establish written procedures that must be followed in the event a child is abducted  
16 during supervised visitation; ~~and~~

17  
18 ~~(5) Suspend or terminate supervised visitation if the provider determines that the risk~~  
19 ~~factors present are placing in jeopardy the safety and welfare of the child or provider~~  
20 ~~as enumerated in (j).~~

21  
22 **(f)(h) Ratio of children to provider**

23  
24 The ratio of children to a professional provider ~~should~~ must be contingent on:

25  
26 (1) The degree of risk factors present in each case;

27  
28 (2) The nature of supervision required in each case;

29  
30 (3) The number and ages of the children to be supervised during a visit;

31  
32 (4) The number of people, as provided in the court order, visiting the child during the  
33 visit;

34  
35 (5) The duration and location of the visit; and

36  
37 (6) The experience of the provider.  
38

39 **(g)(i) Conflict of interest**

40  
41 All providers should maintain neutrality by refusing to discuss the merits of the case or  
42 agree with or support one party over another. Any discussion between a provider and the  
43 parties should be for the purposes of arranging visitation and providing for the safety of the  
44 children. In order to avoid a conflict of interest, the professional provider should not:

1  
2 (1)-(4) \* \* \*

3  
4 ~~(h)~~**(j)** **Maintenance and disclosure of records for professional providers**

5  
6 (1) Professional ~~and therapeutic~~ providers ~~should~~ must keep a record for each case,  
7 including the following:

8 (A) A written record of each contact and visit, ~~including the date, time, and~~  
9 ~~duration of the contact or visit;~~

10  
11 (B) Who attended the visit;

12  
13 ~~(C) A summary of activities during the visit;~~

14  
15 ~~(D) Actions taken by the provider, including any interruptions, terminations of a~~  
16 ~~visit, and reasons for these actions;~~

17  
18 ~~(E) An account of critical incidents, including physical or verbal altercations and~~  
19 ~~threats;~~

20  
21 ~~(F) Violations of protective or court visitation orders;~~

22  
23 ~~(G)~~**(C)** Any failure to comply with the terms and conditions of the visitation;  
24 and

25  
26 ~~(H)~~**(D)** Any incidence of abuse as required by law.

27  
28 (2) \* \* \*

29  
30 (3) If ordered by the court or requested by either party or the attorney for either party or  
31 the attorney for the child, a report about the supervised visit ~~should~~ must be  
32 produced. These reports should include facts, observations, and direct statements and  
33 not opinions or recommendations regarding future visitation, ~~unless ordered by the~~  
34 ~~court. A copy of any report should be sent to all parties, their attorneys, and the~~  
35 ~~attorney for the child. The original report must be sent to the court if so ordered, or to~~  
36 ~~the requesting party or attorney, and copies should be sent to all parties, their~~  
37 ~~attorneys, and the attorney for the child.~~

38  
39 (4) \* \* \*

40  
41 ~~(i)~~**(k)** **Confidentiality**

42  
43 Communications between parties and providers of supervised visitation are not protected  
44 by any privilege of confidentiality. ~~The psychotherapist-patient privilege does not apply~~

1 ~~during therapeutic supervision.~~ Professional and therapeutic providers should, whenever  
2 possible, maintain confidentiality regarding the case except when:

3  
4 (1)–(5) \* \* \*

5  
6 ~~(j)~~(l) **Delineation of terms and conditions**

7  
8 The provider bears the sole responsibility for enforcement of all the terms and conditions  
9 of any supervised visitation. Unless otherwise ordered by the court, the provider should  
10 implement the following terms and conditions:

11  
12 (1)–(10) \* \* \*

13  
14 (11) Allow no emotional, verbal, physical, or sexual abuse; ~~and~~

15  
16 (12) Allow no contact between the custodial and noncustodial parents unless ordered by  
17 the court; and

18  
19 ~~(12)~~(13) Ensure that the parties follow any additional rules stated by the provider or the  
20 court.

21  
22 ~~(k)~~(m) **Safety considerations for sexual abuse cases**

23  
24 In cases where there are allegations of sexual abuse, in addition to the requirements of  
25 ~~(j)~~(l), the provider should comply with the following terms and conditions, unless  
26 otherwise ordered by the court:

27  
28 (1)–(2) \* \* \*

29  
30 (3) Allow no physical contact with the child such as lap sitting, hair combing, stroking,  
31 hand holding, ~~prolonged~~ hugging, wrestling, tickling, horseplaying, changing  
32 diapers, or accompanying the child to the bathroom;

33  
34 (4)–(5) \* \* \*

35  
36 ~~(l)~~(n) **Legal responsibilities and obligations of a provider**

37  
38 All nonprofessional providers of supervised visitation should, and all professional  
39 providers must:

40  
41 (1) Advise the parties before commencement of supervised visitation that no  
42 confidential privilege exists;

1 (2) Report suspected child abuse to the appropriate agency, as provided by law, and  
2 inform the parties of the provider's obligation to make such reports; and  
3

4 ~~(3) Implement the terms and conditions under (j) and~~  
5 ~~(4)(3) Suspend or terminate visitation under ~~(n)(p)~~.~~  
6

7 ~~(m)(o)~~ **Additional legal responsibilities of professional and therapeutic providers**  
8

9 In addition to the legal responsibilities and obligations required in ~~(n)~~, professional and  
10 therapeutic providers ~~should~~ must:  
11

12 (1) Prepare a written contract to be signed by the parties before commencement of the  
13 supervised visitation. The contract should inform each party of the terms and  
14 conditions of supervised visitation; and  
15

16 (2) Review custody and visitation orders relevant to the supervised visitation;  
17

18 ~~(3) Implement an intake and screening procedure under (e)(2); and~~  
19

20 ~~(4) Comply with additional requirements under (o).~~  
21

22 ~~(n)(p)~~ **Temporary suspension or termination of supervised visitation**  
23

24 (1) All providers ~~should~~ must make every reasonable effort to provide a safe visit for the  
25 child and the noncustodial party.  
26

27 (2) However, if a provider determines that the rules of the visit have been violated, the  
28 child has become acutely distressed, or the safety of the child or the provider is at  
29 risk, the visit may be temporarily interrupted, rescheduled at a later date, or  
30 terminated.  
31

32 (3) All interruptions or terminations of visits ~~should~~ must be recorded in the case file.  
33

34 (4) All providers ~~should~~ must advise both parties of the reasons for interruption of a visit  
35 or termination.  
36

37 ~~(o)(q)~~ **Additional requirements for professional and therapeutic providers**  
38

39 Professional and therapeutic providers ~~should~~ must state the reasons for temporary  
40 suspension or termination of supervised visitation in writing and provide the written  
41 statement to both parties, their attorneys, the attorney for the child, and the court.  
42  
43



PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT/PARTY:	CASE NUMBER:
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**SUPERVISED VISITATION ORDER**  
**Attachment to Child Custody and Visitation (Parenting Time) Order Attachment (form FL-341)**

1. Evidence has been presented in support of a request that the contact of  Petitioner  Respondent  Other Parent/Party with the child(ren) be supervised based upon allegations of
- abduction of child(ren)    physical abuse    drug abuse    neglect  
 sexual abuse    domestic violence    alcohol abuse    other (specify):
- Petitioner    Respondent    Other Parent/Party disputes these allegations and the court reserves the findings on these issues pending further investigation and hearing or trial.
2. The court finds, under Family Code section 3100, that the best interest of the child(ren) requires that visitation by  Petitioner  Respondent  Other Parent/Party must, until further order of the court, be limited to contact supervised by the person(s) set forth in item 6 below pending further investigation and hearing or trial.

**THE COURT MAKES THE FOLLOWING ORDERS**

**3. CHILD(REN) TO BE SUPERVISED**

<u>Child's Name</u>	<u>Birth Date</u>	<u>Age</u>	<u>Sex</u>
---------------------	-------------------	------------	------------

**4. TYPE**

- a.  Supervised visitation      b.  Supervised exchange only

**5. SUPERVISED VISITATION PROVIDER**

- a.  Professional (individual provider or supervised visitation center)      b.  Nonprofessional

**6. AUTHORIZED PROVIDER**

<u>Name</u>	<u>Address</u>	<u>Telephone</u>
-------------	----------------	------------------

Any other mutually agreed-upon third party as arranged.

