



**NATIONAL RESOURCE CENTER
FOR FOSTER CARE
& PERMANENCY PLANNING**

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School of Social Work

INFORMATION PACKET: *Family & Child Visiting*

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INFORMATION PACKET

Family and Child Visiting

Prepared by Michelle Mourikis

Visiting is generally defined as planned, face-to-face contact between a child (or children) in out-of-home care and his or her biological (or created, as through adoption) family, apart from family counseling (Chiacone, 1997). It has been described as the key to successful reunification (Loar, 1998) and the heart of reunification services (Hess & Proch, 1993).

Visitation includes keeping children connected to a range of family members and other important figures in their lives and to immediate neighborhoods, supporting rather than undermining their sense of belonging, offering ongoing reassurance and reinforcement of the continuity of place and social networks (Millham, Bullock, Hosie, & Haak, 1986).

On the psychological level, visitation has been considered the most important service for maintaining connections between child and family and thus for easing pain of separation. Yet it also serves broader related purposes for the child welfare system. Visitation is the unique service that best supports achievement of the case goal or permanency planning goal for a family, while promoting child safety, permanency, and well being. Wright, L. (2001). Using Visitation to Support Permanency. In *Toolboxes for permanency* (Eds.), Why visitation is important (pp. 7). Child Welfare League of America, Inc.

The courts may intervene if the parents in a divorce action are unable to agree upon the upbringing of a child. In most states, such an action is designated as dealing with custody and visitation. However, this kind of action is increasingly being referred to as one for the "development of a parenting plan".

In theory, the parents' marital status is irrelevant in determining custody. Traditional rules preferring paternal or maternal custody for children of particular ages have largely been eliminated. The law assumes that the mother and father are potentially equally capable of providing for the needs of the child.

Jurisdiction in Child Custody Disputes

If the parties to a child custody dispute live in different states or countries, determining where disputes over custody are decided is complex. Within the United States, the issue of jurisdiction in child custody disputes is determined through States and, thus, local projects that have considerable flexibility in the kinds of service activities they can undertake with Access and Visitation grant funds. The regulations specify broad categories of eligible activities that include mediation, counseling, [parenting] education, development of parenting plans, development of guidelines for visitation and custody arrangements, and visitation enforcement. Under the term visitation enforcement, the regulations include monitored visitation, supervised visitation, therapeutic visitation, and neutral drop-off and pick-up. I have defined these terms below:

- *Monitored visitation*, which involves an outside individual assessing whether or not visitation occurred, relating progress or problems, and providing feedback;

- *Supervised visitation*, which is court-ordered visitation after an allegation of abuse, or other situations involving acrimony, in which an outside individual is present during the visitation session, and observing participants;
- *Therapeutic visitation*, which involves a "counselor" facilitating interactions between the non-custodial parent and the child; and
- *Neutral drop-off and pick-up*, which refers to a location other than the custodial parent's home or relative's home where the custodial parent can leave the child for the non-custodial parent to pick-up for his/her visiting period, and vice versa.

Family and Child Visiting

Fact Sheet

GENERAL STATISTICS

(The following statistics have been compiled from the sites listed in the resources section)

In late Fiscal Year 1997, all States and Territories applied for and received funding for Child Access and Visitation Grants from the total of \$10 million available under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Nearly 20,000 individuals were served during the first year of this new grant program, and this figure is expected to rise, significantly, when all States report. Wide discretion is permitted in States' determination of the activities to fund at the local level. Most States and their local projects report providing a mix of services. There is a healthy balance of services provided with respect to urban, suburban, and rural locations and administration by state and county agencies, courts, and non-profit organizations. There is also a balance regarding the racial and ethnic mix and marital status – divorced, separated, and never-married— of the population served. Most individuals received parenting education, assistance in developing parenting plans, and mediation services, and the majority of individuals referred completed their program activities. U.S. Department of Health and Human Services. (2000, June). Office of Child Support Enforcement {OCSE}, Responsible Fatherhood Programs. Retrieved April 15, 2002, from <http://www.acf.dhhs.gov>

Shared family care involves the planned provision of out-of-home care to parents and their children so that the parent and the host caregivers simultaneously share the care of the children and work toward independent in-home care by the parent. Out-of-home care developed during the 20th century to stress closer work with families to encourage reunification [Pine et al. 1996].

