FAMILY-CENTERED PRACTICE

Family Time / Visitation Protocols

Chapter 39 addresses and encourages family time (also known as "visitation") on three family relationship levels: 1) family time between the parent and child; 2) family time among siblings who are separated in various placements; and 3) grandparent visitation. Courts should provide oversight on matters related to family time, and ensure that the caseworker, caregiver, family, and appropriate child welfare partners engage in developing and maintaining a safe visitation plan.

GOALS AND BENEFITS OF PARENT-CHILD FAMILY TIME

Frequent and meaningful family time can enhance the child and parent relationship, as well as expedite permanency by engaging the parents. Meaningful and regular contact (in all forms) with a child removed from the parent can be critical to motivating a parent to voluntarily start on case plan tasks from as early as removal or arraignment, regardless of whether the dependency action is being contested. Regardless of the age of the child, a growing trend in Florida has been demonstrating that this individualized, frequent, and meaningful contact between the parent and the child is generally beneficial to both. While there is no empirical evidence yet to support this, informed practice by experienced dependency judges across the country lend credence to the benefits of family time. The **goal of family time** is to promote reunification by strengthening the parent-child relationship and reducing the potentially damaging effects of separation; there are also **collateral benefits to family time**. Based upon the individual needs of the child and the circumstances of the family, the court should consider all options available to maximize safe and nurturing family time. The following are benefits of family time noted by experienced dependency judges:

- Eases the pain and potential damage of separation for all.
- Reassures a child that the parent is all right.
- Helps the child to eliminate self-blame for removal.
- Supports the child's adjustment to the caregiver's home.
- Reinforces the parent's motivation to change.
- Offers a potentially therapeutic intervention, rather than just "a visit."
- Provides a unique opportunity for the parent to learn parenting skills from foster parents who are willing to co-parent.
- Provides an opportunity for parents to practice new skills and if using a parenting coach, to acquire new skills and improve parent-child interactions.
- Helps parents gain confidence in their ability to care for their child.
- Provides opportunities for parents to be up-to-date on their child's developmental, educational, therapeutic, and medical needs as well as their child's religious and community activities.
- Increases the likelihood of reunification.

- Permits safe, increasingly unsupervised family time and overnights with a goal of moving toward reunification.
- Provides critical information to the court about parental capacity to safely meet the needs of their child in a less restricted form of family time such as unsupervised or overnight.
- Offers critical information to the court about parental capacity to meet the needs of their child and whether reunification is the best permanency option for the child.
- If reunification is not the best option, the lack of commitment of the parent and/or parental capacity will be apparent much sooner and may result in an earlier, often uncontested change in goal, resulting in expedited permanency.
- Reduces the time in out-of-home care and expedites permanency. In addition to strengthening the parent-child relationship, visitation can also provide an opportunity to heal damaged or unhealthy relationships between the parent and other family members who may be caregivers.

PARENT-CHILD RIGHT TO VISITATION

Chapter 39. Visitation should be promoted unless the court determines that the child's life, health, or safety would be at risk. A number of provisions of Chapter 39 relate to family time and the court's role.

- Sections 39.402(9) and 39.506(6) provide that **the court shall determine visitation rights absent a clear and convincing showing** that visitation is not in the best interest of the child.
- If visitation is ordered but will not commence within 72 hours of the shelter hearing, the department shall provide justification and immediate notification to the court. *(Best practice is to have the first visit within **48 hours** of removal.)*
- Any order of visitation or other contact must conform to the provisions of § 39.0139. This section contains special provisions that apply to visitation when a court of competent jurisdiction has found probable cause that the parents or caregivers have sexually abused a child, or when the parents or caregivers have been found guilty of any of a number of crimes set forth in the statute. (Known as the "Keeping Children Safe Act.")(See J.C. and C.C. v. Department of Children and Families and Guardian ad Litem Program, 83 So. 3d 883, 2012 WL 246466, 37 Fla.L.Weekly D256 (Fla. 2nd DCA 2012). This case limits application of KCSA to cases in which the children at issue "have been sexually abused or exploited.")

SAFETY AND INDIVIDUALIZED NEEDS CONSIDERATIONS

Determining visitation. The child's safety and well-being should always be paramount; visitation should always be individualized. Arrange visits so a family specialist or service provider can provide positive coaching and mentoring when needed and evaluate whether the parent's protective capacities are improving.

- Under the **Keeping Children Safe Act** (Chapter 39.0139), judges should first consider the following:

- A court of competent jurisdiction has found probable cause exists that a parent or caregiver has sexually abused a child as defined in § 39.01;
- OR a parent or caregiver has been found guilty of, regardless of adjudication, or has entered a plea of guilty or *nolo contendere* to, the following charges (or substantially similar statutes of other jurisdictions): removing minors from the state or concealing minors contrary to court order; sexual battery; lewd and lascivious behavior; lewdness and indecent exposure; incest; Chapter 827 relating to the abuse of children;
- OR a parent or caregiver has been deemed a sexual predator (or a substantially similar designation under laws of another jurisdiction).

If one or more of the above apply, please refer to the Keeping Children Safe Act on page 4-34.