**7. DURATION AND FREQUENCY OF VISITS** (see form FL-341 for specifics of visitation):

8. **PAYMENT RESPONSIBILITY**    Petitioner:                      %    Respondent:                      %    Other Parent/Party:  %
9.  Petitioner will contact professional provider or supervised visitation center no later than (date):  
 Respondent will contact professional provider or supervised visitation center no later than (date):  
 Other Parent/party will contact professional provider or supervised visitation center no later than (date):

**10. THE COURT FURTHER ORDERS**

Date:

\_\_\_\_\_  
JUDICIAL OFFICER

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	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
1.	California Association of Supervised Visitation Providers Sonia Melara, President	AM	<p>1. Does the proposal appropriately address the stated purpose?</p> <p>a. Yes, the proposal appropriately addressed the stated purpose.</p> <p>2. Should the committee consider any additional changes to the standard for supervised visitation providers?</p> <p>a. Supervised Exchanges. May the current definition of supervised visitation expand to include supervised exchanges? For example, both supervised visitation and supervised exchanges involve “contact between the non-custodial party and one or more children in the presence of a neutral third person,” as such, may it read “Supervised visitation/exchange is contact between a non-custodial party and one or more children in the presence of a neutral third person?” This is a natural extension as both services, supervised visitation and supervised exchanges involve the participation of the custodial parent, yet the custodial party is not mentioned in the definition – therefore, extending the definition to include the supervised exchanges would not present a conflict except for: (J) Delineation of Terms and Conditions: (2) Enforce the frequency and duration of the visits (and exchanges) as ordered by the court; and (8) Allow neither the provider nor the child to be used to gather information about the other party or caretaker or to transmit documents,</p>	<p>No response required</p> <p>No response required.</p> <p>The committee agrees that there need not be an exception for supervised exchanges that meet the definition in the standard for supervised visitation, thus rather than adding supervised exchange, the committee has chosen to maintain the deletion of the provision that excludes it, as the proposal was circulated for comment, thereby making supervised exchanges subject to the standards as applicable.</p>

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			<p>information, or personal possessions* (*exchanges involve the transfer of personal possessions i.e. child’s clothing, games, etc. for the course of the exchange-related visit, so the bolded portion of this area would need to be revised for exchange-only services, and (K) Special Considerations for Sexual Abuse Cases. i. Due to the nature of the service, all supervised visitations include a supervised exchange at the front and back end of the session. Additionally courts frequently order supervised/monitored exchanges and require those services to be conducted by a professional monitor, as defined by 3200.5. These services should be guided, as are visitations, by Standard 5.20 as it is beneficial for the provider to be trained the provisions of the standard, such as training, intake, orientation, safety practices, termination of services, recordkeeping, report writing (a report of the exchange should be produced also as it demonstrates pick up/return times, items exchanged at the time of visit), etc. Exchanges should still require an intake and orientation so that the provider can safety plan, and the participants can be oriented to the location of the exchange as well as the terms and conditions applicable to the exchange. Should the council not agree with the statement above, at minimum we ask that a separate set of Standards be created for Supervised Exchanges and that this Standard is required to be followed by all professional providers.</p>	

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			<p>b. Determination of the type of provider. We ask that supervised visitation providers not participate in the recommendation process, rather their supervised visitation reports be reviewed by professionals who have trained to incorporate evaluative reviews into their professional roles. Currently, supervised visitation providers are required to provide direct statements and facts regarding the supervised visitation service. In this role, there is no more to add to the details of the service that are not contained in the supervised visitation report, and therefore their recommendation regarding future activities of the family in any context is unnecessary based on their role as neutral providers, and it causes concern to allow non-evaluators to provide recommendation, even at the courts request. Others identified in the recommendation process (attorney for the child, the parties and their attorneys, Family Court Services staff, evaluators, and therapists) naturally play an advocacy role and will recommend based on the best interest of their clients. Best interest are not an area that supervised providers are allowed to participate in, and their observations as documented in the supervised visitation reports, will provide all involved in the process of a picture of the visitation session. Supervised visitation monitors cannot predict future outcomes and many, educationally (and those who are limited to the 24 hours of</p>	<p>The committee agrees that making recommendations is inconsistent with the neutral role of a supervised visitation provider, and that the current requirements to provide a factual report consisting of observations and direct statements is all that should be contained in the provider’s report.</p>

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			<p>required training), are not qualified to serve in a professional evaluative role. Additionally, providers are asked in the provision, Conflict of interest, to not discuss the merits of the case and that any conversation held between the provider and the parties should be for the purpose of arranging visitation and providing for the safety of the children. Therefore, outside of the observations obtained during the supervised service, the professional provider should only be able to speak about factual details such as reasons stated by the parties as to why the service could not be arranged; and/or issues regarding the safety of the children as it relates to the provision of supervised visitation/exchanges services. Other recommendations by the professional provider would be purely speculative and would be based on guesswork. Finally, we support the redaction of the ending of the sentence in #3 – Maintenance and disclosure of records, as it now reads “. . . or recommendations regarding future visitation,” which also supports our concerns as noted above.</p> <p>c. Safety and security procedures. Replace the word must with the word ‘should’ as in “Professional providers ‘must’ establish a written protocol, with the assistance of the local law enforcement agency, that describes the emergency assistance and responses that can be expected from the local law enforcement agency.” Also replace the word “should” with</p>	<p>No response required.</p> <p>While it is very unusual for a standard of judicial administration to use the term must, the committee has done so where necessary to meet the statutory requirements of Family Code section 3200.5 which specifically calls for a standard, rather than a rule of court, but also includes specified mandatory provisions. In order to</p>

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			<p>“must” in the following sentence: “In addition, the professional provider ‘must’.” It is important that providers review the areas that they plan to offer services (many field services at offered at local malls, parks, book stores and libraries, amusement parks, etc.) without consideration and full knowledge of an expected response to emergency period. Many of the providers work alone, and allow the parent to choose the service location, without the provider performing due diligence on safety reviews for the proposed site. A requirement to meet with local law enforcement will assist in safety preparations as the provider will have the opportunity to understand the expected response time, understand the local procedures for making emergency calls, and may receive recommendation on proposed locations by the law enforcement agency that will yield a faster response.</p> <p>d. Confidentiality. Replace “should” with “must” to read, “Professional providers must, whenever possible, maintain confidentiality regarding the case...”</p> <p>e. Delineation of terms and conditions. Replace “should” with “must” to read “Unless otherwise ordered by the court, the provider must . . .”</p> <p>f. Safety considerations for sexual abuse cases. Replace “should” with “must” to read, “the provider must comply with the following terms and conditions, unless otherwise ordered</p>	<p>distinguish between those requirements that are required by the statute, and those that should be followed by all providers seeking to follow the best practices set forth in the standard the committee has opted to use must only in those provisions made mandatory by Family Code section 3200.5 with the exception of the provision concerning court ordered reports, which are similarly legally required.</p> <p>See response above.</p> <p>See response above.</p> <p>See response above.</p>

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			<p>by the court.” Especially in sexual abuse cases, we emphasize that there should be no optional language for setting forth guidelines of no-contact. Additionally, #3, may an additional sentence be added to clarify that the examples are not exhaustive? This is a discussion that has come up in many trainings. Many providers believe that the examples provided are the only examples of physical contact, which is both dangerous and a demonstration on how important sexual abuse training is. Perhaps an additional sentence to read simply as “These are examples of contact, but this list is not exhaustive” may suffice.</p> <p>g. Legal responsibilities and obligations of a provider. We have nothing else to add, but want to state our agreement with the inclusion of nonprofessionals in this provision. While it is a recommendation that they “should,” as opposed to must (and we wonder why it is not a requirement” it is a reminder that nonprofessional still have legal liabilities in the supervised visitation (and exchange) process.</p> <p>h. Additional legal responsibilities of professional providers. The word “providers” is crossed out and should not be redacted in the title of the provision.(1) . . . “The contract ‘must’ (instead of ‘should’) inform each party . . . (2) “Review custody and visitation orders relevant to the supervised visitation (and exchange). . .”</p>	<p>The committee finds that the provision on physical contact is sufficiently precise, especially with the removal of the modifier “prolonged” before hugging. Thus the standard is no contact, and the list, which is preceded by the words “such as” is clearly illustrative and not which can be emphasized in training and education for providers.</p> <p>As described above, the committee has limited the use of the term must to those provisions mandated by Family Code section 3200.5</p> <p>The committee concurs that the term “providers” needs to be restored to the title of subdivision o, but as described above has opted to limit the use of the term must to legally mandated provisions.</p>