Attachment behaviors can occur from birth through adolescence and adult life. Separation from family and other loved ones is particularly difficult for children. Children are less able to know when separation will come to an end and to a very young person separation has no end. Additionally, children have not fully developed coping skills and might not understand the reason for separation. (Milham et al., 1986)

The goal of the Child Support Enforcement (CSE) Program, which was established in 1975 under Title IV-D of the Social Security Act, is to ensure that parents provide financial support to their children. Welfare reform legislation signed in 1996 provided strong measures to ensure that children receive the support due them. As a result of that legislation:

- States have ongoing grants to establish programs that support and facilitate noncustodial parents' visitation with and access to their children. (See the Department of Health and Human Service's website: <http://fatherhood.hhs.gov> for other federal initiatives.)

Over the last four decades, there has been a dramatic increase in the number of children growing up in homes without fathers. In 1960, fewer than 10 million children did not live with their fathers. Today, the number is nearly 25 million. More than one-third of these children will not see their fathers at all during the course of a year. Studies show that children who grow up without responsible fathers are significantly more likely to experience poverty, perform poorly in school, engage in criminal activity, and abuse drugs and alcohol.

Family Visitation Centers

The first family Visitation Centers was established in 1995 to address custody and visitation issues in families with a history of domestic violence. Family Visitation centers provide a safe environment in which families can renew or continue a relationship with their children.

A family visitation center is a location, usually a converted house, where a child and parent separated by the court can meet. The meeting is supervised, either by video monitors or by workers who remain nearby. Visitation center meetings can take place after work hours and in a more informal, natural setting. The families can choose among several activities including games, cooking and sharing a meal, or watching television. Visits can last up to two hours. Florida (FL) Institute for Family Violence 2000 Supervised Visitation Program. (n.d.). Florida Visitation Center. Retrieved April 2, 2002 from http://familyvio.ssw.fsu.edu/florida_centers.html

Supervised Visitation Centers

Families who are referred to a supervised visitation center when abused or neglected children are removed from the home have their court cases resolved sooner than if a caseworker supervises family visits, a University of Florida researcher has found. Florida (FL) Institute for Family Violence 2000 Supervised Visitation Program. (n.d.). Florida Visitation Center. Retrieved April 2, 2002 from http://familyvio.ssw.fsu.edu/florida_centers.html

Supervised Visitation Centers are there for families where there have been threats of violence, domestic violence, child abuse, instances or threats of parental abduction, drug abuse or charges of any of these. The Supervised Visitation Centers are designed to maintain the contact between the accused parent and the children while the court tries to determine what exactly should be done. Supervised visitation centers also function as places where parents can visit children who have become wards of the state. Florida (FL) Institute for Family Violence 2000 Supervised Visitation Program. (n.d.). Florida Visitation Center. Retrieved April 2, 2002 from http://familyvio.ssw.fsu.edu/florida_centers.html

The Rights of Grandparents to Visitation

The rights of grandparents to parenting time with their grand children are purely statutory. Unfortunately, our Supreme Court in the case of *Frame v Nehls* refused to expand that statutory meaning to those who have children born out of wedlock.

A grandparent of the child may seek an order for Grand parenting time only if a child custody dispute with respect to that child is pending before the court. If a natural parent of an unmarried child is deceased, a parent of the deceased person may commence an action for Grand parenting time. Adoption of the child by a stepparent under chapter X of Act No. 288 of the Public Acts of 1939, being sections 710.21 to 710.70 of the Michigan Compiled Laws, does not terminate the right of a parent of the deceased person to commence an action for Grand parenting time. <http://courts.co.calhoun.mi.us/quest079.htm> parenting time - what rights do grandparents have to visitation? Last Updated 5-12-99