Considerations for Visitation in Cases Involving Domestic Violence

- Inquire if the child welfare agency assessed the family members for domestic violence during initial contact with the family and at other periodic intervals.
- Gather and review information needed, such as current injunctions and previous injunctions, police reports, and stalking behavior to enhance decision making when determining supervised, unsupervised, and therapeutic visitation.
- Assess the risk posed by perpetrators to lessen perpetrator-generated safety threats to children.
- Ensure that guidelines and appropriate interventions are established for the perpetrator in cases where supervised visitation is granted.

Checklist to Promote Perpetrator Accountability in Dependency Cases Involving Domestic Violence:

http://www.ncjfcj.org/resource-library/publications/checklist-promote-perpetrator-accountability-dependency-cases

- Taking safety factors into consideration [see below and as further set forth in Tab 6], determine on an individual basis the appropriate type of family time:

  1) **Unsupervised**, **supervised** (if so, by whom and where), or **therapeutic;**

  2) **Daytime** or **overnight**;

  3) **Additional allowable contact** should be specified, including cards, letters, email, Skype, text messages, phone, and the type of contact permitted while the child is attending court.

** On April 26, 2012, the Florida Supreme Court amended Florida Rule of Juvenile Procedure 8.255(b). That subsection relates to the presence of a child at dependency hearings. The amended rule provides that: the child has a right to be present at all hearings; if the child is present at the hearing, the court may excuse the child from any portion of the hearing when the court determines that it would not be ***in the child's best interest*** to remain; if a child is not present at a hearing, ***the court shall inquire*** and determine the reason for the absence of the child. ***The court shall determine*** whether it is in the best interest of the child to conduct the hearing without the presence of the child or to continue the hearing to provide the child an opportunity to be present at the hearing; any party may file a motion to require or excuse the presence of the child.

- The following safety considerations are used to determine whether visits should or should not be supervised:
  - Threats of danger: some threats may be more difficult to manage without supervision than others. Unmanageable threats may include violence, child's intense fears, premeditated harm, extreme negative perception of the child, and likelihood of fleeing with the child.
  - The volatility of the threat and how difficult it would be to manage without supervision. Analyze volatility by considering when and how the threats emerge; parent's impulsivity; if there are mental health issues, medication management, and therapeutic compliance; whether the home environment is unpredictable; or whether safety could be maintained only through 24 hour in-home help.
  - Whether significant information is lacking about the parent, due to parent unwillingness or other obstacles.
  - Whether the parent's or the child's functioning is deteriorating during visits.
  - Significant emotional needs of the child and/or parent that may need to be addressed in a therapeutic setting.
  - Threats of neglect: substance abuse or excessive prescription medications.

> Children must be given an opportunity to attend court as well as to express their feelings regarding visitation. ***Florida Rule of Juvenile Procedure 8.255(b)****

Considerations for Visitation in Cases Involving Substance Abuse

- Require that a parent not "appear" under the influence of drugs or alcohol or smell like drugs or alcohol or be impaired by prescriptions drugs.
- Authorize the supervisor of the visits to prohibit a visit from taking place or stop the visit if the parent is noticeably impaired or decompensates during the visit.
- Parent/child engagement is a primary motivator for parents struggling with substance abuse.
- A blanket prohibition on visitation in the absence of a clean drug screen is inconsistent with the requirements of Chapter 39. **The court must determine visitation rights at the shelter hearing absent a clear and convincing showing that visitation is not in the best interest of the child.** § 39.402(9). Likewise, at the arraignment hearing, if the child is in an out-of-home placement, **the court shall order visitation rights absent a clear and convincing showing that visitation is not in the child's best interest**. § 39.506(6).

Withholding visitation should NEVER be used to extract case plan compliance or as a punitive measure for non-compliance. Indeed Florida law prohibits it unless there is a clear and convincing showing that visitation is *not* in the best interest of the child. §§ 39.402(9) & 39.506(6).
Withholding visitation or access to a parent, therapist, sibling, or caseworker should NEVER be used as a behavioral consequence for children in care.

Parameters of family time.

- Determine if there are any concerns and recommendations as they relate to safety, type, and frequency of visitation.
- Ensure that there is an individualized visitation schedule in place that specifies commencement date, regularly scheduled days of the week (if possible), timeframes, other participants, and approved location options by type (such as a public place, caregiver's home, or other approved residence). Ensure the visitation schedule is clear to all the parties involved.
- Confirm who will be responsible for the transportation of the child. **Keep in mind, transportation does not always have to be provided by the caseworker**; however, it should ideally always be provided by someone who has a relationship with the child. For very young children, the preference is for the caregiver to transport. This should be a consideration in arranging frequency and location of visits. Be creative in identifying transportation options which may include permitting an approved 3rd party (known to the child) to transport both child and the parent.
- Inquire and confirm the parent has adequate, reliable transportation (or a bus pass or gas card).

