

# JUDICIAL COUNCIL OF CALIFORNIA

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## INVITATION TO COMMENT

**SPR20-18**

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Title	Action Requested
Family Law: Changes to Supervised Visitation Standard and Form	Review and submit comments by June 10, 2020
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend Cal. Stds. Jud. Admin., standard 5.20; revise form FL-324	January 1, 2021
Proposed by	Contact
Family and Juvenile Law Advisory Committee	Gabrielle D. Selden, 415-865-8085 <a href="mailto:gabrielle.selden@jud.ca.gov">gabrielle.selden@jud.ca.gov</a>
Hon. Jerilyn L. Borack, Cochair	Shelly LaBotte, 916-643-7065
Hon. Mark A. Juhas, Cochair	<a href="mailto:shelly.labotte@jud.ca.gov">shelly.labotte@jud.ca.gov</a>

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### **Executive Summary and Origin**

The Family and Juvenile Law Advisory Committee proposes changes to one standard of judicial administration and one form relating to supervised visitation providers to comply with the statutory changes to Family Code section 3200.5, enacted by Assembly Bill 1165 (Bauer-Kahan; Stats. 2019, ch. 823).

### **Background**

Family Code section 3200 was adopted in 1996 to provide specific guidelines for the Judicial Council in developing standards concerning supervised visitation providers in contested child custody cases in family court. In response, effective January 1, 1998, the Judicial Council adopted standard 5.20 of the California Standards of Judicial Administration. In 2012, the Legislature enacted Family Code section 3200.5, which incorporated much of the language in standard 5.20, but elevated many of the suggested best practices provisions of standard 5.20 to mandatory requirements in section 3200.5. The legislation requires that any standards for supervised visitation providers adopted by the Judicial Council conform to sections 3200 and 3200.5.

*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 These proposals are circulated for comment purposes only.*

The most recent changes to Family Code section 3200.5 create additional requirements for professional supervised visitation providers. Effective January 1, 2021, in addition to current requirements, a professional supervised visitation provider must:

- Complete a Live Scan criminal background check before providing supervised visitation services;
- Register as a TrustLine provider;<sup>1</sup>
- Complete a minimum of 12 hours of classroom instruction in the subjects listed in the statute;
- Complete training on conflicts of interest, including the acceptance of gifts;
- Complete a minimum of 3 hours of training on the screening, monitoring, and termination of visitation; 3 hours on the developmental needs of children; 3 hours on issues relating to substance abuse, child abuse, sexual abuse, and domestic violence; and 1 hour on basic knowledge of family law;
- Complete training relating to child abuse reporting laws through an online training course required for mandated reporters provided by the state Department of Social Services; and
- Sign the *Declaration of Supervised Visitation Provider* (form FL-324) to declare that the professional provider meets the training and qualifications, and sign a separate, updated form FL-324 each time the provider submits a report to the court.

According to the author of AB 1165:

The combination of the enhanced requirements will help ensure that paid visitation monitors are adequately trained to look for warning signs, to understand whether and how they can intervene or report problems, when they might need to terminate a visitation in the interest of child safety, and ensure that these monitors pose no risks to children.<sup>2</sup>

## **The Proposal**

### ***Amendments to Standard 5.20***

Standard 5.20 would be amended to conform to the amendments to Family Code section 3200.5. Specifically, the standard would be amended as follows:

- Subdivision (b) (Definitions) would be amended to include the definition of “TrustLine provider.” This subdivision would also be reorganized to include all terms that are

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<sup>1</sup> TrustLine was created by the California Legislature in 1987. It is a state registry of in-home child care providers, tutors, in-home counselors, and child care staff at ancillary child care centers who have passed a background screening. For more information, visit [www.trustline.org](http://www.trustline.org). Under the Health and Safety Code, a person will be prohibited from being a professional supervised visitation provider if that person he or she is either denied TrustLine registration by the Department of Social Services or the person’s TrustLine registration is revoked.

<sup>2</sup> Off. of Assem. Floor Analysis, analysis of Assem. Bill No. 1165 (Sept. 5, 2019), p. 2, [https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill\\_id=201920200AB1165](https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201920200AB1165).

defined in other subdivisions of the standard, including “nonprofessional provider” in (d) and “professional provider” in (e).

