

Judicial Council of California • Administrative Office of the Courts

455 Golden Gate Avenue · San Francisco, California 94102-3688
www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

SPR13-19

Title	Action Requested
Family Law: Approval of New Form Declaration of Supervised Visitation Provider	Review and Submit Comments by June 19, 2013
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Approve new form FL-324	January 1, 2014
Proposed by	Contact
Family and Juvenile Law Advisory Committee	Shelly La Botte 415-865-7565 shelly.labotte@jud.ca.gov
Hon. Kimberly J. Nystrom-Geist, Cochair Hon. Dean T. Stout, Cochair	Michael Wright 415-865-7619 michael.wright@jud.ca.gov

Executive Summary and Origin

Because of new legislation affecting the training and qualifications of supervised visitation providers, the Family and Juvenile Law Advisory Committee recommends a new optional form. Effective January 1, 2013, Assembly Bill 1674 added section 3200.5 to the Family Code. Family Code section 3200.5(d)(2) requires the professional provider of supervised visitation to sign a declaration indicating that they meet the training and qualifications requirements as set forth in Family Code sections 3200.5(c)(2), (d)(1), and (d)(2). Family Code section 3200.5(c)(1) also sets forth qualifications for a nonprofessional provider of supervised visitation. Although Family Code section 3200.5 does not specifically require the Judicial Council to develop a form for this purpose, there is no current Judicial Council form declaration that incorporates the new requirements of Family Code section 3200.5 and a number of courts have contacted the Administrative Office of the Courts (AOC) suggesting that a form be developed.

Background

AB 1674 (Stats. 2012, ch. 692) added section 3200.5 to the Family Code, relating to qualifications and training for supervised visitation providers. Family Code section 3200.5(a) requires that any standards for supervised visitation providers adopted by the Judicial Council conform to the new provisions of the bill. In 1997, Family Code section 3200 required the Judicial Council to develop standards for supervised visitation providers. The Judicial Council

The proposals have not been approved by the Judicial Council and are not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee. These proposals are circulated for comment purposes only.

adopted, effective January 1, 1998, the *Uniform Standards of Practice for Providers of Supervised Visitation* as section 26.2 of the California Standards of Judicial Administration. Section 26.2 was changed (superseded), effective January 1, 2007, and became standard 5.20. Family Code section 3200.5 codified, in part, some of the existing provisions under standard 5.20 of the California Standards of Judicial Administration.

A number of courts have developed local court forms or declarations for nonprofessional and professional providers of supervised visitation. Local court practices vary across the state, including how these declarations are filed with the court. Some jurisdictions require the supervised visitation provider to file the declaration with their local court clerk's office. It is then kept in the specific case file when supervised visitation is ordered. Others have providers file the declaration with the Family Court Services office. Still others have it filed with the Court Executive Officer or have a procedure whereby the provider maintains the declaration as part of their recordkeeping practices and will make it available upon request.

Many courts do not currently have a local court form that would meet the requirements of Family Code section 3200.5. A number of these courts have contacted the Administrative Office of the Courts (AOC) about whether any statewide Judicial Council form could be developed that would satisfy the new statute that requires professional providers to submit a declaration regarding qualifications with the courts. Other courts have raised concerns that while there is no requirement for a declaration from nonprofessional providers, there are statutory qualifications for the nonprofessional provider and the court may have limited capacity to ascertain these qualifications absent a form declaration. Currently, a number of courts have nonprofessional providers complete a declaration. In those situations, absent a form declaration, nonprofessional providers may have challenges in accurately setting forth all of the statutory requirements and would place additional burdens on the court to provide the necessary review and assistance in getting the declaration completed.

The Proposal

This proposal would provide local courts with an optional form so that professional providers of supervised visitations could file a signed declaration indicating that they meet the training and qualifications requirements as set forth in Family Code sections 3200.5(c)(2), (d)(1), and (d)(2). It would also provide a vehicle for nonprofessional providers of supervised visitation to indicate that they meet the qualifications as set forth in Family Code section 3200.5(c)(1). The proposal for an optional form would provide the following benefits:

- It would be useful in implementing the statutory changes from the passage of AB 1674.
- It would ensure that both professional and nonprofessional supervised visitation providers are aware of the qualifications required by Family Code section 3200.5(c) and provide them with a means to attest to those qualifications that is complete and accurate.