Most states have laws providing visitation rights for both maternal and paternal grandparents. Applications for rights to visit unmarried minor children are typically filed with the District Courts of these states. Washington's law, however, was one of the least restrictive in the nation, allowing any person to petition for visitation with any child. U.S. Gov Info/Resources. (2000, June). Supreme Court Rules against Grandparents. Retrieved April 14, 2002, from <http://f.about.com/z/js/sproo.htm>

Mediation

In many states, the first stage in developing a parenting plan is for the parents to participate in mediation. In the mediation process, a third party, who has no power to force any particular result on the parties, assists them in attempting to develop a plan that is mutually acceptable for the care of the child. While the courts are not bound to accept the plan jointly proposed by the parties, it is extremely uncommon for such a plan to be rejected. If, after the mediation process, the parties have been unable to develop a mutually acceptable parenting plan, the burden falls on the court to establish a plan for the particular child.

Best Interests of the Child

The trial courts have substantial discretion in determining the appropriate parenting plan for each child. However, there are some guidelines that are commonly used in developing such plans. The fundamental standard, which is generally agreed to but of little help in developing a plan, is that of the best interests of the child. It is generally assumed that the best interests of the child require that:

The child have regular access to both parents

The child's residential status be stable

Minimizing the level of controversy between the parents is highly desirable

Absent provision to the contrary in a parenting plan state, the parents share in decision making with regard to the child. If the level of controversy is too great, the court may assign areas of decision making between the parents as appropriate.

Joint Custody

States that have retained the traditional custody and visitation distinction, custody can be awarded to either of the parents, or to the two of them as joint custody.

The right to custody carries with it all decision making on behalf of the child, unless the court specifically allocates such decision making power.

A parent with visitation is generally limited to making decisions with regard to the activities of the child during the visitation period, and any decisions having long-term consequences are supposed to be reserved for the custodial parent

A number of states have a presumption in favor of joint custody, while others retain the traditional preference for sole custody in one parent. The guidelines for the allocation of custody are similar to those for allocation of responsibility under a parenting plan.

Changes in Custody

An award of custody is, by its very nature, a temporary award and can be revised by a court at any time during the minority of a child. Nonetheless, the goal of providing the child a stable home commonly leads courts to refuse to consider a change in custody of a child, absent a very substantial change of circumstances. The parents themselves do not voluntarily agree to change the custody arrangements made by a court, unless there is a specific court order prohibiting a particular arrangement.

Custody in Non-Parents

A parent may surrender custody of his or her child to a third person who is not the other parent of the child. A surrender is generally only effective if it is done for one of the following reasons:

With the consent of the other parent

With the approval of a court

Where the other parent has functionally abandoned his or her rights in the child

In cases of abandonment and other serious abuse, the parental rights of the abusing parent may be terminated. See *Parents and Children*. Once custody is established in the third party, a parent seeking the return of the child over the objection of the custodian would have to convince a court that such a transfer was in the child's best interest.

Benefits of Visitation

The following is a list of benefits of visitation is an expansion of information that appears in a variety of sources (Chiancone 1997; Loar 1998; Hess 1999; Hess & Proch 1993; Warsh, Maluccio & Pine 1994). Visitation has been

own to

Ease the pain of separation and loss for all

Maintain and strengthen family relationships

Reassure the child of the parents well-being

Deal with changing relationships and support the family in coping with changes

Enhance Parental Motivation to change through providing reassurance and hope

Enhance parental empowerment

Provide the opportunity for parental change

Helps participants deal with reality

Support the child's adjustment in the foster home

Provide the context for self-assessment

Support decision making

Reduce time in care

Increase the likelihood of reunification

Assist with transition to reunification

Contribute to family stability once reunification has occurred

Provide the forum for ongoing information sharing

Enable the parent to stay current with the child's development and activities

Support child development progression

If reunification is not the plan, help participants cope with one another plan, grieve, and work out their

future relationship

Provide the material needed for accurate, verifiable documentation

Policies and Legislation

SFA

Federal Legislation over the past twenty years has set a context for our thinking regarding visitation, beginning with the passage of Public Law (P.L.) 96-272, the *Adoption Assistance and Child Welfare Act of 1980*, which focused on permanency planning, emphasized tiered options for achieving permanency-preventing out-of-home placement, reunification, and finally achieving permanency through some other arrangement such as adoption. Though other federal legislation since 1980 has emphasized other aspects of child welfare services. The primary foci and provisions of ASFA have certain implications for visitation.