- Subdivision (e) (Qualifications of professional providers) would be changed to require that a professional provider complete a Live Scan criminal background check before providing supervised visitation services. Other changes would be as follows:
  - Subdivision (e)(11) would be changed to require a professional provider to register as a TrustLine provider;
  - Subdivision (e)(11)(A) and (B) would be added to specify that a person is ineligible to be a professional provider if the state Department of Social Services denies or revokes that person’s TrustLine registration;
  - Subdivision (e)(13) would be amended to require the professional provider to sign and submit to the court a *Declaration of Supervised Visitation Provider* (form FL-324); and
  - Subdivision (e)(14) would be added to specify that the professional provider must sign a separate, updated form FL-324 each time the provider submits a report to the court;
- Subdivision (f) (Training for providers) would be amended as follows:
  - The title of this subdivision would be changed to “Training for professional providers” because the majority of training requirements in this subdivision pertain only to professional providers under Family Code section 3200.5;
  - Subdivision (f)(1), which does not discuss required training for professional providers but recommends that courts provide informational materials to all providers, would be moved to the end of the standard and relettered as (r);
  - Subdivision (f)(2) would be relettered as (f)(1) and amended to require that, before providing services, a professional provider must complete 24 hours of training, including at least 12 hours of classroom instruction in the subjects listed in (f)(1)(A) through (K);
  - Subdivision (f)(1)(H) would clarify that training on conflicts of interest include the acceptance of gifts;
  - Subdivision (f)(2) would be added to provide that at least 3 hours of the 24 hours required must be on the screening, monitoring, and termination of visitation; 3 hours must be on the developmental needs of children; 3 hours must be on issues relating to substance abuse, child abuse, sexual abuse, and domestic violence; and 1 hour must be on basic knowledge of family law;
  - Subdivision (f)(3) would be added to require a professional provider to complete training relating to child abuse reporting laws through an online training course required for mandated reporters that is provided by the state Department of Social Services; and

In addition, subdivision (r) (Informational materials and procedures) would be added and would contain the language moved from existing (f)(1). It would also include a new subdivision (r)(2) that, by January 1, 2022, each court should develop local rules that establish procedures for processing and maintaining form FL-324, along with the professional provider’s original report required by (j)(3) of standard 5.20.

The proposed new language in (r)(2) would address issues that courts, statewide providers, and grantee programs have raised to Judicial Council staff. They seek guidance about form FL-324; specifically, what the provider and the court should do with the form now that Family Code section 3200.5 requires that the provider “shall sign a separate, updated form each time the professional provider submits a report to the court.”

Because these issues concern internal local court procedures, it would not be appropriate to include a specific process in the standard. Instead, the committee proposes that courts adopt, by January 1, 2022, a local rule for processing and maintaining the form and report.

### ***Revisions to form FL-324***

*Declaration of Supervised Visitation Provider* (form FL-324) would be revised as required to reflect the amendments to Family Code section 3200.5. Specifically, the following revisions would be made to the form:

- Item 2 would include new check boxes for the provider to indicate completion of a Live Scan criminal background check and registration as a TrustLine provider; and
- The form would be changed from optional to mandatory use because it is specifically identified in Family Code section 3200.5 as the form needed to comply with the statute.

The form would also be revised to include technical and organizational changes. For example, references to “Plaintiff” and “Defendant” in the header would be deleted to conform form FL-324 to others in the FL series. In addition, to limit the form to one page, the language in items 1, 2, and 3 would be modified to avoid redundancy while maintaining the substantive meaning of those items.

### **Alternatives Considered**

The committee proposes changes described in this report to conform standard 5.20 and form FL-324 to the specific statutory mandates of Family Code section 3200.5 No other alternatives were considered.

### **Fiscal and Operational Impacts**

The legislative mandate would result in additional costs to professional supervised visitation providers for one-time fees to complete a Live Scan background check and register with TrustLine. For Live Scan, there is a fee required to be paid to the state Department of Justice for the criminal history record checks. Other fees may vary, including fees to cover the Live Scan

operator's cost for rolling the fingerprint images.<sup>3</sup> Currently, the fee payable to the Department of Social Services for TrustLine registration is \$124.

In addition, the requirement for classroom training could result in increased costs for professional providers' training. However, this is mandated by law, and there is a strong interest in maintaining a pool of professional providers who are adequately trained and skilled in providing family court-ordered supervised visitation and exchange services.

The impact to the courts includes costs to accept and review updated form FL-324 submitted by professional providers of supervised visitation. This step, however, is legislatively mandated to inform the court and the parties that the provider was qualified and met the training requirements to make the report at the time it was submitted to the court.

### **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 appropriately address the stated purpose?

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

- Would the proposal provide cost savings? If so, please quantify.
- 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?
- Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?
- Should the standard be amended to require courts to have a local rule to handle form FL-324? Is there an alternative that your court would suggest?

### **Attachments and Links**

1. Cal. Standards of Judicial Administration, standard 5.20, at pages 6–8
2. Form FL-324, at page 9
3. Link A: Assembly Bill 1165,  
[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201920200AB1165](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB1165)

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<sup>3</sup> For a list of Live Scan processing fees, visit <https://oag.ca.gov/sites/all/files/agweb/pdfs/fingerprints/forms/fees.pdf>.

Standard 5.20 of the California Standards of Judicial Administration would be amended, effective January 1, 2021, to read:

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

2 (a) \* \* \*

3

4 (b) **Definitions**

5

6 ~~Family Code section 3200 defines the term “provider” as including any individual~~  
7 ~~or supervised visitation center that monitors visitation. Supervised visitation is~~  
8 ~~contact between a noncustodial party and one or more children in the presence of a~~  
9 ~~neutral third person.~~

10

11 (1) A “nonprofessional provider” is any person who is not paid for providing  
12 supervised visitation services.