- It would benefit courts by providing a record that professional and non-professional supervised visitation providers are qualified to provide services under Family Code section 3200.5(c) and (d).
- It would benefit courts that do not currently have a local form and who would have to use limited local court resources to go through the various steps necessary in adopting a local form. This local court form adopting process would have to be completed by multiple courts and would be more resource intensive than adopting a single optional statewide form.

Alternatives considered

The Family and Juvenile Law Advisory Committee considered the following alternatives:

1. The AOC could provide local courts with existing, sample model declarations that are currently being used by other courts for nonprofessional and professional providers of supervised visitation. This alternative was rejected as it would still require each court that wanted a form declaration to go through the local form approval process. This approach would be more resource intensive than going through the statewide form approval process.
2. Local court jurisdictions could develop their own forms. This alternative was rejected as it would require each court that does not currently have a local form to go through the local form development and approval process and would be more resource intensive on local courts than going through the statewide form approval process.
3. Local courts could advise providers to use the Judicial Council form, *Declaration* (form MC-030) and advise them to include the necessary language on that form. This alternative was rejected as it would not ensure that providers include all of the statutorily required qualifications because form MC-030 is merely a general declaration template and does not include specific language.

Implementation Requirements, Costs, and Operational Impacts

The Family and Juvenile Law Advisory Committee does not anticipate that this proposal will result in any costs to the branch other than one-time costs associated with printing and distributing the new form.

Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:

- Does the proposal reasonably achieve the stated purpose?
- Would this proposal have an impact on public's access to the courts? If a positive impact, please describe. If a negative impact, what changes might lessen the impact?
- Whether the Judicial Council should develop an optional form for a supervised visitation provider's compliance with Family Code section 3200.5?
- Although Family Code section 3200.5 does not require the nonprofessional provider to submit a declaration, there are specific statutory qualifications that the nonprofessional provider must meet. If an optional Judicial Council form is developed for supervised visitation providers, would it be useful to the court and others to include a declaration for the nonprofessional provider to declare they meet those qualifications?
- Is there any additional specific information or direction that should be provided to the declarant to assist in the completion of this form?

The advisory committee also seeks comments from *courts* on the following cost and implementation matters:

- Would the proposal provide costs savings? If so, please quantify. If not, what changes might be made that would provide savings, or greater savings?
- What are the implementation requirements 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.
- Would two months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- If this proposal would be cumbersome or difficult to implement in a court of your size, what changes would allow the proposal to be implemented more easily or simply in a court of your size?

Attachments and Links

1. Proposed optional form FL-324 is attached at page 5.
2. Family Code section 3200.5 is available at: <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=fam&group=03001-04000&file=3200-3204>
3. AB 1674 is available at: http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_1651-1700/ab_1674_bill_20120928_chaptered.pdf

NAME OF SUPERVISED VISITATION PROVIDER: TELEPHONE NO.: _____ FAX NO. : _____ E-MAIL ADDRESS: _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY <h2 style="margin: 0;">Draft not approved by the Judicial Council</h2>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CASE NAME:	
DECLARATION OF SUPERVISED VISITATION PROVIDER	CASE NUMBER:

1. As a: professional provider nonprofessional provider,
 I submit this form to indicate compliance with all applicable requirements for a provider of supervised visitation as defined under Family Code section 3200.5.

2. I declare that I am a professional provider of supervised visitation and meet the qualifications under Family Code section 3200.5 as follows (*check all that apply*):

- I am 21 years of age or older.
- I have no record of a conviction for driving under the influence (DUI) within the last five years.
- I have not been on probation or parole for the last 10 years.
- I have no record of a conviction for child molestation, child abuse, or other crimes against a person.
- I have proof of automobile insurance for transporting the child.
- I have had no civil, criminal, or juvenile restraining orders within the last 10 years.
- I have no current or past court order in which the provider is the person being supervised.
- I agree to speak the language of the party being supervised and of the child, or I will provide a neutral interpreter over the age of 18 years of age who is able to do so.
- I agree to adhere to and enforce the court order regarding supervised visitation.
- I meet the training requirements set forth under Family Code section 3200.5(d).

3. I declare that I am a nonprofessional provider of supervised visitation and meet the qualifications under Family Code section 3200.5 as follows (*check all that apply*):

- I am not being paid for providing supervised visitation services.
- I have no record of a conviction for child molestation, child abuse, or other crimes against a person.
- I have no current or past court order in which the provider is the person being supervised.
- I agree to adhere to and enforce the court order regarding supervised visitation.
- I have proof of automobile insurance (if transporting the child).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____

 PRINT NAME

▶

 SIGNATURE OF DECLARANT