WLA

Professional standards speak directly to the importance of visitation, and CWLA (1995) has articulated standards that may guide our thinking around visitation. First, CWLA establishes visitation as a right of both children and parents and a parental responsibility.

Children in out-of-home placement have the right to “opportunities for continued connection with their family of origin, extended family, and others with whom they have had meaningful relationships, unless contradicted for reasons of safety”

Parents of children in care have the right to “regularly scheduled visits and other contacts with their children unless prohibited by the court for compelling reasons” Likewise, parents have the responsibility to maintain visiting and other contact with the child in care.

WLA also establishes the child welfare agencies’ and foster parents’ responsibility to support visitation and defines visitation as including the wider network of kin and friends.

State Statutes and Court Decisions

Visitation as a permanency planning service receives some support from the state statutes and court decisions.

Many states have laws that address visitation. Most are limited but do spell out visitation as a parental right or as a service that the child welfare agency must provide. Others offer more detail, such as spelling out who might be involved in visitation, including siblings and other family or even friends; considering the relationship between the child and parent or other relatives in planning; specifying that the court may require filing for a review hearing if visitation is denied; considering distance and proximity when making placements; and setting time frames for visits.

The courts also provide some guidance around visitation. A Washington, D.C., court ruling (*LaShawn A. versus Dixon Final Modified Order*) states that there must be a specific schedule of visitation between the child and the child and the child’s parent(s) and other appropriate family members, including siblings.

The Uniform Child Custody Jurisdiction and Enforcement Act

The UCCJEA requires State courts to recognize and enforce child-custody determinations made in considerable consistency with the jurisdictional provisions of the Act or made under factual circumstances that meet the jurisdictional standards of the Act. This Act addresses different issues that involve visitation.

temporary visitation orders Under the UCCJEA, courts may issue temporary orders to enforce visitation schedules in their States' court orders or visitation provisions of out-of-State orders that do not contain a specific schedule. For instance, courts may order compensatory visitation time or give specific meaning to another State's award of reasonable visitation." Juvenile Justice Bulletin. (2001, December). Duty to Enforce Under the UCCJEA. Retrieved April 14, 2002, from <http://www.ncjrs.org>

Registration of an out-of-State custody determination. The UCCJEA creates a process for registering out-of-State custody and visitation orders. Parents and other parties are not required to register a custody or visitation determination but may choose to do so for the following reasons:

Registration puts the courts of a State on notice of an existing custody determination and of the issuing court's exclusive, continuing jurisdiction.

Registration is a pretest of enforceability; that is, it can be used to obtain assurance that the custody determination will be enforced in the future.

Registration limits possible defenses to enforcement at a later date, which simplifies and expedites subsequent enforcement efforts.

Uncontested registration may obviate the need for lawyers in a case, which would be a great benefit to parents who cannot afford counsel.

A registered order is enforceable as if it were a local order as of the date of registration.

Juvenile Justice Bulletin. (2001, December). Duty to Enforce Under the UCCJEA. Retrieved April 14, 2002, from <http://www.ncjrs.org>

Public enforcement provisions. Sections 315–317 of the UCCJEA provide a mechanism for enforcing custody and visitation orders that is modeled on a system that has functioned remarkably well in California for more than 20 years with wide support from the criminal justice community. Juvenile Justice Bulletin. (2001, December). Duty to Enforce Under the UCCJEA. Retrieved April 14, 2002, from <http://www.ncjrs.org>

Family and Child Visitation

Best Practice Tips

Contact the law enforcement agency where visitation will take place. Notify them of the situation and ask them for their policies/procedures relating to enforcement of visitation. It is always good to notify the police and give them a heads up that you might need their assistance.