13

14 (2) A “professional provider” is any person who is paid for providing supervised  
15 visitation services, or an independent contractor, employee, intern, or  
16 volunteer operating independently or through a supervised visitation center or  
17 agency.

18

19 (3) A “provider” is defined by Family Code section 3200 as including any  
20 individual or supervised visitation center that monitors visitation.

21

22 (4) “Supervised visitation” is contact between a noncustodial party and one or  
23 more children in the presence of a neutral third person.

24

25 (5) “TrustLine provider.” For purposes of this rule, a “TrustLine provider” is a  
26 professional supervised visitation provider who is registered on “TrustLine,”  
27 a database that is administered by the California Department of Social  
28 Services.

29

30 (c) \* \* \*

31

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

33

34 ~~A “nonprofessional provider” is any person who is not paid for providing~~  
35 ~~supervised visitation services. Unless otherwise ordered by the court or stipulated~~  
36 ~~by the parties, the nonprofessional provider must:~~

37

38 (1)–(2) \* \* \*

39

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

2  
3 A “professional provider” is any person paid for providing supervised visitation  
4 services, or an independent contractor, employee, intern, or volunteer operating  
5 independently or through a supervised visitation center or agency. The professional  
6 provider must:

7  
8 (1)–(9) \* \* \*

9  
10 (10) Meet the training requirements stated in (f); and Complete a Live Scan  
11 criminal background check, at the expense of the provider or the supervised  
12 visitation center or agency, before providing visitation services;

13  
14 (11) Sign a declaration or *Declaration of Supervised Visitation Provider* (form  
15 FL-324) stating that all requirements to be a professional provider have been  
16 met. Be registered as a TrustLine provider under chapter 3.35 (commencing  
17 with section 1596.60) of division 2 of the Health and Safety Code.  
18 Notwithstanding any other law, a person is ineligible to be a professional  
19 provider if the state Department of Social Services either:

20  
21 (A) Denies that person’s TrustLine registration under Health and Safety  
22 Code sections 1596.605 or 1596.607; or

23  
24 (B) Revokes that person’s TrustLine registration under Health and Safety  
25 Code section 1596.608;

26  
27 (12) Meet the training requirements listed in (f);

28  
29 (13) Sign a *Declaration of Supervised Visitation Provider* (form FL-324) stating  
30 that all requirements to be a professional provider have been met; and

31  
32 (14) Sign a separate, updated form FL-324 each time the professional provider  
33 submits a report to the court.

34  
35 (f) **Training for professional providers**

36  
37 (1) ~~Each court is encouraged to make available to all providers informational~~  
38 ~~materials about the role of a provider, the terms and conditions of supervised~~  
39 ~~visitation, and the legal responsibilities and obligations of a provider under~~  
40 ~~this standard.~~

41

1           ~~(2)~~(1) In addition, Before providing services, professional providers must receive  
2           complete 24 hours of training, including at least 12 hours of classroom  
3           instruction in the following subjects:

4  
5           (A)–(G) \* \* \*

6  
7           (H) Conflicts of interest, including the acceptance of gifts;

8  
9           (I)–(K) \* \* \*

10  
11          (2) Of the 24 hours of training required in (1), the training must include at least:

12  
13          (A) Three hours on the screening, monitoring, and termination of visitation;

14  
15          (B) Three hours on the developmental needs of children;

16  
17          (C) Three hours on issues relating to substance abuse, child abuse, sexual  
18          abuse, and domestic violence; and

19  
20          (D) One hour on basic knowledge of family law.

21  
22          (3) On or after January 1, 2021, to complete the required training in child abuse  
23          reporting laws under (1)(B), a professional provider must complete an online  
24          training required for mandated reporters that is provided by the state  
25          Department of Social Services. This mandatory online training is not  
26          intended to increase the total of 24 hours of training required in (1).

27  
28          (g)–(q) \* \* \*

29  
30          **(r) Informational materials and procedures**

31  
32          (1) Each court is encouraged to make available to all providers informational  
33          materials about the role of a provider, the terms and conditions of supervised  
34          visitation, and the legal responsibilities and obligations of a provider under  
35          this standard.

36  
37          (2) By January 1, 2022, each court must develop local rules that establish  
38          procedures for processing and maintaining form FL-324, along with the  
39          professional provider’s original report required by (j)(3) of this standard.  
40  
41

SUPERVISED VISITATION PROVIDER (Name and address):     TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____	FOR COURT USE ONLY   <b>DRAFT:</b>  <i>Not approved by the Judicial Council</i>  <b>03/19/2020</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
<b>PETITIONER:</b> _____ <b>RESPONDENT:</b> _____ <b>OTHER PARTY/PARENT:</b> _____	
<b>DECLARATION OF SUPERVISED VISITATION PROVIDER</b>	CASE NUMBER: _____

1. I submit this form to declare that I comply 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; 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 for this position 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 completed a Live Scan criminal background check before providing services.
  - I am registered as a TrustLine provider.
  - 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; I am not being paid to provide supervised visitation services; and (check all that apply):
  - 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 attachment).

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.**