



Judicial Council of California · Administrative Office of the Courts

455 Golden Gate Avenue · San Francisco, California 94102-3688

www.courts.ca.gov

REPORT TO THE JUDICIAL COUNCIL

For business meeting on: October 25, 2013

Title

Family Law: Approval of New Form
Declaration of Supervised Visitation Provider

Agenda Item Type

Action Required

Rules, Forms, Standards, or Statutes Affected

Approve form FL-324

Effective Date

January 1, 2014

Recommended by

Family and Juvenile Law Advisory
Committee

Hon. Jerilyn L. Borack, Cochair

Hon. Kimberly J. Nystrom-Geist, Cochair

Date of Report

October 7, 2013

Contact

Shelly La Botte, 415-865-7565

shelly.labotte@jud.ca.gov

Michael Wright, 415-865-7619

michael.wright@jud.ca.gov

Executive Summary

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2014, approve a new optional form, *Declaration of Supervised Visitation Provider* (form FL-324) for use regarding training and qualifications of a provider of supervised visitation. Effective January 1, 2013, Assembly Bill 1674 (Stats. 2012, ch. 692) added section 3200.5 to the Family Code, relating to supervised visitation providers. 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 qualification 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. The Family and Juvenile Law Advisory Committee

believe approval of this form would assist the courts by providing a readily accessible form declaration for providers of supervised visitation.

Recommendation

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2014, approve a new optional form, *Declaration of Supervised Visitation Provider* (form FL-324) for use regarding training and qualifications of a provider of supervised visitation.

The *Declaration of Supervised Visitation Provider* (form FL-324) is attached at page 6.

Previous Council Action

Because the legislation became effective January 1, 2013, and this is a new optional form being recommended for adoption in response to recent legislation, there has been no previous council action. However, in 1997, Family Code section 3200 required the Judicial Council to develop standards for supervised visitation providers. The Judicial Council 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.

Rationale for Recommendation

The new optional form, FL-324, is in response to legislative changes in AB 1674¹ and addresses concerns from the court and other users regarding implementation of Family Code section 3200.5(c) and (d). 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 contacted the Administrative Office of the Courts (AOC) about developing a statewide Judicial Council form that would satisfy the new statute's requirements for 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.

The new form will help to ensure that both professional and nonprofessional supervised visitation providers are aware of the qualifications required by Family Code section 3200.5(c). It will assist the courts by providing a form declaration that is readily accessible for professional

1

http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201120120AB1674&search_keywords=

providers to attest that they meet required training requirements as set forth under Family Code section 3200.5(d)(1). While the mandated declaration for professional providers is not required to be on a Judicial Council form, it would be useful in implementing the statutory change and 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 to develop and adopt a local form.

Comments, Alternatives Considered, and Policy Implications

The invitation to comment on the proposal was circulated for public comment from April 19, 2013, through June 19, 2013, to the standard mailing list for family and juvenile law proposals, as well as to the regular rules and forms mailing list, which included judges, court administrators, attorneys, mediators, family law facilitators and self-help attorneys, and other family and juvenile law professionals and attorney organizations. The proposal was also distributed to Family Court Services directors and managers, Access to Visitation Grant Program court subcontractors, and professional providers of supervised visitation services.

During the formal comment period, the committee received 12 written comments. Of those, 5 agreed with the proposed proposal; 4 agreed if suggested modifications were made; 2 commentators did not indicate a position; and one commentator did not agree with the proposed form. The commentators included 7 representatives from courts, 2 from community-based organizations; and several attorneys. The committee reviewed and analyzed the comments and responded with a number of revisions to the proposed form. A chart with all comments received and committee responses is attached at pages 7–17.

The commentators who agreed with the proposal for a new optional Judicial Council form believe the proposal would reasonably achieve the statutory purpose of ensuring that professional and nonprofessional providers are aware of required qualifications and professional providers meet required training requirements. The commentators also agreed that the declaration is fairly straightforward, easy to understand and complete, and would result in a consistent and efficient means to ensure that supervised visitation providers meet all requirements set forth under Family Code section 3200.5. The commentators who suggested changes to the form also agreed that the form would be beneficial, particularly to the courts, but believed that the form could be improved with some additional changes.

Several commentators indicated that the form should be standardized like other family law forms, including removing text boxes and changing “case name” in the heading section to standard “petitioner,” “respondent,” and “other party” designations. Based upon the suggestions, text boxes and case captions were changed to ensure consistency and standardized with similar FL-300 series forms.