Obtain and keep on yourself all signed court documents that relate to visitation. These documents should detail specific visitation schedule that can be enforceable by the police if needed.

The following is a basic outline of what is needed to enforce a visitation order.

A valid court order that has been issued commanding or prohibiting the subject in question from doing a particular act.

The subject in question was validly served with such court order or it can be shown that the subject had prior knowledge of the court order and its content.

The subject in question having full knowledge of the above two factors is intentionally and willfully violating the court order.

For visitation to work, both parents need to accept and acknowledge that their children have two homes - one with their father and one with their mother. Parents need to make sure that their children are safe and comfortable in both places, even if they don't spend equal time there. They need to help make the transition from one home to the other smooth and calm. They also need to make sure they are being consistent in rules and discipline.

Each parent is entitled to know where the children are during visitations. They should also know if the children are left with other people such as babysitters or friends when the other parent is not there.

Both parents should realize that visitation schedules may change as children age and their needs change.

Make visitation a normal part of life

Find activities that give you and your children an opportunity to build your relationship. Allow time together without planned activities just to "hang out."

Provide a balance between fun and responsibility for your children.

Encourage visitation that includes grandparents and extended family.

Make sure your children have their own places in your home even if it is just part of a room so they feel it is also their home.

Help your children meet other kids in your neighborhood so they have friends at both homes.

Try to keep a routine schedule to help prepare your children for visitation.

Have a checklist of items such as clothing and toys that your children need to take on visitations. If the children are old enough, they can help pack.

If it's appropriate, allow your children to bring friends along occasionally.

Spend individual time with each of your children.

Visitation Don'ts

Some parents use visitation to achieve destructive goals. These are goals based on revenge, such as one parent hurting the other or disrupting his or her life. To achieve those goals, parents may use destructive behaviors that can create a more hostile environment and seriously damage relationships. Destructive strategies can be deeply hurtful to children caught in the middle. Following are tips for avoiding destructive behavior.

Don't refuse to communicate with your former spouse.

Don't use your children to relay divorce-related messages on issues such as child support. Those issues should be discussed by adults only.

Don't make your children responsible for making, canceling, or changing visitation plans. Those are adult responsibilities.

Don't use your children to spy on your former spouse.

Don't fight with the other parent during drop-off and pickup times. Deal with important issues when your children.

Cannot overhear.

on't disrupt your children's relationship with their other parent.

Don't make your children feel guilty about spending time with their other parent.

Don't use visitation as a reward for good behavior, and don't withhold it as punishment for poor behavior.

Don't tell your children you will feel lonely and sad if they visit their other parent.

Don't withhold visitation to punish your former spouse for problems such as missed child support payments. Withholding visitation punishes your children, who are not guilty.

Don't withhold visitation because you feel your former spouse doesn't deserve to see the children. Unless a parent is a genuine threat, adults and children need to see each other.

Don't use false abuse accusations to justify withholding visitation.

Don't let activities such as sports and hobbies interfere with the time your children spend with their other parent. Your former spouse can transport the children to those activities if needed and can sometimes participate.

Don't pressure your children about leaving clothes or toys at their other parent's home. The children need to feel they belong in both places.

Don't falsely claim that your children are sick to justify withholding visitation.

Don't withhold phone calls to your children from their other parent.

Don't put down the other parent's new romantic partner.

on't allow your anger to affect your relationship with your children.

Don't hurt your children by failing to show up for visitation or by being late.

on't spoil your children to buy their loyalty and love.

Don't let your children blackmail you by refusing to visit unless you buy them something.

Don't try to bribe your children.

Don't feel you need to be your children's buddy for visitations to be successful. Your children need you to be a parent.

Don't try to fill every minute of a visit. Allow some down time for routine activities such as cooking or laundry, or quiet time just to

together.

None of these visitation don'ts undercut children's ability to develop an open and supportive relationship with both parents. One of the best ways to support children involved in a separation or divorce is to do what you can to make visitations go smoothly. Focusing on visitation dos is a first step in helping children adjust.