- Order visits to regularly allow parents to learn or practice the protective capacities gained.
- Order visits so protective capacities can be evaluated periodically and if needed, add coaching to the skill building requirements.
- Consider the following important parenting opportunities, intended to allow the parents to gain confidence and practice what they are learning as well as to share their knowledge of the child and gain additional knowledge:
  - Attending any type of school, sporting, or extracurricular activity;
  - Attending (in person or by phone) a doctor's appointment, medication management, therapy sessions (such as family, speech, vocational, or physical), or special needs training (such as nebulizers);
  - Monitored telephone calls, face-time, skyping, emails, letters, exchange of photographs, etc. Even while in court with a speaker phone, a quick "hello" or "I love you" between an absent parent and child is enormously effective for both.
- Ensure that the family time plan is flexible so that it does not interfere with the child's normal daily routine, including childcare, naptime, and school.
- Ensure that the family time plan takes the child's age and developmental level into account.
- Ensure that the court order contains language regarding who may be present at the visit and who may have contact with the child. Explore any additional communication methods that could be used, such as telephone and email. The order should clearly document the frequency and length of the family time.
- Set dates when family time conditions and communication will be reconsidered; set the specific criteria or method to expand family time or stop a visit and to quickly get onto a court docket.
- Ensure that there is ongoing supporting documentation regarding the frequency, quality, and progress of the family time.
- Inquire if the parents, foster parents, and relatives involved in the case are able to serve as supervisors for the visits while promoting therapeutic visitation. **Family members and foster parents should be alerted to an available online free training about the dynamics of supervised visitation.** [See the adjacent text box]
- Ensure that any supervisor clearly understands the obligation of a "supervisor."
- Clearly define the circumstances that would permit a supervisor to either refuse a visit (such as a parent appearing too impaired for a visit) or end a visit (a parent falling asleep during the visit, causing great distress in the child, or for any violations of court mandates).
- Ensure that the plan is guided by careful and ongoing assessments of the parent and his or her ability to safely care for and appropriately interact with the child.

There is free online training for family members and foster parents to learn about the dynamics of supervised visitation: http://familyvio.csw.fsu.edu/clearinghouse/manuals-and-materials/

Co-parenting

For more information on co-parenting, please refer to page 4-49.

Co-parenting is an arrangement under which the normal duties of parenting a child are shared between the caregiver and parent, allowing the child to develop significant relationships with and attachments to both parties. Judges should ensure that the caseworker, parent, and caregiver coordinate visitation and other activities. Parents may be able to join their child and the child's caregiver at medical appointments, school activities, birthday parties, holiday summer activities, and other events in the child's life. Communication between the caregiver and parent should be encouraged if it is safe and appropriate. Whether electronic[1], telephonic, or handwritten, information about a favorite food, story, or effective method to soothe a child can be shared; this promotes parental engagement. Further, it reduces the likelihood of a child feeling "disloyal" (much like with divorcing parents) for feeling comfortable in the caregiver's home or missing a parent.

DEVELOPMENTAL CONSIDERATIONS FOR YOUNG CHILDREN

Approximately one half of all children in out of home care are under the age of five. Because a child's first 3 years of life are an essential time for relationship-building, disruptions during this period present special challenges. Young children are different from older children and adolescents, whose greater memory and cognitive and language capacities can be of some help with the frustration of separation and disruption from family. The early building of positive parent-child relationships begins with sensitive nurturing, protection, and physical proximity that is consistent across time. Consequently, the ways to support a young child and build or repair the child's relationship with the parent must be adapted to the child's developmental capacities. In particular, all adults involved must be aware of early capacities and limitations in social-emotional development and self-regulation.

In typical behavioral development, children:

- Are sensitive to others' emotions from birth.
- Show pleasure and joy by 2-3 months.
- Show fear or wariness toward strangers by 7-9 months.
- Actively look to familiar adults for "emotional cues" about how to respond to new situations or people by 12 months.
- Exhibit "separation protest" from parents or key caregivers, which is typical for toddlers and can be highly distressful for both children and adults. When a child does not show these emotions, there is cause for concern. The child and her/his caregiving relationships need further attention and assessment.

[1] Email addresses can be established by the caregiver (or foster parent) solely for the purpose of communicating with the parent.

Self-regulation includes the capacity to control and modulate one's alertness, attention, emotions, and behavior. Babies are not born with this capacity; however, activities like sucking can be the earliest attempts at self-soothing. It is through a caregiver's sensitive support and guidance that children learn to self-regulate across the first few years of life, and during this time, adults' "co-regulation" skills (adults' use and management of their own feelings, language, and behaviors to help children understand and control emotions) are essential to support eventual self-regulation.

Through their nurturing and sensitive care, a parent and caregiver provide the support that soothes and calms a young child, which in turn enables greater emotional and behavioral control. Family stress and disruption can lead to high levels of distress in both children and adults, and they may need assistance in creating positive co-regulation strategies.

Keep in mind the following considerations when determining visitation frequency:

- All visitations should be individualized based on the needs of the child and parent, including initial considerations concerning the type of maltreatment, developmental needs, and ongoing attention to the child's stress responses to the visitation process.
- Based on judicial experience and practice, the general assumption is that frequent visitation expedites permanency. Judges certainly have the discretion to suspend visits when the child is showing signs of stress or conversely to order unsupervised and increased visitation when appropriate.

Additional considerations for young children:

- ***Frequency***. Although the exact number of visits is not known, best practice indicates that the frequency of visitation is linked to permanency. Practice suggests that ***infants and toddlers can benefit from frequent, even daily visitation, ideally several times per week when individual circumstances permit.***[2] These circumstances may include consideration of the availability of supervisors, the length of the visit, the distance the child is required to travel, the ability to participate in the visit, or the location of the visit. A longer visit that includes the caregiver and gives the parent the opportunity to be involved in routine activities and play may be preferable to several very short visits supervised by a transportation worker in an office setting. There should never be a "cookie cutter" approach to establishing family time. Courts should have a meaningful discussion with

> **"For parent-child visits to be beneficial, they should be frequent and long enough to enhance the parent-child relationship."**
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> Source: American Academy of Pediatrics, 2000, Developmental Issues for Young Children in Foster Care. *Pediatrics 106*(5), p. 1148.