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			<p>to/from each parent; so areas identified in the Delineation of Terms and Conditions will still apply – as even on exchanges, messages should not be transferred from one parent to another. Special considerations for sexual abuse cases would not apply; however the other provisions would likely still apply.</p> <p>5. Should supervised visitation providers be deleted from the list of those who may make recommendations to the court on the manner of visitation?</p> <p>a. Yes, see above.</p> <p>6. Should references to therapeutic visitation providers be removed from Standard 5.20 and form FL-341(A) for consistency with the statutory identification of only two types of providers, or is there a need to identify therapeutic providers as a subcategory of professional providers in the standards or on the family law form?</p> <p>a. Yes, references to therapeutic visitation providers should be removed from Standard 5.20, Form FL-341(A) and any other forms on which it appears. Therapeutic services vary greatly from non-therapeutic, neutral services and as such, should not be referenced in relation to an order for supervised visitation. The order should be for therapeutic counseling, where the supervision of the interactions between the non-custodial and the child/ren will naturally occur. The mere use of the term “therapeutic” suggests that therapy, on some level, will be involved in</p>	<p>No response required.</p> <p>The committee agrees that the term therapeutic visitation may be confusing, and due to the plain language of Family Code section 3200.5 which provides that non-professional and professional visitation are the only types of visitation to be subject to the standard, agrees that the term must be deleted from the form and the standard.</p>

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			<p>the process. The definition provided in the Standard specifically states that it is not a therapy session, however many providers (including therapeutic providers) and some within the Courts have an expectation of some level of therapy to occur if this type of visitation is ordered. Many providers (non-therapeutic and therapeutic) have reported that this provision is unclear and forces a person to make a case-by-case decision on the level of therapy they believe the Court is asking them to provide. In fact it has been reported that the language is conflicting, ambiguous, and essentially unnecessary since the role of the provider does not change simply because they are a clinician. Naturally this begets the other question: “Why is therapeutic visitation ordered when it is known that the clinician serves in the role as a professional (neutral) provider, and not a clinician.” The session is not a therapy session, rather it the same service (supervised visitation) with a trained professional whose training exceeds that as required by Family Code 3200.5 (24 hours). Additionally, while “clinical settings” are suggested, what comprises a clinical setting is left to the direction of the clinician who is serving in the role of a professional provider, and not a clinician. As such, trained clinicians performing non-clinical work are working in questionable places such as park, malls, and other public settings on cases specially ordered</p>	

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			<p>to “therapeutic” services. Finally, licensed mental health care professionals have a different perspective and are mainly an advocate for either their client – or the person they perceive as their client. They are bound by a different set of rules, with its own regulatory oversight agency (unlike professional supervised visitation providers) and these regulations impose other requirements upon the clinician. In regards to the supervised visitation report, a therapist does not standardly document in a non-neutral fashion, and this also serves possibly conflict with key elements required in the supervised visitation report: Documentation of direct statements, facts and observations, not opinions. This is itself undermines the core of supervised visitation performed by professional providers: neutrality. We believe that, if the decision by the council is that therapeutic supervised visitation should remain as a part of the standards - then it should be specified therapists are not providing “therapy”, but rather simply “supervised visitation” services.</p> <p>7. Do the other changes made to enhance and clarify the standard succeed in making it more straightforward and internally consistent?</p> <p>a. Yes.</p> <p>8. Other Areas for Consideration:</p> <p>a. Training for providers: May another line be added to this section to state that while A-K are mandatory, additional training (e.g. conflict resolution, understanding the stages of</p>	<p>No response required.</p> <p>The committee finds the current training standards to be expansive and comprehensive opts not to add additional areas of training that providers may wish to seek on their own.</p>

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			<p>grief, etc.) in other areas may also be beneficial – or something to that effect?</p> <p>b. Safety and security procedures. May #2 be reworded to provide clarity as to “sufficient capacity,” such as “If the child is of sufficient age and capacity, as determined by the providers knowledge and understanding of the developmental stages of growth, the provider should include the child in part of the intake or orientation process.”</p> <p>c. Ratio of Children to Provider: It is a safety risk, especially for solo providers, to allow others to attend the visit. This risk may be reduced by limiting the number of participants in the visitation to only those identified in the court order. While many agencies have adopted their own guidelines about this process, other providers have shared that it would be beneficial to have this identified in the Standard to support their commitment to measuring for safety during the intake process. May this section (#4) be reworded to read (e.g.) “The number of people, as named in the court order, visiting the child during the visit.” Additionally, providers have asked for clear information regarding the “nature of supervision,” as identified in #2 because it is unclear who is determining the nature – although provision C states that the court determines the nature, many court orders lack</p>	<p>While the committee recognizes that there is significant discretion afforded to providers to determine whether a child is of sufficient age and capacity to be included in the intake and orientation, any individualized determination of whether a child is of sufficient age and capacity will require the exercise of professional judgment. The suggested additional language seems superfluous rather than clarifying.</p> <p>The committee agrees that those participating in the visit should be limited to those specified in the court order and has modified this provision as suggested.</p> <p>Because the standard is already clear in subdivision (c) that the manner of supervision is ordered by the court the committee finds this change unnecessary.</p>

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			<p>these details. May this be reworded to highlight that the nature of supervision (per C) is determined by the court, and not the provider. For example, “The nature of supervision, as determined by the court, required in each case.” Providers that continue to receive unclear court orders should not, in the opinion of CASVSP, perform services under Standard 5.20 because they would have to continue to speculate on the terms and conditions of the court order.</p> <p>d. Maintenance and disclosure of records. May it be considered that the Declaration Form, FL-324, also be identified as a document that is maintained as a record in each case? E.g. A written document of receipt that a separate copy of the FL-324, as well as Standard 5.20 and Family Code 3200.5 was provided separately to each party during the orientation process? This action would support the courts to educate the parties about the process, and the declared qualifications of the provider. Just as in provision F-Training for providers, courts are encouraged to make available to all providers informational materials, the provider could assist (which would result in paper reduction and cost savings) in the parent-education process through inclusion of these mandatory documents in the orientation process (i.e. with their program agreements and/or policies for services). This action also empowers the family that is participating in the process as they have the assurance of knowing that the selected</p>	<p>Form FL-324 is an optional form to assist providers to fulfill their obligation to certify their compliance with Family Code section 3200.5. The committee finds that the suggested requirement that providers provide that form as well as copies of the standard and the statute to all parties to be overly burdensome on providers and potentially more overwhelming than informative to consumers. The statute requires that a declaration be executed, but it does not require the provider to certify this compliance to each party.</p>

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			<p>provider has declared both their professionalism and adherence to Standard 5.20 and Family Code 3200.5 to the court from which the order was made.</p> <p>i. Declaration Form FL-324: Information regarding maintenance of this document is necessary as it contains identifying information regarding families involved in the court system. CASVSP recommends consideration for a process that will address the use of a Custodian of Record. I.e. for agencies or those that employ multiple monitors sign along with the monitor, as a “Custodian of Record,” and may the “Custodian of Record,” maintain a copy of FL-324 in the event of future subpoena and the monitor is no longer employed with the agency? We are not suggesting that the Custodian of Record sign in place of the monitor, but along with the monitor and their signature is validated in the event that the monitor is no longer reachable. Additionally, the design of the document suggests that it is required for each case, as opposed to a general document filed once (or upon request from the Court) from the provider and the case information is not inserted because it will apply to all cases that the provider serves. Instructions on the use of this form vary from court to court, and a written uniform practice for guidance would be appreciated. It is our suggestion that this form be applied on a “per case” basis, it is signed by the provider during the orientation meeting, and</p>	<p>As described above, form FL-324 is an optional form that can be used by providers. While it allows for the inclusion of case specific information in the event that a court determines that its local policy is to have the form maintained for each case, it is not a requirement of the standard or Family Code section 3200.5 that it be maintained in the case file for each case. This may well be a practice that many providers adopt, but the committee finds no authority in the statute to require it in every case. Since the standard and Family Code section 3200.5 do not require the maintenance of the FL-324 in every case, the suggestion regarding custodians of record appears to be outside the scope of this proposal.</p>