Additionally, one commentator suggested that the optional checkbox related to the automobile insurance requirement when transporting the child should be split into two separate boxes to make these two separate requirements more clear for the court and the supervised visitation

provider. The last checkbox under item 3 on the form was changed to incorporate this suggestion.

One commentator disagreed with the proposal indicating that the proposed law could limit who the supervised visitation agency designates to supervise visits and would add additional costs for training the provider and the court clerk's office in filing the form. These additional costs are due to current law in Family Code section 32005. The qualifications for providing supervised visitation services exist whether or not a Judicial Council form is adopted. Similarly, court staff will need to be trained regarding the requirement of a declaration for professional providers regardless of the adoption of a Judicial Council form.

One commentator requested that the form also include additional items for nonprofessional providers as required in standard 5.20 of the California Standards of Judicial Administration, specifically the commentator recommended adding an age requirement and "clean driving record". The committee considered this request but chose to limit the items on the form to provisions contained in Family Code section 3200.5. However, the committee did decide to add a notice box to the form that provides the following information for supervised visitation providers: "See standard 5.20 of the California Standards of Judicial Administration for further requirements that may apply." Adding this provision will provide notice to those providers who must comply with the standard without adding nonstatutory provisions to the form. Additionally, the committee believes that standard 5.20 should be carefully examined to determine if provisions need to be changed in the future or if legislative changes are necessary.

Finally, a few commentators requested additional changes to legislation or the proposed optional form that are beyond the scope of this proposal. Where appropriate, these comments will be considered when future form changes are made or required changes as set forth by statute are made. In addition, two commentators recommended that the Judicial Council develop a procedure for the filing of the form declaration with the court. One suggested requiring the supervised visitation provider to have a procedure for maintaining the declaration as part of their record keeping practices and make it available upon request. The other commentator noted that the local court did not currently have a procedure for supervised visitation declarations and suggested some specific time frames for the filing of the declaration. Local court practices vary across the state regarding how these declarations are filed with or retained by the court based on their unique case management system and other local factors. The FL-324 is intended to be a tool to help courts with the statutory disclosure requirements for supervised visitation providers. Courts are free to adopt additional local rules of court to set forth more specific procedures that are consistent with the statute.

The committee considered not adopting the new optional form but determined the form proposal addresses concerns from the court and other users regarding implementation of Family Code section 3200.5. Specifically, the optional form 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 to develop and adopt a local form. The 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. But as this is an optional form, local courts that wish to develop a local form are able to do so.

Additionally, the committee considered that the court may have limited capacity to ascertain these qualifications for the supervised visitation provider absent a form declaration. In particular, nonprofessional providers would likely have challenges in accurately setting forth all of the statutory requirements and this would place additional burdens on the court to provide the necessary review and assistance in getting the declaration completed. Thus, adoption of the optional form should result in reduced court time and cost savings for the court.

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. Counsel and supervised visitation providers may also obtain the forms on the California Courts website and from public law libraries, thus reducing the need for courts to maintain a large number of copies on site.

Attachments

1. New optional form FL-324, at page 6.
2. Chart of comments responses, at pages 7–17.
3. Family Code section 3200–3202, at pages 18–20.

SUPERVISED VISITATION PROVIDER <i>(Name and address):</i> TELEPHONE NO.: _____ FAX NO. <i>(Optional):</i> _____ E-MAIL ADDRESS <i>(Optional):</i> _____	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:	
PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARTY/PARENT:	
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. All of the following requirements are necessary to meet the qualifications under Family Code section 3200.5.

2. I declare that I am a professional provider of supervised visitation and I am paid for providing supervised visitation services as an independent contractor, employee, intern, or volunteer operating independently or through a supervised visitation center or agency and I 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.
 - There is no current or past court order in which I am 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 I am not being paid to provide supervised visitation services.
 - I meet the qualifications under Family Code section 3200.5 as follows *(check all that apply)*:
 - I have no record of a conviction for child molestation, child abuse, or other crimes against a person.
 - There is no current or past court order in which I am the person being supervised.
 - I agree to adhere to and enforce the court order regarding supervised visitation.
 - I will be transporting the child. I will not be transporting the child.
 - I will be transporting the child and I have proof of automobile insurance.
 - The court has ordered or the parties have stipulated to different qualifications *(see attached)*.