[2] Frequent and quality visitation is being embraced by many states. Minnesota's Department of Human Services encourages frequent visitation: "Infants and toddlers benefit from daily visitation, at the very least every two or three days." Source: Minnesota Department of Human Services Child Safety and Permanency Division. *Child and Family Visitation: A Practice Guide to Support Lasting Reunification and Preserving Family Connections for Children in Foster Care.*

the parent, relatives who appear in court, the CPI, caseworker, prospective supervisor, and caregiver to devise a meaningful plan that works for all involved. Nevertheless, never should there be a presumption *against* frequent, varied, and meaningful contact. Visits simply based on what has "*historically*" been permitted by the courts and the department, or "*typical"* in any given jurisdiction or merely for the "*convenience of 'staff'"* are not individualized to meet the needs of the child and the child's circumstances. Time and money put into front end services is money saved if the case results in timely, stable reunification.

- ***Visitation Logistics.*** Efforts should be made to ensure transportation and logistics are not barriers to visitation or visitation frequency. When children travel for visits, familiar caregivers should accompany and transport children; the travel itself may be stressful, especially with a stranger, and when the child feels distress at the visit's completion, a familiar person may be more able to soothe and support the child. Caregivers and foster families may also need assistance in coping with children's post-visit distress in an understanding way. Parental visits at child care centers may be a possibility, as the child would be in a familiar setting; however, child care teachers need to be educated in the same way caseworkers or transporters would be about routines, disruptions, possible distress, and soothing. To the extent a caregiver is willing, it is most beneficial and assuring for a child to have the caregiver and parent present during visitation exchange.
- ***Child's Routines.*** Efforts should be made to respect the child's routines (e.g., eating, sleeping, and other consistent daily patterns) in scheduling family time, with the understanding that disruptions in routines and unpredictable transitions can be very upsetting to infants, toddlers, and young children.
- ***Informing Adults about Development***. Ensure that parents, caregivers, and dependency professionals (e.g., caseworkers, transporters, GALs) are informed about important social-emotional patterns:
  - Children form attachments to more than one caregiver (though there may be a *primary* attachment), so seeing children show "attachment behaviors" such as clinging to or separation protest with another caregiving adult is not unusual.
  - Emotions such as "fear of strangers" that result in clinging or distress are typical in infants and toddlers and may not be a sign of a problem or "being spoiled."
  - While older toddlers usually start to show greater independence and "sense of self" (e.g., saying "mine" or "no"), their attachment relationships are still essential and separations from primary caregivers can cause distress and interfere with many domains of development, including language.
- ***Visitation Quality***. Visitation should be as proactive as possible and should offer the following opportunities:
  - Play and exploration to support mutual enjoyment for parents and children.

- Family or child-care routines, such as meal time, to promote the development of sensitive, predictable, and nurturing care.
- Developmental stimulation (e.g., reading) to assist parents in understanding their children's skills and needs, and how to promote their learning.

CHILD'S BEST INTEREST

The child's safety and well-being should always be paramount; visitation should always be individualized. So long as the location and circumstances of the family time/visit are safe and as natural as possible, an unlimited number of creative options should be considered to permit significant parenting opportunities. The parties themselves may agree to locations, within the parameters of the court order. Different types of parenting opportunities may be offered and available each week to meet the needs of the parties. Sometimes it is the less obvious answer that will solve a family's difficulty in having significant family time. Limited housing or a desire to remove oneself from the "old influences" may mean the parent is many hours from where a child is initially placed. Consider moving the child to the locale where the parent has relocated and relying upon courtesy supervision.

- **Supervisor of the visit.** If safety requires a supervisor, other than simply relying upon the caseworker, "family specialist" for the CBC, or the foster parent, then the approved **supervisor** could be:
  - The relative caregiver or another adult member of that placement;
  - A relative who is <u>not</u> the caregiver, including an adult child of the parent or relatives by marriage;
  - A non-relative with an established relationship with the child, such as day care providers, parents of child's close friends, or members of a local church.

> There is a free online training for family members and foster parents to learn about the dynamics of supervised visitation: http://familyvio.csw.fsu.edu/clearinghouse/manuals-and-materials/

- **Locations for family time/visitation**. Florida believes in the value of maintaining the parent-child connection whenever safely possible. Traditionally, visitations have taken place in a caseworker's office or in a room at the agency. However, best practice shows visitation/family time should take place in the most natural setting that can ensure the safety and well-being of the child. Limitless creative options exist for non-incarcerated parents including:
  - Child friendly public locales such as libraries, museums, parks, playgrounds, play areas in a mall, school playgrounds, child waiting areas of courthouses, child-friendly restaurants, church play areas, child care centers;
  - Outside areas of child welfare buildings;
  - Supervised or therapeutic visitation programs convenient to the parties;
  - A trained supervised visitation monitor affiliated with a supervised visitation program.

> It is extremely important to **maintain the appearance of normalcy** for a child when planning family time.