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			<p>a copy be maintained in the client file. Each provider assigned to a case must sign the Declaration. A separate file contains all originals (original copies signed by the provider) for all cases must be maintained in the event that it is solicited by the court. This is paper reduction on the part of the courts and best practices for accountability on the part of the provider(s).</p> <p>ii. Storage and Disposal of Records: Neither the current nor the proposed revised version of Standard 5.20 address the issue of file storage and disposal. It is our recommendation that files are maintained for a period no less than 4 years in a locked and separate file cabinet as they contain identifying information regarding clients; and that files are destroyed in a manner consistent with other industry standards, such as shredding, burning, or pulverization. A log sheet should be maintained for the life of the business that provides details regarding: File Name (as shown on court order), date of destruction, and signature of the person that destroyed the document after the period of 4 years.</p> <p>iii. Additionally, #3, please replace “should” with “must” to read “. . . a report about the supervised visit (and exchange, if adopted – see comments above) must be produced.” Also, the additional sentence is recommended for clarification. It now reads as though the report will only be sent to the court,</p>	<p>The standard does require providers to maintain certain case records, and the committee recognizes that providers, like any professionals, will need to exercise due care in maintaining their case records and disposing of them as appropriate in the usual course of their business. The committee does not believe that it is necessary for the standard to contain express requirements to this effect but trusts that providers will implement standard practices.</p> <p>The committee concurs that since these reports may be court ordered, the use of the term “must” in this provision is appropriate. The committee finds the newly added sentence clear on the point that the report is sent to the court only if it is so ordered, and that otherwise it is sent to the requester and that in all cases copies go to all</p>

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			and the requesting party or attorney if so ordered. May it read as follows: “The original report must be provided to: (1) the requesting party or attorney, and copies ‘must’ be sent to all parties, their attorneys, and the attorney for the child. In addition, the original report ‘must’ be sent to the court if so ordered.	parties, their attorneys, and the attorney for the child.
2.	Comprehensive Youth Services Lisa Brott Program Manager	N	I am employed by an agency that provides therapeutic supervised visits. Families referred for TSV derive great benefit from this type of visitation and to eliminate it as an option would be a great disservice. I strongly object to the elimination.	The committee eliminated references in the standard to “therapeutic visitation” because Family Code section 3200.5 specifically provides that a supervised visitation provider for purposes of the standard is either a professional provider or a nonprofessional provider. Moreover, an earlier version of the legislation enacting section 3200.5 did include references to therapeutic visitation, but those provisions were not included in the final Chaptered version, indicating to the committee that the intent of the legislature was not to include a special category of therapeutic visitation in the standards. The committee also notes that the prior standard did not define a different service that therapeutic providers would offer but simply defined that service in relation to the type of provider, so that a therapeutic visitation provider was a licensed mental health professional providing the same services as a professional provider, but in a clinical setting. While the standard has been revised altered to conform with the new statutory provisions, there is nothing in the standard that bars mental health professionals from continuing to offer professional supervised visitation services or prevents courts from making



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				<p>an order for visitation that requires the use of a mental health professional as a provider if the courts deems that necessary. The committee also notes that Family Code section 3190 gives the court the authority to order the parents and the child to participate in counseling if it makes specific findings, so if the court believes that the family needs counseling, it has the clear authority to make such an order.</p>
3.	<p>Cope Family Center Melinda Daugherty Program Manager</p>	AM	<p>ELIMINATION OF REFERENCES TO THERAPEUTIC VISITATION PROVIDERS: I believe all reference to therapeutic supervised visitation should be removed from the standards. Based on my professional experience, there has been much confusion over the years as to the role of a “therapeutic supervised visitation” provider. Most people in general, including judicial officers seem to have the expectation of a certain level of therapy in conjunction with supervised visitation. In order to maintain true neutrality for visitations, the provision of supervised visitation should be of a narrow scope. Licensed mental health care professionals have a different perspective and are mainly an advocate for either their client – or the person they perceive as their client. In addition, mental health care providers also have a different set of rules and regulations to follow in conjunction with the licensing agencies that oversee them. For a therapist to not be able to provide visitation observation notes in a neutral fashion, undermines the core of supervised</p>	<p>The committee agrees that the term therapeutic visitation may be confusing, and due to the plain language of Family Code section 3200.5 which provides that non-professional and professional visitation are the only types of visitation to be referenced in the standard, agrees that it must be deleted from the form and the standard.</p>

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			<p>visitation: neutrality. Therapy and Supervised Visitation should be two separate processes, therefore I believe all references to “therapeutic supervised visitation” should be removed from the Standards.</p> <p>If the decision by the committee is that therapeutic supervised visitation should remain as a part of the Standards - then it should be specified therapists are not providing “therapy”, but rather simply providing “supervised visitation” services.</p> <p><b>ADDITIONAL CHANGES TO ENHANCE INTERNAL CONSISTENCY:</b>                      As far as supervised exchanges, my opinion is there should be a separate standard set for exchanges. While they may be very similar in some respects to a visitation - meaning the front and back end of a supervised visitation - that is where the similarities end. The exchanges are typically for the most part, a temporary measure as the “dust settles” between the conflicting parties and the intent, in my opinion (based on my professional experience) is a little different than supervised visitation - and the rules should reflect that. For example, a natural consequence of parents switching the children back and forth on a weekly or bi-weekly basis can and does result in backpacks, toys, and other items being passed through, as well as messages such as what medications a child may have taken,</p>	<p>The committee has deleted the exception in the rule for supervised exchanges to make clear that when an exchange is within the supervised visitation definition of the standard (i.e. contact between the noncustodial party and one or more children in the presence of a neutral third party) then it is a form of supervised visitation subject to the standard. The provisions of the standard that are deemed problematic by the commenter can be overcome by a court order to the contrary, thus an order for supervised exchange can provide for exchange of information and possessions where appropriate. As a result the committee declines to set up a separate set of standards of practice for supervised exchange as the current standards will apply.</p>

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			<p>school appointments, etc. There are too many variables with exchanges that simply do not occur with supervised visitations.</p> <p>STANDARDS SECTION D: QUALIFICATIONS OF NON-PROFESSIONAL PROVIDERS: (PAGE 8, LINE 38) Add SECTION (2) (F): Not be the custodial parent of the children being supervised.</p> <p>TRAINING FOR PROVIDERS (PAGE 10, LINE 27 SECTION F) Providers should receive training via “approved” trainings or by “approved” trainers only. All providers should be trained in a consistent manner so as to maintain integrity in the field. Some of the various trainings provided up and down the state of California are inconsistent and also have provided misinformation. For example at one training it was announced the Standards did not exist any longer as the Family Code 3200.5 was now in place. This was a training provided to over thirty new providers. Oversight of trainers and their curriculums will provide consistency and also go a long way into maintaining the integrity of the field of Supervised Visitation.</p>	<p>As discussed above, supervised visitation is contact between a noncustodial parent and a child in the presence of a neutral third party. The custodial parent is not a neutral third party and thus by definition cannot be a nonprofessional supervised visitation provider. If the court were to order visits in the presence of the custodial parent that situation would not be subject to these standards as it falls outside the definition of supervised visitation.</p> <p>The committee cannot require training by approved providers because there is no entity charged with approving training providers for supervised visitation. The legislature opted to make training mandatory but then left to providers the responsibility to obtain and certify their compliance with the training. Neither the courts nor the Judicial Council have the authority or the resources to oversee this training.</p>

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			<p>In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:</p> <ul style="list-style-type: none"> <li>• Does the proposal appropriately address the stated purpose?               <ul style="list-style-type: none"> <li>o Yes</li> </ul> </li> <li>• Should the committee consider any additional changes to the standard for supervised visitation providers?               <ul style="list-style-type: none"> <li>o Yes, as stated above, in regards to non-professional providers – the custodial parent should not be the one supervising the visitation between their own children and the other parent.</li> </ul> </li> <li>• Is it appropriate to delete the exception for supervised exchange because it is a form of supervised visitation, or will the application of the standard to supervised exchange be problematic?               <ul style="list-style-type: none"> <li>o Yes, I believe the application of the standard to supervised exchange would be problematic – the services may be similar in some respects, but different in a variety of ways. The differences are intent or reasoning behind the necessity for exchanges and also the logistics of custodial exchanges as children naturally will need to carry items such as backpacks, clothes, toys etc back and forth between homes. Parents also need to keep the other informed with regards to issues related to school, medical appointments, medications, etc. This in of itself will necessitate messages to be</li> </ul> </li> </ul>	<p>No response required.</p> <p>See response above.</p> <p>See response above.</p>