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

Date: _____
(TYPE OR PRINT NAME)



SIGNATURE OF DECLARANT

NOTICE: See standard 5.20 of the California Standards of Judicial Administration for further requirements that may apply.

SPR13-19

Family Law: Approval of New Form Declaration of Supervised Visitation Provider (Approve new form FL-324)

All comments are verbatim unless indicated by an asterisk (*)

	Commentator	Position	Comment	Committee Response
1.	California Association of Supervised Visitation Service Sonia Melara President	A	There should be an additional clarification in the Executive Summary that a professional provider is anyone who is paid for the service as a supervised visitation provider. There is still confusion about the definition	Agree with definition and will incorporate into the form.
2.	Candace Atkins Superior Court of Santa Cruz County	NI	I noticed that there is no age requirement on the nonprofessional provider section. Also, what about clean driving record if nonprofessional is transporting child?	Standard 5.20 of the California Standards of Judicial Administration (<i>Uniform Standards of Practice for Providers of Supervised Visitation</i>) contains a number of qualifications that were not codified into Family Code section 3200.5. A requirement for a clean driving record is not part of Standard 5.20 or FC section 3200.5. The Standard 5.20 does have a provision for no conviction for DUI in the last 5 years. The proposed form was intended to track only the statutory requirements in FC section 3200.5. The form is being modified to include a cross-reference to Standard 5.20.
3.	Cope Family Center Melinda Daugherty Program Manager, SV Program	A	I do not believe this proposal would have an impact on the public's access to the courts. Regulation in the Supervised Visitation industry has been much needed for a very long time. Providers of SV are placed in a potentially dangerous situation each time a visit occurs. Properly trained providers is not only a must in regards to safety of all participants, but will also provide much needed consistency in provision of services amongst providers in the State of California. The proposed declaration is straight forward, easy to understand and easy to complete. The only concern I would have is within the section of "nonprofessional" providers, where it	No response required.

SPR13-19

Family Law: Approval of New Form Declaration of Supervised Visitation Provider (Approve new form FL-324)

All comments are verbatim unless indicated by an asterisk (*)

	Commentator	Position	Comment	Committee Response
			<p>says:</p> <p>“I agree to adhere to and enforce the court order regarding supervised visitation”. While a professional provider understands (via training) what “enforcing” the court order means, it may be misconstrued by a layperson – which could bring about more turmoil and conflict within the family in certain situations. All non-professional providers given the duty to supervise, should be also given an informational sheet explaining what their role as a provider is.</p>	<p>The form tracks the statutory language for the requirement for the nonprofessional provider. The courts can develop additional materials that may be helpful.</p>
4.	<p>Debbie Kruse Unit Manager Superior Court of Orange County</p>	A	<p>Agree with form development in support of professional/non-professional providers of supervised visitation.</p> <p>Request for Specific Comments</p> <ul style="list-style-type: none"> • Does the proposal reasonably achieve the stated purpose? Yes • Would this proposal have an impact on public’s access to the courts? Clarification to litigant, producing a higher likelihood of compliance. <p>If a positive impact, please describe. If a negative impact, what changes might lessen the impact?</p> <p>The advisory committee also seeks comments from courts on the following cost and implementation matters:</p> <ul style="list-style-type: none"> • Would the proposal provide cost savings? 	<p>No response required.</p> <p>No response required.</p> <p>No response required.</p> <p>No response required.</p>

SPR13-19

Family Law: Approval of New Form Declaration of Supervised Visitation Provider (Approve new form FL-324)

All comments are verbatim unless indicated by an asterisk (*)

	Commentator	Position	Comment	Committee Response
			<p>Minimal (staff time efficiencies) If so, please quantify. Declaration helps define specific purpose of filing; specific purpose of form defined.</p> <p>If not, what changes might be made that would provide savings, or greater savings?</p> <ul style="list-style-type: none"> • What are the implementation requirements for courts? Advisement to staff; no cost. Create new docket code. <p>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.</p> <ul style="list-style-type: none"> • Would 2 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? Yes • 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? Proposal is not too cumbersome. 	<p>No response required.</p> <p>No response required.</p> <p>No response required.</p>
5.	Los Angeles County Counsel's Office Jim Owens Assistant County Counsel, Division Chief of Children's Services Division	A	The form will result in a consistent and efficient means to ensure that a provider of supervised visitation is qualified under Family Code Section 3200.5.	No response required.