- The caregivers' home or an approved home of a relative or non-relative. This may include having the parent assist the relative caregiver with after school chores, including homework, baths, and meal preparation.
    - Allowing a visit to take place outside such home with less intense supervision offers transition to truly unsupervised visits.
- While traveling with a caregiver or approved transporter and the child to any of the suggested co-parenting activities listed earlier.

➢ **Incarcerated parents or children in residential treatment or delinquency placements.** Visitation options include:

- Jails and prisons for parents in custody: for older children this both maintains the bond as well as provides opportunities for the parent to encourage a child and redirect the child's troublesome behaviors. It serves to motivate a parent to begin case plan activities immediately upon release;
    - Consideration should be given to notifying the inmate parent's classification officer of the case plan tasks and need to consider moving the incarcerated parent closer to the child.
- Residential rehabilitation programs. Some even permit a child to stay overnight with an approved third party to maximize the time;
- Delinquency and dual diagnosis programs where older children may be located. Parents can have monitored visits and regular telephonic and letter contact consistent with the programs rules and therapist's recommendations.

➢ **Other parenting opportunities:** The following opportunities are intended to allow the parents to gain confidence and practice what they are learning as well as to share their knowledge of the child and gain additional knowledge:

- Attending any type of school, sporting, or extracurricular activity;
- Attending (in person or by phone) a doctor's appointment, medication management, therapy sessions (such as family, speech, vocational, or physical), or special needs training (such as nebulizers);
- Monitored telephone calls, face-time, skyping, emails, letters, exchange of photographs, etc. Even while in court with a speaker phone, a quick "hello" or "I love you" between an absent parent and child is enormously effective for both.

Assess parental participation and parental engagement during family time.

- Inquire if the parent is participating in the child's medical appointments, school events, and other related activities. Ask if the parent, if appropriate, is speaking to therapists and other service providers. Address and remove any barriers.
- Inquire if visitation is occurring on birthdays, holidays, and other special occasions that may be important to the child, parent, and family. If not, is there a plan to facilitate such visitation?
- Ensure that the agency has addressed the extent to which the parent can exercise his/ her parental role during the visitation (e.g., setting limits, disciplinary rules, etc).
- Inquire if the parent and caregiver are engaged in co-parenting. If not, encourage resolution of any impasse, if possible.
- Collaboration between caseworkers, parents, and foster parents is clearly essential to reunification, and every effort should be made to include all parties in the decision-making process. Caregivers should be encouraged to participate in court hearings by phone or in person.
- The caseworker, parent, and foster parent should develop a plan for the visitation schedule and activities that is manageable for them and the child.

Interpreting Child's Behavior Around the Visits

Some children will feel happy and excited about visits with their parent(s), but for children of any age, there may be times when they become upset either prior, during, or after a visit. This may be because of:

- Normal feelings of loss and separation.
- Being anxious and fearful during the visit.
- Conflicting feelings of loyalty — feeling a need to reject the caregiver to affirm their love for their parent.
- Lack of control.
- Self-blame over not being able to go home.
- Not able to talk about confusion or fears.
- Feeling the need to defend the parent(s)
- Regression to "babyish" behavior, whining, nightmares, wetting the bed, becoming aggressive, complaining of physical pain before and/or after the visits.

Source: Minnesota Department of Human Services Child Safety and Permanency Division. *Child and Family Visitation: A Practice Guide to Support Lasting Reunification and Preserving Family Connections for Children in Foster Care.*

- When applicable, the agency should encourage foster parents and parents to consider continuing the relationship after reunification occurs.

ADDRESSING CHANGE IN CIRCUMSTANCE AND/OR CHALLENGES

Re-evaluating visitation. Meaningful reviews of parameters, quality, and frequency of exercised visitation must take place often. The best practice is to review the current frequency, duration, and type of visitation at each court hearing in order to determine if the best interests, health, and safety of the children require any increase or decrease in frequency and supervision of visits in order to be compliant with the statutory obligations regarding visitation.

If a supervised visitation program is being utilized, court orders should:

- Be provided to the visitation program.
- Include a due date for providing the caseworker with current program compliance.
- Specify the date of the next court review.

Ensure from the outset that the parents, caregivers (including foster parents), caseworker, guardian ad litem, and other participants understand that visitation will be so reviewed and will be readdressed anytime there is a change in circumstance for the child, parent(s), and caregiver and/or at every hearing. When a participant (including the caregiver) learns of a change in circumstance, he or she must promptly request a hearing to inform the court so that the visitation can be re-evaluated. A set procedure and established time slot on the court's docket can assure prompt review.

Challenging Behavior. Even in ideal family circumstances, the behaviors of toddlers are often a challenge for adults. However, challenging behaviors in young children in the dependency system are of special concern because they signal potential relationship or developmental problems that can have long term consequences. Challenging behaviors can reflect specific needs and call for a review of potential sources of stress or developmental difficulties while maintaining a stable and nurturing environment and positive communications among families and system partners. **It is important there *not* be a misunderstanding of the reasons for the behaviors but instead find the right remedies.**

- Examine the "fit" (i.e., interpersonal comfort level) between the child and current caregivers.
- Children who have experienced severe neglect may show unusual challenging behaviors (such as challenging behaviors associated with food) that may need review by an early childhood mental health specialist.
- Language delays can exacerbate problems in children's frustration tolerance, so there may be a need for a more thorough developmental evaluation.
- For children with extreme or unusual behaviors, an evaluation should be done by the appropriate expert to assess whether the child shows indications of an autism spectrum disorder or fetal alcohol spectrum disorder. If positive, the child, family, and caregivers need referrals for the appropriate specialized interventions and supports.