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			<p>passed through. Please see above comments.</p> <ul style="list-style-type: none"> <li>• Should supervised visitation providers be deleted from the list of those who may make recommendations to the court on the manner of visitation?</li> </ul> <p>o I do believe they should be deleted from the list, however if they are not deleted from the list - the court should carefully consider the provider as to the level of experience and length of time providing services to the particular family. The decision as to what (if any) weight to be given to a provider’s recommendation should rest completely with the judicial officer making the decision as to visitation.</p> <p>o If the committee chooses to delete supervised visitation providers from the list of those who may make recommendations - an alternative would be that providers who have been qualified as an expert in the field of supervised visitation should be considered for opinion on cases they have not directly supervised, which in turn, maintains neutrality, yet provides another tool for the judicial officer to make an informed decision on visitation. This would be especially helpful in counties with non-recommending mediation services.</p> <ul style="list-style-type: none"> <li>• Should references to therapeutic visitation providers be removed from standard 5.20 and form FL-341(A) for consistency with the statutory identification of only two types of providers, or is there a need to identify therapeutic providers as a subcategory of</li> </ul>	<p>The committee agrees that making recommendations is inconsistent with the neutral role of supervised visitation providers and has therefore deleted them from the list of those authorized to do so.</p> <p>See response above.</p>

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			<p>professional providers in the standards or on the family law form?</p> <ul style="list-style-type: none"> <li>o Therapeutic visitation in my opinion, is a completely different service than supervised visitation – and therefore, should not be a part of these standards.</li> <li>• Do the other changes made to enhance and clarify the standard succeed in making it more straightforward and internally consistent?</li> <li>o Yes they do.</li> </ul>	<p>No response required.</p>
4.	<p>Growth Motivator Enterprises Inc.            Tamara L. Daniels            Professional Monitor</p>	A	<p>Whereas the proposed changes are agreed with, however, I would like to add the following comment for consideration: that the 'requirements' for non-professional monitors (i.e. immediate family members, relatives or friends) are modified to include a 'minimum of 8 hours training in supervised visitation training. As a professional visitation provider, I have seen cases where the order allowed monitored visitation via a non-professional (i.e. immediate family member, relative or friend) whereby a) were not aware of the visitation guidelines or b) were aware but chose not to implement the guidelines due to the conflict of interest monitoring a 'family' member or 'friend'. Hence, in some cases, the minor is now at-risk.</p> <p>For example, the 'family/friend' leaves the minor alone with the NCP, allows derogatory comments to be made, allows in-appropriate</p>	<p>While the committee appreciates the underlying intent of the suggested requirement to impose training requirements on non-professional supervised visitation providers, it has no authority to do so under Family Code section 3200.5. The statute is clear that non-professional providers are not required to receive any training, and the committee is legally required to conform the standard to the statute.</p>

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			<p>activities to occur, is aware the visiting parent is slightly under the influence and allows the visit to take place.</p> <p>The CHALLENGE is this; for most family members, it is difficult to supervise a son, daughter, friend, etc. Non-professionals who are not exposed to/given a chance to fully understand the 5 basic roles of a provider per the Uniform Standards are, in many cases set up for failure and therefore place minors at-risk.</p> <p>Please 'consider' adding a minimum training qualifier to the non-professional requirements.</p>	
5.	Stacy Larson Family Law Facilitator Superior Court of Shasta County	AM	<p>§ It's helpful to break down the Standard into specific categories such as Scope of Service, Definition, Determination of the type of provider, etc. This creates easier reference to the relevant provision while also clarifying the context of each provision.</p> <p>§ Standard 5.20, subsection (c): The proposed elimination of "providers of supervised visitation" is an important and necessary change. The suggested insertion of the final sentence (e. g., "In any case in which the court has determined . . . child's best interest.") appears to be intended to require the court to fulfill its role in considering and making a specific order regarding whether supervised visitation should be monitored by a professional or nonprofessional after making findings of domestic violence, child abuse, or</p>	<p>No response required.</p> <p>The committee has opted to use the language from Family Code section 3200.5 which requires the court to "consider" rather than requiring a specific finding or determination. The legislative history of section 3200.5 shows that the legislature was trying to preserve discretion for the court while ensuring the safety of children subject to supervised visitation orders and determined that a requirement that the court consider which type of provider was appropriate struck the appropriate balance. As a result the committee finds that the standard must be in conformance with that</p>

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			<p>neglect. The sheer volume of family-law cases heard on each calendar in most cases often results in lack of specificity of orders, and as we all know, lack of specificity leads to lack of enforceability and increased conflict between the parties. I suggest that this last sentence be more clear—and more meaty—by requiring the court to make a specific determination regarding whether the supervised visitation shall be monitored by a professional or non-professional, not simply ordering the court to “consider” the issue.</p> <p>§ Standard 5.20, subsection (c): I agree that the reference to Penal Code §11165.6 for definition of domestic violence, child abuse, or neglect mirrors that found in Family Code §3200.5(b); however, this reference is very narrow. I assume this is intentional, but it does essentially eviscerate the requirement that the court should specifically determine the necessity of a professional rather than unprofessional supervisor. It is extremely rare that a court, at least those I’ve appeared in, makes a specific finding under this Penal Code section, but it is extremely common that the court determines supervised visitation to be necessary. Other statutes, such as Family Code §3100 and §3031(c) (pertaining to domestic violence) require the court to consider whether supervision by a neutral third-party is in the child’s best interest. In these circumstances, it</p>	<p>language and not exceed it.</p> <p>The legislature limited the requirement that the court consider whether to use professional or non-professional providers to those cases in which the court has determined that there is domestic violence, child abuse, or neglect. As a result, the committee has modified the standard to conform to the statute.</p>



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			<p>is equally important that the court analyze, and specifically order, whether a professional or nonprofessional supervisor is in the child’s best interest. Similarly, see Family Code §3048(b)(2)(A).</p> <p>§ Standard 5.20, subsection (d)(1)(C): I agree with this modification as it mirrors Family Code §3200.5(c)(1). I’m not sure if it comes up very much as I have observed Family Code §3200 or §3200.5 being litigated by the parties nor enforced by the Court; however, it would be interesting to learn whether nonprofessional supervisors should also be barred if there was previously a temporary “past court order in which the provider is the person being supervised.” The sad reality is that temporary orders for supervised visitation can frequently be granted on the “facts” of the requesting party with no notice to the responding party only later to be rescinded when they are determined to be completely false. The wording here does not distinguish between temporary orders (often made without notice or opportunity to be heard and based upon the allegations of only the moving party) and “permanent” orders made after the Court makes findings of truth. This would seem to mean that even temporary supervised-visitiation orders would forever bar an individual from ever serving as a nonprofessional supervisor, which further limits the pool of nonprofessional supervisors available to some litigants.</p>	<p>The language of this provision comes verbatim from Family Code section 3200.5 and was part of the current language of Standard 5.20. Given this fact the committee does not deem it within its authority to distinguish between temporary orders and orders after a hearing with regard to this requirement. However, if a court were to read this language as applying to temporary orders, the committee notes that the court may order and/or the parties may stipulate to a provider who does not meet the requirements of the standard, thus providing a means to rectify any injustice that would arise from inclusion of temporary orders.</p>

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			<p>§ Standard 5.20, subsection (e)(1): This was reworked to be consistent with Family Code §3200.5(c)(2)(A). Why not use the same wording (e. g. “be at least 21 years of age” rather than the proposed “be 21 years of age or older”).</p> <p>§ Standard 5.20, subsection (e)(2): This was reworked to be consistent with Family Code §3200.5(c)(2)(B). Why not use the same wording (e. g. “have no record of a conviction for driving under the influence (DUI) within the last five years” rather than the proposed “Have no conviction for driving under the influence (DUI) within the last 5 years”). In Standard 5.20, subsection (e)(4), the exact language from Family Code §3200.5(c)(2)(D) is used: “Have no record of conviction for child molestation, child abuse, or other crimes against a person.”</p> <p>§ Standard 5.20, subsection (e)(6): I agree with this modification as it mirrors Family Code §3200.5(c)(2)(F). I’m not sure if it comes up very much as I have observed Family Code §3200 or §3200.5 being litigated by the parties nor enforced by the Court; however, it would be interesting to learn whether professional supervisors should also be barred if there was a temporary “civil, criminal, or juvenile restraining order within the last 10 years.” The sad reality is that temporary restraining orders can frequently be granted on the “facts” of the requesting party with no notice to the responding party only later to be</p>	<p>The committee finds no difference in meaning between the two expressions and has opted to use the language of the current standard.</p> <p>The committee agrees that the preferable approach is to mirror the statutory language and has added “no record of” to the DUI conviction language.</p> <p>As discussed above with reference to temporary supervised visitation orders, the committee is bound by the statutory language but reiterates that if a court found this language to include temporary orders it could nevertheless affirmatively make an order for visitation with a provider who was otherwise appropriate and/or the parties could stipulate to such a provider.</p>