SPR13-19

Family Law: Approval of New Form Declaration of Supervised Visitation Provider (Approve new form FL-324)

All comments are verbatim unless indicated by an asterisk (*)

	Commentator	Position	Comment	Committee Response
6.	Ronald Pierce	AM	After what I went through ... there needs to be some form of complaint process for supervised parents who experience significant problems with unprofessional "supervisors".	Each federally funded Access to Visitation Grant court is required to have a complaint and grievance process in place and service recipients can contact the local superior court for information. The issue is outside the scope of the form.
7.	Resources Unlimited Georgia A. Thompson Executive Director	AM	Add a check box related to retention of client files/documents 7 years regardless of the age of the child.	The committee is unaware of any 7 year record retention requirement. For federally funded Access to Visitation Grant programs, the courts are required to maintain all records relating to clients served under the grant program in accordance with state and federal law, a minimal retention period being no less than four years. This suggestion will be noted for discussion when the provisions of Standard 5.20 (Uniform Standards of Practice for Providers of Supervised Visitation) are revisited in an upcoming rules and forms cycle.
8.	Superior Court of Los Angeles County	AM	<p><i>Does the proposal reasonably achieve the stated purpose? Yes it does.</i></p> <p><i>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?</i></p> <p>The proposal will have a positive impact on the public's access to the Court. The litigants ordered to participate in SV will also have some assurance that SV providers meet some minimal standards. However, the greatest impact to access will be if litigants can identify and pay for the SV monitor. If so, the litigant's SV requirement will more likely be completed, and</p>	<p>No response required.</p> <p>No response required.</p>

SPR13-19

Family Law: Approval of New Form Declaration of Supervised Visitation Provider (Approve new form FL-324)

All comments are verbatim unless indicated by an asterisk (*)

	Commentator	Position	Comment	Committee Response
			<p>the court will not have to continue cases because of lack of compliance.</p> <p>It would be helpful if a single source for identifying qualified professional and nonprofessional monitors were available to the Courts and the litigants.</p> <p>Additionally, there needs to be a vehicle/entity to address any complaints or non-compliance issues from the Court, litigants, and the public.</p> <p>• <i>Whether the Judicial Council should develop an optional form for a supervised visitation provider's compliance with Family Code section 3200.5?</i></p> <p>Yes, the creation of this form meets the need for all the reasons stated in the documents. The form itself will work.</p> <p>• <i>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</i></p>	<p>The suggestion is duly noted but listing of qualified providers is beyond the scope of this proposal for an optional Judicial Council form.</p> <p>Each federally funded Access to Visitation Grant court is required to have a complaint and grievance process in place for complaints relating to funded professional service providers. In reference to compliance with specific statutory requirements of Family Code section 3200.5, provisions relating to oversight were initially included in the proposed legislation but were amended out.</p> <p>No response required.</p>

SPR13-19

Family Law: Approval of New Form Declaration of Supervised Visitation Provider (Approve new form FL-324)

All comments are verbatim unless indicated by an asterisk (*)

	Commentator	Position	Comment	Committee Response
			<p><i>court and others to include a declaration for the nonprofessional provider to declare they meet those qualifications?</i></p> <p>Yes, it would be very helpful for nonprofessional providers to declare compliance with the Family Code. (At a minimum, the nonprofessional must declare that they are aware of the standards and the Family Code requirements.)</p> <ul style="list-style-type: none"> <i>• Is there any additional specific information or direction that should be provided to the declarant to assist in the completion of this form?</i> <p>Perhaps, an additional section needs to be added to the form to address the professional SV agencies. The section would include a declaration that the agency’s staff meets the required qualifications (especially training.)</p> <p>Additionally as stated on 2nd page of this document the agency should have a “procedure maintaining the declarations as part of their recordkeeping practices and will make it available upon request,” regardless if Court or the FCS department maintains copies of this declaration.</p> <p><i>The advisory committee also seeks comments from courts on the following cost and</i></p>	<p>No response required.</p> <p>Item 2 on the form, for the professional provider, specifically requires that the provider declares that he or she meets the training requirements set forth under Family Code section 3200.5(d) and the Legislation requires the declaration form to be completed by individual providers and not by the agency on behalf of their staff. .</p> <p>Local court practices vary across the state regarding how these declarations are filed with or retained by the court based on their unique case management system and other local factors. The FL-324 is intended to be a tool to help courts with the statutory disclosure requirements for supervised visitation providers. Courts are free to adopt additional local rules of court to set forth more specific procedures that are consistent with the statute.</p>