Child's reluctance/refusal to visit a parent. It is extremely important to receive the child's input regarding visitation. Their feelings should be validated, but not be the sole factor in determining whether family time is safe and appropriate with a resistant child.

<u>Child input can be obtained by</u>**:**

- Direct sidebar with the child on the record.
- Input via the guardian ad litem.
- In open court directly from the child provided the child is willing to speak openly.

Solutions to the child's concerns and addressing other red flags include:

- Therapeutic visitation.
- Monitored phone calls.
- Letters/emails only (through an approved third party).
- Permitting initiation of calls by the child only (monitored by an approved third party).
- Supervised visitation by an approved third party.
- Suspend visitations until issues of concern have been addressed.

Therapeutic Visits. The purpose of the visits is to maintain and strengthen the parent child relationship. Preparation and coaching of both the child and the parent can help the time be meaningful and not "just a visit." It can present a safe forum for a parent to accept responsibility for past behavior and offer an apology. It may also offer the child with the opportunity to express anger or ask questions of a parent who failed to protect them or harmed them. Debriefing of visits can also provide useful information about how the child reacted and ways to modify future visits to decrease stress and increase security.

Promoting Successful Visits. Judges can promote successful visits by: providing children's books and encouraging parents to read to their child or to have an older child read to them; having children bring their homework to visits so the parent can truly parent; directing the caregiver *not* to feed the child so that the parent may do so (if the visit coincides with mealtime); urging the parents to engage in enriching and memorable activities with their child, such as creating artwork; permitting the parent to attend sporting or other extracurricular activities; permitting the parent to expand visits at the home of relative caregivers to do the ordinary bedtime tasks for the child.

Things that do not promote successful visits. Bringing additional people who may cause conflict, talking on the cell phone the whole time or being otherwise distracted, not taking the baby out of the car seat the whole time, the baby sleeping during the visit, having to travel long distances for either the parent or the child, scheduling visits at the child's regular nap or meal time (if no food is being provided by the parent), and discussing case plan issues during the visit or other behaviors by caseworkers or persons responsible for supervising the visit that convey indifference, shame, or blame towards the parent.

Consider the following factors when limiting, suspending, or terminating visits:

- Is the request based on a safety concern? Does the same safety concern apply to all siblings? How does limiting, suspending, or terminating visitation address the issue? Is this in the best interest of the child?
- Is it actually being used as a behavioral consequence for the child in care?
- If the request is due to inconsistent attendance at visits, what efforts have been made to identify the reasons for irregular attendance (e.g., parent's location, child's location, transportation issues, etc.)? Remember, many experienced judges and child welfare experts believe that frequency of visitation is linked to swifter and successful reunification.

- Consider the impact of suspending or terminating visits on the emotional well-being of the child. Get feedback about the child's behavior and emotional needs after visiting the parent. Are the visits stressful or nurturing to the child? Is the child agitated or fearful around the parent? Does the child regress when the parent is present (crawls when can walk; wets or soils clothes when already potty trained). Ask mental health professionals to assess the impact of visits as well as the impact of limiting visits on the child.

Criteria for Resolving Motions for Reunification or Increased Contact

The court is required by section 39.621(10), Florida Statutes, to base its decision concerning any motion by a parent for reunification or increased contact with a child on the effect of the decision on the safety, well-being, and physical and emotional health of the child. Factors that must be considered and addressed in the findings of fact of the order on the motion must include:

(a) The compliance or noncompliance of the parent with the case plan;

(b) The circumstances which caused the child's dependency and whether those circumstances have been resolved;

(c) The stability and longevity of the child's placement;

(d) The preferences of the child, if the child is of sufficient age and understanding to express a preference;

(e) The recommendation of the current custodian; and

(f) The recommendation of the guardian ad litem, if one has been appointed.

SIBLING RIGHT TO VISITATION

- **Section 39.4085** establishes as goals for children in shelter and foster care "[t]o enjoy regular visitation, at least once a week, with their siblings unless the court orders otherwise."
- **Section 39.6012** requires that the case plan must include, inter alia, "a description of the parent's visitation rights and obligations and the plan for sibling visitation if the child has siblings and is separated from them."

Best practices to ensure that sibling connections are supported through family time:

- If the child is a part of a sibling group, are they placed in the same home? If not, what efforts are being made to place the children together? Or if age appropriate, caseworkers should make every effort to place them so that they attend the same school or reside in nearby neighborhoods.
- If the child is a part of a separated sibling group, ensure that visitation is occurring and inquire as to the frequency of the visitation, including visitation with siblings previously placed in adoptive or permanent guardianship homes, if applicable.