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			<p>rescinded when they are determined to be completely unjustified. The wording here does not distinguish between temporary orders (often made without notice or opportunity to be heard and based upon the allegations of only the moving party) and “permanent” orders made after the Court makes findings of truth. This would seem to mean that even temporary restraining orders would forever bar an individual from ever serving as a nonprofessional supervisor, which further limits the pool of professional supervisors available to litigants within a specific county.</p> <p>§ Standard 5.20, subsection (e)(7): I agree with this modification as it mirrors Family Code §3200.5(c)(2)(G). I’m not sure if it comes up very much as I have observed Family Code §3200 or §3200.5 being litigated by the parties nor enforced by the Court; however, it would be interesting to learn whether professional supervisors should also be barred if there was previously a temporary “past court order in which the provider is the person being supervised.” The sad reality is that temporary orders for supervised visitation can frequently be granted on the “facts” of the requesting party with no notice to the responding party only later to be rescinded when they are determined to be completely false. The wording here does not distinguish between temporary orders (often made without notice or opportunity to be heard and based upon the allegations of only the</p>	<p>See discussion above.</p>

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			<p>moving party) and “permanent” orders made after the Court makes findings of truth. This would seem to mean that even temporary supervised-visitation orders would forever bar an individual from ever serving as a professional supervisor, which further limits the pool of professional supervisors available to some litigants.</p> <p>§ Standard 5.20, subsection (e)(11): It would be helpful to clarify that the FL-324 (or its equivalent) must be signed and filed with the court.</p> <p>§ Standard 5.20, subsection (f)(1): It would be helpful to have a uniform “Information Sheet” on a Judicial Council form for this purpose. The provision that each court “is encouraged to make available to all providers informational materials about . . . the terms and conditions of supervised visitation . . .” is a bit unclear. Terms and conditions of specific supervised visitation orders can vary dramatically depending on the best-interest-of-the-child standard, and they may be contained within confidential files. If specific orders are to be provided to supervised-visitation</p>	<p>Family Code section 3200.5 does not require that a declaration be filed with the court in each case, but only that professional providers have signed such a declaration. Given the resource constraints faced by courts and litigants seeking supervised visitation, the committee has opted not to go beyond the statute in making such filing a standard requirement, but rather to leave it to each court to determine to what extent they wish to document compliance with this requirement.</p> <p>The Administrative Office of the Courts has prepared a guide for non-professional providers of supervised visitation that is available to the courts and the public on the courts.ca.gov website. It provides helpful guidance to non-professionals for understanding their role under the standards and for ensuring a safe visit. For professional providers the training requirements in the standard should ensure a more in depth understanding of the standards of practice and other issues essential to professional providers. Thus the committee does not believe that an additional information sheet is required.</p>

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			<p>providers, it would seem most appropriate for the parties to provide copies of these orders to their chosen provider. I suspect this is intended in a broader sense to mean general information about the provider’s role, etc., but it is unclear what a general, all-purpose definition of “terms and conditions of supervised visitation” if or how it would be useful to providers in general (?).</p> <p>§ Standard 5.20, subsection (f)(2)(C): Family Code §3200.5(d)(1)(C) does not hyphenate “recordkeeping” but this subsection of Standard 5.20 does . . . an argument in favor of consistency can be made that we should just mirror the statute and not hyphenate “recordkeeping” in this section.</p> <p>§ Standard 5.20, subsection (g): The first paragraph (“All providers should make every reasonable effort to assure the safety and welfare of the child and adults during the visitation . . .”) is worded as a “should” recommendation, but it is based upon Family Code §3200.5(h)(1), which is worded as a “shall” mandatory requirement. To clarify, we could change the “should” in the first sentence to a “shall.”</p> <p>§ Standard 5.20, subsection (g)(5): This provision (“suspend or terminate supervised visitation if the provider determines that the risk factors present are placing in . . .”) is delineated as a “should,” indicating it is a recommendation but not a mandatory requirement under the</p>	<p>The committee has conformed the standard to the statutory language and made it one word without a hyphen.</p> <p>The committee agrees and has modified this sentence to make it mandatory consistent with the statute.</p> <p>The revised standard does require professional providers to suspend or terminate visitation under the specified circumstances of section 3200.5 in paragraph (3) of subdivision (n). To eliminate any confusion the committee has deleted this language from subdivision (g) of the standard as it</p>

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			<p>Standard. However, Family Code §3200.5(f)(3) and (h)(2) make this a mandatory provision.</p> <p>§ Standard 5.20, subsection (g)(5): It appears the reference to (l) is in error (?).</p> <p>§ Standard 5.20, subsection (j), “Maintenance and disclosure of records”: This section appears to apply only to professional providers, and it would be helpful if this was made clear in the title. For example, the title could read, “Maintenance and disclosure of records for professional providers”</p> <p>§ Standard 5.20, subsection (o): We should re-insert the word “providers” at the end of the title, e. g., “Additional legal responsibilities of professional providers”</p> <p>§ Standard 5.20, subsection (p)(1): This section appears repetitive with subsection (g). Standard 5.20, subsection (p)(1) could be omitted as it is covered earlier in the section “Safety and security procedures.” Subsection (2) could be reworded to read, “If a provider determines that the rules . . .”</p> <p>§ Standard 5.20, subsection (q): This section appears to be a continuation of subsection (p). Why not make this the last subsection under “(p) Temporary suspension or termination of supervised visitation”?</p> <p>§ FL-341(A), subsection (6): Non-professional supervisors are often the best due to the financial limitations of the non-custodial parent. Non-professional supervisors are most</p>	<p>is redundant.</p> <p>The committee has deleted this language and thus need not correct this reference.</p> <p>The committee has adopted this suggestion.</p> <p>The committee has modified the rule to correct this error.</p> <p>The committee finds that in this instance the redundancy is appropriate and each subdivision is clearer with the language included.</p> <p>The committee has retained this subdivision as a separate requirement to highlight that it applies only to professional providers, while much of subdivision (p) applies to all providers.</p> <p>The suggested change is too substantive to make without further circulation for comment and is thus outside the scope of this proposal.</p>

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			<p>often friends or family members of the custodial parent. The willingness to continue acting as a supervisor (as well as their availability) can change dramatically once an order is made, which severely limits the non-custodial parent’s ability to exercise visitation rights. Courts frequently provide flexibility in these orders such as “a nonprofessional supervisor at the mother’s discretion.” This allows the parties some flexibility in adjusting the name/address/telephone number of the approved supervisor without filing additional motions or stipulations. It would be helpful to add this option at Item (6) by inserting something like, “a non-professional supervisor at the mother’s/father’s discretion who had completed and filed an FL-324 “Declaration of Supervised Visitation Provider” or its equivalent.</p> <p>§ FL-341(a), subsection (9): In situations where the non-custodial parent’s involvement in the child’s life has been minimal or inconsistent, courts often do not make specific orders regarding deadlines for contacting the professional supervisor. An example would be when the custodial parent requests modification of the existing custody/visitation order based upon the non-custodial parent’s incarceration or long-term absence from the child’s life. Rather than ordering “no visitation,” the court may order “supervised visitation by a professional provider.” The only party present could be the</p>	<p>The committee notes that the current form does not require the court to check a box on line 9, and does provide a subsection for the court to make an alternative order that clarifies the court’s intent on line 10 which allows the court to make further specifications about the order. Given this line the committee thinks inclusion of an “other” checkbox on line 9 is unnecessary.</p>