Try to stay away from schedules that are confusing or where the children are bouncing back and forth between two homes. When developing a visitation plan keep in mind several factors:

The children's social life

The children school schedule

The children's extra curricular activities

Possible schedule conflicts

Vacation time

Holidays

Children need set routines

Best interest of the children

Drop-Offs

Do not use pickup and drop-offs as an opportunity to continue or begin an argument with your (ex) spouse. If you do not get along with your (ex) spouse then remain in the car. Beep the horn and let the children come out to you. Do not get in the car inside.

Custodial Parent - Make sure the children are ready before your (ex) spouse arrives to pick them up.

Non-Custodial Parent - Be on time. If you are going to be late, call your (ex) spouse as soon as possible and let them/her know what time you will be arriving.

Holidays

The best way to determine which parent has the children on a particular holiday is to alternate the holiday every year. For example if the mother has the children for the Fourth of July the first year then the father would have them the second year. Some families have certain traditions for particular holidays. For instance the husband's family might have a Christmas Eve tradition while the wife's family has a big family gathering on Christmas day. In a case like this you might want to consider not alternating these holidays but to let the children be with their mother on one holiday and the father on the other. If you have to work on a holiday that the children are to spend with you, then you should allow your (ex) spouse to have the children on that day without "trading" for another holiday.

Vacations

Each parent should have vacation time with the children. Normal vacation time would be 2 weeks during the summer.

at all possible the two weeks should not be consecutive. In some cases each parent will have the children for one month each during the summer. One parent would have the children for the month of July, while the other parent would have them for the month of August.

Positive Policy Guidelines

Elements that should be addressed in either policy or practice guidelines include at least the following (see Hess, 1988; Loar, 1998; County of Erie, 1999; Hess & Proch, 1993; and Hess, 1999, for a discussion of policy and other agency support around visitation):

The visitation plan should be written and should be part of the overall case plan.

The visitation plan should address the full range of logistics and visitation issues—frequency, time spent, who may visit, safety issues, and other appropriate issues.

The visitation plan should be developed with full parental involvement and child involvement in the extent appropriate.

The visitation plan should be distributed to all parties involved as appropriate.

The visitation plan should be regularly reviewed in conjunction with administrative and judicial reviews.

Decisions around the placement of children in care should consider proximity to parents and siblings so distance is not an obstacle to ongoing contact.

Support of visitation should be a requirement for foster parents, and the agency should not use foster parents who do not support visitation.

Guidelines in terms of ensuring child safety during visitation should be provided, and the return home should not be permitted until the family's ability to safely manage extended unsupervised visits has been clearly established.

The agency should articulate clear prohibitions around withholding visitation for reasons of punishment.

Expectations of parent(s), foster parents, children (as appropriate), and workers in terms of supporting visitation should be clearly spelled out.

Family and Child Visiting Websites

[Department of Health and Human Services](http://www.dhhs.gov) <http://www.dhhs.gov>

Governing body of more than 300 federal programs designed to protect the health and provide essential services to citizens. Includes a vast amount of fact sheets and evaluations connected to administration, research, and policy of hundreds of federal programs.

[The Administration for Children and Families](http://www.dhhs.gov) <http://www.dhhs.gov>

The Department of Health and Human Services federal program houses the Children's Bureau, which covers many different topics including custody and visitation.

US Department of Health and Human Services <http://www.acf.dhhs.gov>

The Department of Health and Human Services federal program covers many issues on families including legislative topics on child support and visitation.

The Florida Institute for Family Violence <http://www.familycenters.html>

A vast amount of information is given on family visitation centers.

APA Books <http://www.apa.org>

Traces the facts and myths on family medicine, the definition of the field, and the consequences for family's and the legal system.

Cyber Parent <http://www.cyberparent.com>

There may be alternatives to court for visitation rights to grandchildren.

Aol Lawyers aol.lawyers.com

Covers a wide range of topics on law issues regarding child custody and visitation.

Supervised Visitation Centers <http://www.lawpowerandjustice.com>

A wide array of information on supervised visitation centers and what they offer to families.

Family and Child Visiting References and Suggested Readings

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