SPR13-19

Family Law: Approval of New Form Declaration of Supervised Visitation Provider (Approve new form FL-324)

All comments are verbatim unless indicated by an asterisk (*)

	Commentator	Position	Comment	Committee Response
			<p><i>implementation matters:</i></p> <ul style="list-style-type: none"> • <i>Would the proposal provide costs savings? If so, please quantify. If not, what changes might be made that would provide savings, or greater savings?</i> <p>This proposal will result in no costs to the Court.</p> <ul style="list-style-type: none"> • <i>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.</i> <p>This form would be provided by the filing window or the Judicial Assistants. The form would then be filed in the Family Law legal file.</p> <ul style="list-style-type: none"> • <i>Would two months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</i> Yes. • <i>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?</i> 	<p>No response required.</p> <p>No response required.</p> <p>No response required.</p>

SPR13-19

Family Law: Approval of New Form Declaration of Supervised Visitation Provider (Approve new form FL-324)

All comments are verbatim unless indicated by an asterisk (*)

	Commentator	Position	Comment	Committee Response
			This proposal can easily be implemented.	No response required.
9.	Superior Court of San Bernardino County Monica Mitchell Supervising Attorney	NI	<p>The proposal does achieve the stated purpose of answering the need for a form to assist the court with ensuring that supervised visitation providers comply with Family Code Section 3200.5</p> <p>One of the purposes of this form is to provide education to the visitation provider regarding the statutory requirements. By making the form “check all that apply”, it might be sending a message to the provider that not all requirements must be met. I would suggest editing the language to include a note that all must be satisfied.</p> <p>The one optional checkbox relates to the auto insurance when transporting the child. Perhaps if this checkbox was split into two?</p> <p>Suggestion: “You must check one of the following:</p> <p><input type="checkbox"/> I will not be transporting the child in an automobile</p> <p><input type="checkbox"/> I will be transporting the child and I have proof of automobile insurance”</p>	<p>No response needed.</p> <p>Agree and will change Item 1 on the form, and add the following language: “All of the following requirements are necessary to meet the qualifications under Family Code section 3200.5”.</p> <p>Agree with substance of the comment and will add an additional box to address the issue.</p>
10.	Superior Court of San Diego County Michael M. Roddy Court Executive Officer	A	Because of new legislation affecting the training and qualifications of supervised visitation providers, a new optional form is proposed. Effective January 1, 2013, Assembly Bill 1674 added section 3200.5 to the Family Code. Family Code section 3200.5(d)(2) requires the	No response required.

SPR13-19

Family Law: Approval of New Form Declaration of Supervised Visitation Provider (Approve new form FL-324)

All comments are verbatim unless indicated by an asterisk (*)

	Commentator	Position	Comment	Committee Response
			<p>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 (2)(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 suggested that a form be developed.</p> <p>Our court has the following comments:</p> <p>1) Agree that the proposal regarding the optional form for professional providers of supervised visitations reasonably achieves the stated purpose.</p> <p>2) Yes, it would be useful to include a form for the nonprofessional providers to declare they meet the specific statutory qualifications as opposed to each local court creating their own local form.</p> <p>Our Family Law Facilitators have the following comments on the formatting of the FL-324 Optional Use Form:</p> <p>1) Case caption should be standardized like</p>	<p>No response required.</p> <p>No response required.</p> <p>Agree to standardize case captions like other FL-</p>

SPR13-19

Family Law: Approval of New Form Declaration of Supervised Visitation Provider (Approve new form FL-324)

All comments are verbatim unless indicated by an asterisk (*)