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			<p>custodial parent, and the intent of the court’s order is that the non-custodial parent must contact a professional supervisor to orchestrate professional supervised visitation once he/she reappears in the child’s life. It would be helpful if (9) accommodated this flexibility, perhaps by including an “other” checkbox section.</p>	
6.	<p>Beth Miller Family Court Services Mediator Superior Court of Napa County</p>	AM	<p>I have concerns about the Court's policies pertaining to the practices of supervised visitation private providers.</p> <p>1) I believe it is impossible for professional supervisors to work with families in public without the Court's support. Private providers need liability insurance and it is not available thru private means so I suggest that the Court must indemnify the private providers.</p> <p>2) Since the Court orders parenting time for the non custodial parent ranging from 2-8 hours at a time, the report writing becomes tedious and difficult. The visits are often held outside, in public child friendly locales that offer age appropriate stimulation to the child/children. If every utterance needs to be memorialized in the body of the private provider's report, I suggest that the visits should be audio taped or employ the use of video. Many Judicial Officers report that they read just the opening paragraph because they are only interested in the greeting between the child and the parent as well as the last paragraph describing the goodbye and</p>	<p>This suggestion goes beyond the scope of the standard and its purpose. The committee has no authority to require courts to indemnify private providers.</p> <p>While reports on a visit may be ordered by the court or requested by the parties, the committee does not view the standard as requiring that every action or statement will be documented. The report is required to be limited to a factual report that may include observations and direct statements, but there is no requirement that every such statement be documented. As to training requirements for professional providers, the suggestion appears to address a current practice rather than the standard, and would be better addressed by clarifying expectations when the reports are ordered or requested. Moreover, the suggestion that the training be designed to have an</p>



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			ignore all that is written in between. If that is true, then it appears that the job requirements do not fit the needs of the Court and some adjustment must be made. I would like to suggest that the training includes an evaluation process so that those professionals who are deemed suitable for the job of private provider of supervised visitation services can use summary instead of writing every word spoken and a written description of every movement made by the children and their supervised parent during the visit. I recognize that this idea is a huge departure from current expectations however, the current status quo is not in line with the reality of the Court's needs and the ability for professionals to provide excellence when performing their duties as it pertains to the written reports.	evaluative component conflicts with the neutral role that the supervised visitation provider is intended to fulfill.
7.	Quality-Time Visitation Group, Inc. Connie J. Thomas Professional Visitation Monitor	N	1. Does the proposal appropriately address the stated purpose? No  2. Should the committee consider any additional changes to the standards for supervised visitation providers? Yes, like any profession people who call themselves professional should be educated because education and training is too different things. The ideal that uneducated people have an impact on the lives of parents and children has never made sense. Also, anyone can become a monitor and mistakes have been made because of not having the experience, training	No comment required.  Because Family Code section 3200.5 sets training standards for professional visitation providers the committee has elected to align the training requirements with those statutory requirements and not add additional educational requirements not mandated by the legislature.

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			<p>and or education to deal with people on this level. Additionally, monitoring families should be of great concern to everyone and safety of both the adult and children should be top priority. Yes, there should be more oversight of people who are engaged in providing this type of service as with any other profession.</p> <p>3. Is there value in preserving the suggested elements of the current standard in addition to those provisions made mandatory by Family Code section 3200.5? Yes</p> <p>4. Is it appropriate to delete the exception for supervised exchange because it is a form of supervised visitation, or will application of the standards to supervised exchange be problematic? The supervised exchange should be removed from the Standards because if the Court has agreed to remove this type of monitoring and parents agree to work with each other at a mutual exchange location, why should monitors be involved at this level. This only prevents the parents the opportunity to move on with their lives.</p> <p>5. Should supervised visitation providers be deleted from the list of those who may make recommendations to the court on the manner of visitation? No, because those of us that are truly</p>	<p>The legislation requiring standards of practice for supervised visitation providers did not require that there be any monitoring of the supervised visitation providers and there is no state entity authorized to carry out such monitoring or oversight</p> <p>The proposal continues to include the non-mandatory provisions.</p> <p>The current version of the standard defines supervised visitation as “contact between a noncustodial party and one or more children in the presence of a neutral third person” thus the committee opted to delete the provision providing that supervised exchange was not subject to the standard in favor of an approach that includes all monitored contact between the noncustodial party and the child/ren that meets the definition in the supervised visitation standard to ensure consistency and clarity.</p> <p>The committee appreciates the dedication of supervised visitation providers but has concluded</p>

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			<p>involved with these families for the right reason of assisting them in having a normal relationship. Also, we are able to see up front and personal whether a parent is a threat or not. Again, this comes back to education, training and experience.</p> <p>6. Should references to therapeutic visitation providers be removed from standard 5.20 and form FL-341(A) for consistency with the statutory identification of only two types of providers, or is there a need to identify therapeutic providers as a subcategory of professional providers in the standards or on the family law form? Yes, because therapeutic visitation is another field. I'm hearing a lot about family therapeutic sessions set up like visitations instead therapy sessions as a result parents are confused.</p> <p>7. Do the other changes made to enhance and clarify the standards succeed in making it more straightforward and internally consistent? No</p>	<p>that a provider cannot serve as a neutral third party if the provider may also be asked to make recommendations to the court. The provider can, however, provide information to the court describing the visits that would be of value to the court in determining how to proceed with visitation orders.</p> <p>The committee concurs with this commenter that there is some confusion around what therapeutic visitation is intended to describe. In the current standard, therapeutic visitation does not involve any provision of therapy by the supervised visitation provider, but rather is professional visitation provided by a licensed clinician or trainee. Because the legislature identified only two types of supervised visitation providers (the professional and nonprofessional), the committee has conformed the standards to the statute. See response to comment 2 for further discussion of this issue.</p> <p>No response required.</p>
8.	Bobbi Richards Administrative Consultant California Association of Supervised Visitation Service Providers	AM	Agree with the discussion regarding form FL-324 (Declaration). Would ask the Council to consider the storage/maintenance of this document to both reduce the paper burden on the Courts as well as to educate the parents at	As discussed above the committee does not wish to place additional burdens on providers beyond those imposed by Family Code section 3200.5. Providers must determine for themselves, consistent with any local court requirements, how

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			the time of intake. May this form be provided, to inform the parents, of the provider's declared qualifications at the time of intake, and house/where should copies of the document be maintained (i.e. separate file, per case, etc at the provider's office/file location).	to manage the optional FL-324 form.
9.	Sacramento Counseling and Family Service April Hayes Executive Director	AM	<p>I have six issues to address.</p> <p>1. Professional requirements: E(7) There are social workers that have had CPS cases before being a social worker. There are police officers that have been arrested for minor issues before they came an officer. There are therapist with mental health issues. There are frequent allegations against a parent that the court will decide as a precaution to require a parent to do supervised visitation or even in a CPS case where a grandparent is doing supervised visitation out of now fault of their own. Stating in general terms that a professional provider should never previously been a subject of supervision seems to be inappropriate. Sometimes parents that have made mistakes in the past have made significant progress in their life and maybe a perfect candidate to provide such services.</p> <p>2. L 12 - Understandable why there should be no contact between parents during the supervised visitation processed. But Visitation monitors have no control of contact between parents outside of the visitation process.</p>	<p>The requirements cited here for professional providers are set forth in Family Code section 3200.5 and thus the Committee is required by the statute to include them in the standards and has no authority to modify them, however, the standard allows the court to order or the parties to stipulate to a provider who does not meet the standards..</p> <p>Each of the provisions in the standard applies to the supervised visitation process only. The committee finds no ambiguity about when and where the standards apply.</p>

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			<p>3. There is also reference to follow any additional rules from court order. What does a provider do when there are additional court orders that are contrary to the standards? Such as allow custodial parent to participate in visitation, allow sex offender to physical interact with child?</p> <p>4. Sexual abuse allegations: ALLEGATIONS: there is no guidance when there are old allegations and then CPS and police investigate and unsubstantiate the allegations. - But the court requires supervised visitation for precaution or for other reasons. What happens to allegations against a different child - a step child or a child other than their own. They are ALLEGATIONS and a child that is used to be hugged or some other minor contact is now no longer able to touch the parent. Who is that punishing? What are we supposed to do when there is an ALLEGATION by a teenager with emotional disturbances against an adult whom has an infant. Is the supervised parent supposed to stare at the infant while the monitor takes care of it? We have had these situations come up - and frequently even the custodial parent thinks the requirements are not cohesive and now monitors are now not even allowed to assess risks. If we cannot assess anything, then the standards should account for every possible</p>	<p>The standard provisions referred to here are best practices that are not a binding obligation on the provider. Thus a court order that directs the provider to take a specific action in a specific case is not in conflict with the standard, but may require the visitation provider to determine whether or not he or she can provide the ordered services.</p> <p>The standard specifically provides that the specific terms and conditions that apply in sexual abuse allegation matters need not be complied with if there is a contrary order by the court. If a parent against whom there is a sexual abuse allegation wishes to have physical contact during visitation that parent can request the court to make such an order. Absent such an order the committee believes the best practice is to disallow physical contact in these cases.</p>