- If the child has been victimized by a sibling, the court should consider the recommendations of child's therapist.
- It is recommended that sibling visitation should occur in the least restrictive and most family-like setting available.
- Ensure that the foster parents and caregivers are involved in developing a plan for ongoing sibling contact. If not, the court may need to intervene and issue an order.
- Inquire if the families caring for separated siblings may be able to provide babysitting or respite care for each other, thus giving the siblings another opportunity to spend time together.
- Inquire if an approved relative with a relationship with the children may be willing to have the separated siblings spend a weekend with him or her periodically.
- Be sure the siblings have a chance to visit with a parent together, and thus spend time with each other.
- Parents that have advanced to unsupervised visits or have been reunified with some of the siblings may be able to take siblings to see one another as a family.
- Siblings should write and call each other without supervision unless there is a danger of specific harm to a youth. (The secretary of the Department of Children and Families has stated that "Facebook" is part of normalcy.)
- When a child's placement is changed, ensure that the siblings are informed that a move has occurred and that visitation will continue as scheduled.

GRANDPARENT RIGHT TO VISITATION

Chapter 39 (excerpts):

- A grandparent (including step-grandparent) is entitled to reasonable visitation with a grandchild who has been adjudicated dependent and removed from the parents unless the court finds that such visitation is not in the best interest of the child or that such visitation would interfere with the goals of the case plan. § 39.509.
- Reasonable visitation may be unsupervised and, when appropriate and feasible, may be frequent and continuing. § 39.509.
- Any order for visitation or other contact must conform to § 39.0139. § 39.509.
- Grandparent visitation may take place in the home of the grandparent unless there is a compelling reason for denying such a visitation. § 39.509(1).
- The caseworker shall arrange the visitation to which a grandparent is entitled. The state shall not charge a fee for any costs associated with arranging the visitation. The caseworker shall document the reasons for any decision to restrict a grandparent's visitation. § 39.509(1).
- A grandparent entitled to visitation pursuant to § 39.509 shall not be restricted from appropriate displays of affection to the child, such as appropriately hugging or kissing his

or her grandchild. Gifts, cards, and letters from the grandparent and other family members shall not be denied to a child who has been adjudicated a dependent child. § 39.509(2).

- However, they are not permitted to provide cards, letters, or messages from a parent whose privileges are restricted by the court.
- Any attempt by a grandparent to facilitate a meeting between the dependent child and the child's parent or custodian or any other person in violation of a court order shall automatically terminate future visitation rights of the grandparent. § 39.509(3).
- When the child is returned to the parent's physical custody, visitation rights granted by § 39.509 terminate. § 39.509(4).
- Termination of parental rights does not affect the grandparent's rights unless the court finds that such visitation is not in the best interest of the child or that such visitation would interfere with the goals of permanency planning for the child. § 39.509(5).
- In determining whether grandparental visitation is not in the child's best interest, consideration may be given to a finding of guilt or entry of a guilty or nolo plea to any of several offenses enumerated in § 39.509(6)(a); a designation as a sexual predator; or a report of abuse, neglect, or abandonment under §§405.101-415.113 and the outcome of the investigation. § 39.509(6).

KEEPING CHILDREN SAFE ACT, § 39.0139.[3]

- A rebuttable presumption of detriment to the child is created when:
  - A court of competent jurisdiction has found that probable cause exists that a parent or caregiver has sexually abused a child;
  - OR a parent or caregiver has been found guilty of, regardless of adjudication, or has entered a plea of guilty or nolo contendere to, charges under the following statutes or substantially similar statutes of other jurisdictions:
    - Section 787.04 relating to removing minors from the state or concealing minors contrary to court order; or
    - Section 794.011 relating to sexual battery; or
    - Section 798.02 relating to lewd and lascivious behavior; or
    - Chapter 800 relating to lewdness and indecent exposure; or
    - Section 826.04 relating to incest; or
    - Chapter 827 relating to the abuse of children.

[3] See J.C. and C.C. v. Department of Children and Families and Guardian ad Litem Program, 83 So. 3d 883 (Fla. 2nd DCA 2012). This case limits application of KCSA to cases in which the children at issue "have been sexually abused or exploited."

- OR a court of competent jurisdiction has determined a parent or caregiver to be a sexual predator as defined in § 775.21 or a parent or caregiver has received a substantially similar designation under laws of another jurisdiction.
- "Substantially similar" has the same meaning as in § 39.806(1)(d)(2); *See* § 39.0139(3).

- A person who meets any of the foregoing criteria may not visit or have contact with a child without a hearing and order by the court. § 39.0139(3)(c).
- A person who meets any of the foregoing criteria who seeks to begin or resume contact with the child victim shall have the right to an evidentiary hearing to determine whether contact is appropriate. § 39.0139(4).
- Prior to the hearing, the court shall appoint an attorney ad litem or a guardian ad litem for the child if one has not already been appointed. Any attorney ad litem or guardian ad litem appointed shall have special training in the dynamics of child sexual abuse. § 39.0139(4)(a).
- At the hearing, the court may receive and rely on any relevant and material evidence submitted to the extent of its probative value, including written and oral reports or recommendations from the child protection team, the child's therapist, the child's guardian ad litem, or the child's attorney ad litem, even if these reports, recommendations, and evidence may not be admissible under the rules of evidence. § 39.0139(4)(b).
- If the court finds the person proves by clear and convincing evidence that the safety, well-being, and physical, mental, and emotional health of the child are **not** endangered by such visitation or other contact, the presumption of detriment is rebutted, and the court may allow visitation or other contact. The court shall enter a written order setting forth findings of fact and specifying any conditions it finds necessary to protect the child. § 39.0139(4)(c).
- If the court finds the person did not rebut the presumption of detriment, the court shall enter a written order setting forth findings of fact and prohibiting or restricting visitation or other contact with the child. § 39.0139(4)(d).
- Conditions of visitation. § 39.0139(5). Any visitation or other contact ordered under § 39.0139(4)(d) shall be:
  - supervised by a person who has previously received special training in the dynamics of child sexual abuse, § 39.0139(5)(a); OR
  - conducted in a supervised visitation program that meets certain specified criteria. § 39.0139(5)(b).