	Commentator	Position	Comment	Committee Response
			<p>other FL forms.</p> <p>2) Why is the content in a text box? It looks totally weird. We would remove the text box and try and standardize the format to conform to other Judicial Council Family Law forms.</p>	<p>300 series forms.</p> <p>Agree and removed text box.</p>
11.	<p>Superior Court of Shasta County Stacy Larson Family Law Facilitator</p>	AM	<p>I think this form will be very helpful in outlining the requirements for professional and non-professional supervisors.</p> <p>For the sake of uniformity in the Family Law forms, I suggest changing the “Case Name” section in the heading to the standard “Petitioner,” “Respondent,” and “Other Party” designations.</p> <p>The “Executive Summary and Origin” on this Invitation to Comment states that Family Code §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).” The statute doesn’t reference any requirement that the supervisors sign a declaration establishing they meet the requirements. To my knowledge, our court does not have a procedure requiring that these declarations be submitted nor a mechanism for enforcing such a requirement. Family Code §3200 et seq. and AB 1674 make clear the importance of ensuring minimum standards for those who act as parenting-time supervisors,</p>	<p>No response required.</p> <p>Agree and change will be made.</p> <p>Family Code section 3200.5(d)(2) states “Professional providers shall sign a declaration or any Judicial Council form that they meet the training and qualifications of a provider.” Local courts are free to adopt additional local procedures that are consistent with the statute. The scope of this proposal was to develop a form declaration consistent with the new statutory requirements and any additional statewide timelines or procedures is not within the scope of this proposal.</p>

SPR13-19

Family Law: Approval of New Form Declaration of Supervised Visitation Provider (Approve new form FL-324)

All comments are verbatim unless indicated by an asterisk (*)

	Commentator	Position	Comment	Committee Response
			and it would seem that we need to build in a statutory requirement that supervisors document their compliance and that their compliance is enforced by the court. A possible “fix” would be to revise Family Code §3200.5 to require that these declarations (or their equivalent) be filed with the Court within 10-30 days of a supervised-visitation order being made and a consequence for failure to do so (such as that the other party can be reimbursed for the costs of using an established professional supervisor to monitor visits until the declaration is on file). The FL-341A Supervised Visitation Order could be modified to include a requirement that the supervisor listed at items (5) and (6) file the FL-324 (or its equivalent) within 10-30 days of the order being filed.	
12.	Superior Court of Tulare County	N	Opposed to the optional form regarding the Declaration of Supervisee for visitation meets training and qualification requirements. This proposed law could limit who the agency designates to supervise visits; it could add additional cost for training for both the supervisee and the Clerk’s office as the form would need to be filed with the Clerk.	The form is not based upon a proposed law but a newly enacted law whose requirements are currently in effect. Whether a Judicial Council form is adopted or not, professional supervised visitation providers will have to submit a declaration to the court and court staff will need to be trained on that statutory requirement.

FAMILY.CODE

SECTION 3200-3202

3200. The Judicial Council shall develop standards for supervised visitation providers in accordance with the guidelines set forth in this section. For the purposes of the development of these standards, the term "provider" shall include any individual who functions as a visitation monitor, as well as supervised visitation centers. Provisions shall be made within the standards to allow for the diversity of supervised visitation providers.

(a) When developing standards, the Judicial Council shall consider all of the following issues:

(1) The provider's qualifications, experience, and education.

(2) Safety and security procedures, including ratios of children per supervisor.

(3) Any conflict of interest.

(4) Maintenance and disclosure of records, including confidentiality policies.

(5) Procedures for screening, delineation of terms and conditions, and termination of supervised visitation services.

(6) Procedures for emergency or extenuating situations.

(7) Orientation to and guidelines for cases in which there are allegations of domestic violence, child abuse, substance abuse, or special circumstances.

(8) The legal obligations and responsibilities of supervisors.

(b) The Judicial Council shall consult with visitation centers, mothers' groups, fathers' groups, judges, the State Bar of California, children's advocacy groups, domestic violence prevention groups, Family Court Services, and other groups it regards as necessary in connection with these standards.

(c) It is the intent of the Legislature that the safety of children, adults, and visitation supervisors be a precondition to providing visitation services. Once safety is assured, the best interest of the child is the paramount consideration at all stages and particularly in deciding the manner in which supervision is provided.

3200.5. (a) Any standards for supervised visitation providers adopted by the Judicial Council pursuant to Section 3200 shall conform to this section. A provider, as described in Section 3200, shall be a professional provider or nonprofessional provider.

(b) In any case in which the court has determined that there is domestic violence, child abuse or neglect, as defined in Section 11165.6 of the Penal Code, and the court determines supervision is necessary, the court shall consider whether to use a professional or nonprofessional provider based upon the child's best interest.

(c) For the purposes of this section, the following definitions apply:

(1) "Nonprofessional provider" means any person who is not paid for providing supervised visitation services. Unless otherwise ordered by the court or stipulated by the parties, the nonprofessional provider shall:

(A) Have no record of a conviction for child molestation, child abuse, or other crimes against a person.

(B) Have proof of automobile insurance if transporting the child.