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			<p>situation. We keep having to send a case back to court, back to court to figure these things out, and a year later - the child still doesn't get to see their parent.</p> <p>5. Opinions: mediators, attorneys, judges: Professional monitors are not allowed to have opinions. So we write reports with no opinions. Subsequently, mediator is calling for an opinion. Monitor is given a subpoena for an opinion. Attorneys are asking for opinion. When monitors refuse to offer an opinion on the stand - the judge is asking for an opinion.</p> <p>6. Therapist - Evidently therapists are not required to be monitors. I frequently see supervised visitation monitor being referred to as a therapist in court orders. Frequently therapists are doing the supervision. As a visitation monitor a therapist is not allowed to</p>	<p>Since they were originally adopted, the standards for supervised visitation providers have been clear that supervised visitation is a neutral service, and that the role of the provider is to ensure the safety of the visit for all involved. Likewise, the standards have provided that reports on a visitation session be factual and simply describe what occurred during the visit. The clarifications of the standard proposed by the committee strengthen this neutral role by removing provisions authorizing supervised visitation providers to make recommendations about future visitation. As a result of these changes to the standard, it will be clear that the role of the provider does not include making recommendations or expressing opinions, and that those responsibilities should be left to those who are appointed to do so (e.g. minor's counsel, child custody recommending counselors and evaluators).</p> <p>The committee's decision to eliminate references to therapeutic visitation is explained in the response to comment 2 above. The committee notes that the court has a number of means to obtain recommendations about visitation and custody without requiring supervised visitation</p>

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			have an opinion. As a therapist we are always being asked for a therapeutic opinion on many types of clients. According to the standards - there are no exceptions when a therapist is supervising a visit, offers no opinion, but is court ordered to give an opinion. If there is going to be no exception for therapists, then can there be a reference if such opinions are needed - then the family should be referred for family therapy or reunification counseling.	providers to step into that role as well as authority to order family therapy when the court makes specific findings.
10.	State Bar of California, Family Law Section Saul Bercovitch Legislative Counsel	A	The Executive Committee of the Family Law Section of the State Bar (FLEXCOM) supports this proposal.	No response required.
11.	State Bar of California, Standing Committee on the Delivery of Legal Services Sharon Ngim Program Developer and Staff Liaison	AM	The proposal would clarify requirements for non-professional and professional visitations. Eliminating the exception for supervised exchange is appropriate here. The committee recommends that supervised visitation providers not be deleted from the list of those who may make recommendations to the court about the manner of visitations, because they may have insights or other important information to consider regarding the next visitation or past visitations, while judicial officers would still have the discretion as to how to weigh those recommendations.	The committee has concluded that making recommendations is inconsistent with the role of supervised visitation providers who are required to serve as a neutral third person. Given the other avenues for the court to obtain recommendations, the committee finds it appropriate to eliminate this role conflict.
12.	Superior Court of Los Angeles County (no name provided)	A	<ul style="list-style-type: none"> <li>• Does the proposal appropriately address the stated purpose? Yes.</li> <li>• Should the committee consider any additional changes to the standard for supervised</li> </ul>	<p>No response required.</p> <p>No response required.</p>

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			<p>visitation providers? No.</p> <ul style="list-style-type: none"> <li>• Is there value in preserving the suggested elements of the current standard in addition to those provisions made mandatory by Family Code section 3200.5? No.</li> <li>• Is it appropriate to delete the exception for supervised exchange because it is a form of supervised visitation, or will the application of the standard to supervised exchange be problematic? Yes, it's appropriate.</li> <li>• Should supervised visitation providers be deleted from the list of those who may make recommendations to the court on the manner of visitation? Yes.</li> <li>• Should references to therapeutic visitation providers be removed from standard 5.20 and form FL-341(A) for consistency with the statutory identification of only two types of providers, or is there a need to identify therapeutic providers as a subcategory of professional providers in the standards or on the family law form? It is suggested that "Therapeutic" be moved below "Professional Monitoring" in the event "Therapeutic" monitoring is ordered by</li> </ul>	<p>The committee has opted to maintain the provisions of the standard that were not included in Family Code section 3200.5 as the most of the provider community has expressed an interest in maintaining those standards of practice and no argument has been made in favor of deleting them.</p> <p>The committee concurs and has opted to maintain the deletion of the exception.</p> <p>The committee agrees and has chosen to leave providers off the list of those who can make recommendations.</p> <p>As discussed in the response to comment 2, the committee finds that the statutory language directing the council to make a standard for non-professional and professional providers makes it necessary to delete references to therapeutic monitoring, but notes that courts are always free to specify that they want a monitor who is a licensed mental health professional when making the visitation order.</p>



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			<p>the Court or stipulated to by the parties.</p> <ul style="list-style-type: none"> <li>• Do the other changes made to enhance and clarify the standard succeed in making it more straightforward and internally consistent? Yes.</li> </ul> <p>The advisory committee also seeks comments from courts on the following cost and implementation matters:</p> <ul style="list-style-type: none"> <li>• Would the proposal provide cost savings? If so, please quantify. No.</li> <li>• What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems or modifying case management systems? N/A</li> <li>• Would two months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? Yes.</li> <li>• How well would this proposal work in courts of different sizes? We have no reason to believe it would not work in large and small courts.</li> </ul>	<p>No response required.</p> <p>No response required.</p>
13.	Superior Court of Riverside County Riverside Superior Court Staff	A	Agree with proposal.	No response required.
14.	Superior Court of San Diego County Michael M. Roddy, Court Executive Officer	A	No specific comments provided.	No response required.

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15.	Trial Court Presiding Judges Advisory Committee/Court Executives Advisory Committee Joint Rules Working Group	A	The proposal is required to conform to a change of law. General comments Approve as submitted.	No response required.
16.	Wynspring Family Resource Center Darlene K. Aiello Business Manager	NI	Both AB1674, 5.20's and 3200.5 are clear on what training Professional Monitor must meet. What is not clear is if this is ongoing training or just a onetime shot. Most professions will keep up with continual training as the modalities are always changing or new models of handing certain things become available. Professionals know that keeping up on the latest advancements, or keeping updated skills is both beneficial and necessary.  The question then becomes where and who will be giving the training needed. This issues around who can and cannot give the needed training, even though none of the codes address this issue, has become frustrating.  The codes are clear on the training and all of the training is given on a regular basis through many avenues. The question then becomes which avenues are acceptable. The ideal of limiting the training to only one center or trainer may and will cause an issue. As there are many workshops, classes and seminars, that meet the needs of the training required, as most of the professionals already meet or exceed the training requirements.	The committee has concluded that the absence of any language requiring ongoing training for professional monitors means that the minimum requirement is a one-time requirement. Monitors are free to obtain additional training as they see fit, but the <i>required</i> training in the standard cannot exceed the 24 hours provided in statute.  The statute set forth no provision for certifying training providers and thus the committee has no authority to implement such a requirement.  As described in the response above, the committee finds no authority in the statute to create standards for supervised visitation provider training providers. Each provider must determine how to meet the 24 hour requirement.

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			<p>Also, by allowing only one center or person to do all the training could lead to professional being shut of their field due to not meeting the ideals of the training place or person.</p> <p>Example.. Professional Visitation agency is part of a larger agency that also does Foster Care, along with mental health services, and parenting, anger management and so forth. The Foster Care requirements for training go above and beyond the training needed for the supervised visitation monitor. Because all staff are required to take the same training through the agency, no matter the department, which overlap in most if not all of the areas. I.E. Documentation is documentation, filing and intake are almost the same, Report requirements are not that different and so forth. So, limiting where the training can occur will limit the ability of the Professional to do their job.</p> <p>The removing of Therapeutic Visitation is advisable as this monitor can do no more or less then the monitor. The training is the same, the ability to keep the child safe is the same and the Therapeutic monitor cannot do therapy or counseling in the visitation. This puts a burden on families in regards to paying higher rates to have a therapist in the room doing the same exact same visitation as the non-therapeutic monitor.</p>	<p>The committee agrees and has retained the elimination of references to therapeutic visitation providers.</p> <p>No response required.</p>

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			Change is good and consistency is better. A better understanding of what is required is always the best. Therefore change is always good and only enhances the services that are given to families.	