- Additional considerations.
  - Once a rebuttable presumption of detriment has arisen under subsection 39.0139(3) or if visitation is ordered under subsection 39.0139(4) and a party participant, based on

communication with the child or other firsthand knowledge, informs the court that a person is attempting to influence the testimony of the child, the court shall hold a hearing within seven (7) business days to determine whether it is in the best interests of the child to prohibit or restrict visitation or other contact with the person who is alleged to have influenced the testimony of the child. § 39.0139(6)(a).

- If a child is in therapy as a result of any finding or conviction contained in § 39.0139(3)(a) and the child's therapist reports that the visitation or other contact is impeding the child's therapeutic progress, the court shall convene a hearing within 7 business days to review the terms, conditions, or appropriateness of continued visitation or other contact. § 39.0139(6)(b).

TRANSITIONING OUT OF CHILD WELFARE

Beginning at shelter, or as early as practical, caseworkers should encourage the adults who care about the child to become collaborators and not adversaries as they care and plan together where the child will grow up. Encourage and require the caregiver, foster, and biological parents to have frequent and meaningful contact with each other and with the child. The judge should ascertain their willingness to meet the child's needs and confirm a possible pre-adoptive placement.

Reunification. Work for smooth transition from placement to home. Visits may occur more frequently, for longer periods, in a greater variety of settings, and with gradually reduced supervision. The parent assumes more and more responsibility for the child. Transition may include increasing overnights, including the parent transporting the child to school or daycare, in order to provide independent observation of the child after spending an extended period of time in the sole care of the parent.

It may be appropriate to consider gradual reunification of multiple children to avoid overwhelming the parent. Determine what services are required to support the child's and the parent's needs. Determine the parent's ability to meet those needs of the child following reunification. Surround the family with supports to make a successful transition.

The actual transition should be coordinated to minimize any trauma and to assure a smooth transition of schooling, activities, counseling, and collection of the child's personal belongings. After the child leaves a foster parent's care, it is important to **encourage visits and contact between the child and foster parent,** recognizing the value of that ongoing relationship to the child.

Placement Changes and Transitions. Placement decisions and placement changes require special cautions during early development. If a placement change is necessary, the impact of the transition must be considered in preparing the child (when possible) before the transition and interpreting the child's subsequent emotions and behaviors.

For children who already may have experienced multiple traumas, a change in caregivers can be extremely difficult and re-traumatizing. When challenging behaviors appear or increase, special care should be used to address the heightened emotional needs before considerations of disciplinary strategies and/or the use of psychotropic drugs. Prompt involvement of specialized in-home or intensive services may counter-act these issues or permit swift notification to the court in the event there is a breakdown in services or other

concerns. An early childhood mental health specialist[4] should be used to evaluate the child and his/her positive relationships, the concerning behaviors, and circumstances to develop a plan to address the child's well-being.

Relatives, foster parents, and foster siblings (as well as other foster children in the home), suffer when children are moved/transitioned. Courts should be sensitive to this, address it, and seek counseling for the foster families if needed.

All attempts should be made to maintain the relationship with the custodian family after children are reunified.

Avoid abandonment of case upon closure. Judges may wish to deny requests for case closure in which long-term visitation at a supervised visitation program is ordered unless the order of closure includes an avenue for returning for a court review upon a written request by the supervised visitation program or either parent.

Termination of Parental Rights. Co-parenting (when the caregiver and the biological parent work together), in most cases, makes it easier for the biological parents to voluntarily surrender their rights to the foster parent or relative so that adoption is achieved earlier. If it is considered in the best interest of the child to terminate parental rights, **a time should also be scheduled to allow the child and parent to say good-bye,** rather than imposing an abrupt transition, which can cause long-term emotional trauma. The child's safety and well-being should always be paramount and may result in a denial of such a farewell visit. The parent should always be urged to maintain current contact information with the department in the event an adult child should seek contact with a parent. A parent can also be permitted to write a letter to the child expressing affection, and in the case of a voluntary surrender, why he or she did so. The letter can be provided to the child as a therapist suggests or as the child matures.

[4] Education requirements for a childhood mental health specialist are Masters-level or higher and includes a wide variety of disciplines (social work, education, nursing, psychology, medicine) with coursework in child and family development, family-centered practice, assessment, and intervention. Significant hours of training, specialized work experience, and reflective supervision are also required. There are an increasing number of Florida mental professionals who have obtained certification for "Infant Mental Health" from the Harris Institute for Infant Mental Health. Source: Competency Guidelines: MI-IAMH Endorsement for Culturally Sensitive, Relationship-focused Practice Promoting Infant Mental Health. (2011). East Lansing, MI: Michigan Association for Infant Mental Health.