(C) Have no current or past court order in which the provider is the person being supervised.

(D) Agree to adhere to and enforce the court order regarding supervised visitation.

(2) "Professional provider" means any person paid for providing supervised visitation services, or an independent contractor, employee, intern, or volunteer operating independently or through a supervised visitation center or agency. The professional provider shall:

- (A) Be at least 21 years of age.
- (B) Have no record of a conviction for driving under the influence (DUI) within the last five years.
- (C) Not have been on probation or parole for the last 10 years.
- (D) Have no record of a conviction for child molestation, child abuse, or other crimes against a person.
- (E) Have proof of automobile insurance if transporting the child.
- (F) Have no civil, criminal, or juvenile restraining orders within the last 10 years.
- (G) Have no current or past court order in which the provider is the person being supervised.
- (H) Be able to speak the language of the party being supervised and of the child, or the provider must provide a neutral interpreter over 18 years of age who is able to do so.

(I) Agree to adhere to and enforce the court order regarding supervised visitation.

(J) Meet the training requirements set forth in subdivision (d).

(d) (1) Professional providers shall have received 24 hours of training that includes training in the following subjects:

- (A) The role of a professional provider.
- (B) Child abuse reporting laws.
- (C) Recordkeeping procedures.
- (D) Screening, monitoring, and termination of visitation.
- (E) Developmental needs of children.
- (F) Legal responsibilities and obligations of a provider.
- (G) Cultural sensitivity.
- (H) Conflicts of interest.
- (I) Confidentiality.
- (J) Issues relating to substance abuse, child abuse, sexual abuse, and domestic violence.

(K) Basic knowledge of family and juvenile law.

(2) Professional providers shall sign a declaration or any Judicial Council form that they meet the training and qualifications of a provider.

(e) The ratio of children to a professional provider shall be contingent on:

- (1) The degree of risk factors present in each case.
- (2) The nature of supervision required in each case.
- (3) The number and ages of the children to be supervised during a visit.
- (4) The number of people visiting the child during the visit.
- (5) The duration and location of the visit.
- (6) The experience of the provider.

(f) Professional providers of supervised visitation shall:

(1) Advise the parties before commencement of supervised visitation that no confidential privilege exists.

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

(3) Suspend or terminate visitation under subdivision (h).

(g) Professional providers shall:

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

(2) Review custody and visitation orders relevant to the supervised visitation.

(3) Keep a record for each case, including, at least, all of the following:

(A) A written record of each contact and visit.

(B) Who attended the visit.

(C) Any failure to comply with the terms and conditions of the visitation.

(D) Any incidence of abuse, as required by law.

(h) (1) Each provider shall make every reasonable effort to provide a safe visit for the child and the noncustodial party.

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

(3) All interruptions or terminations of visits shall be recorded in the case file.

(4) All providers shall advise both parties of the reasons for the interruption or termination of a visit.

(i) A professional provider shall state the reasons for temporary suspension or termination of supervised visitation in writing and shall provide the written statement to both parties, their attorneys, the attorney for the child, and the court.

3201. Any supervised visitation maintained or imposed by the court shall be administered in accordance with Section 26.2 of the California Standards of Judicial Administration recommended by the Judicial Council.

3202. (a) All supervised visitation and exchange programs funded pursuant to this chapter shall comply with all requirements of the Uniform Standards of Practice for Providers of Supervised Visitation set forth in Section 26.2 of the Standards of Judicial Administration as amended. The family law division of the superior court may contract with eligible providers of supervised visitation and exchange services, education, and group counseling to provide services under this chapter.

(b) As used in this section, "eligible provider" means:

(1) For providers of supervised visitation and exchange services, a local public agency or nonprofit entity that satisfies the Uniform Standards of Practice for Providers of Supervised Visitation.

(2) For providers of group counseling, a professional licensed to practice psychotherapy in this state, including, but not limited to, a licensed psychiatrist, licensed psychologist, licensed clinical social worker, licensed marriage and family therapist, or licensed professional clinical counselor; or a mental health intern working under the direct supervision of a professional licensed to practice psychotherapy.

(3) For providers of education, a professional with a bachelor's or master's degree in human behavior, child development, psychology, counseling, family-life education, or a related field, having specific training in issues relating to child and family development, substance abuse, child abuse, domestic violence, effective parenting, and the impact of divorce and interparental conflict on children; or an intern working under the supervision of that professional.