A COMPREHENSIVE BLUEPRINT FOR A CRUCIAL SERVICE: FLORIDA’S NEW SUPERVISED VISITATION STRATEGY

Nat Stern* and Karen Oehme**

For nearly two decades, judges have increasingly sought ways to protect vulnerable family members in complex child custody litigation. Communities across the country have responded by developing supervised visitation programs to shield children and vulnerable parents in high-risk cases.¹ Heightened attention to the need for these programs by public officials and other stakeholders² has resulted in a surge of interest in the service, and an acknowledgment of the valuable role that programs play in reducing conflict and protecting vulnerable family members.³ Recent high-profile custody cases reported in the national media,

* © 2010 Nat Stern, John W. and Ashley E. Frost Professor of Law, Florida State University College of Law.
** © 2010 Karen Oehme, J.D., Director, Institute for Family Violence Studies, Florida State University College of Social Work, which houses the Clearinghouse on Supervised Visitation.
² In this context, the term “stakeholders” refers to anyone in the community who has a stake in the safety of families, including judges, domestic violence advocates, and public agencies with relevant responsibilities.
including that of singer Britney Spears, have further increased visibility of the service, making supervised visitation a household term.

While interest in supervised visitation programs exists internationally, Florida in particular has consistently been at the forefront of the development of visitation services, and has steadily sought to increase their quality, consistency, and effectiveness. With over sixty supervised visitation programs throughout the state, Florida has an exceptionally strong interest in tracking these developments. Recently, an unprecedented statewide effort has been underway that has drawn from and advanced myriad local, state and federal conversations about supervised visitation. The result is a new comprehensive set of uniform state standards, accompanied by compliance measures, tracking forms, the first proposed certification process for supervised visitation programs, and advances in the discussion of immunity for providers and program access to the referring court.

This article traces these unparalleled developments. Part I provides an overview of the evolution and growth of supervised visitation nationally. Part II describes both the 2007 Florida legislative mandate for new standards to govern programs and the process by which they were written. Part III explains the guiding principles that provide a framework for these standards: safety, training, dignity, diversity, and community. Parts IV-VII address Florida’s Programs’ salient operational details under the standards, and offer direction to other jurisdictions seeking to use Florida’s comprehensive model as a template for their own policy development.

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4 See, e.g., Spears Gets Supervised Visits, NEWSDAY, Oct. 4, 2007, at A12; Spears Left with No Room for Error, CHI. TRIB., Oct. 5, 2007, at 27 (Spears was required to comply with a supervised visitation order. The judge in her case stated that “with regard to her supervised visitation rights with Sean Preston, 2, and Jayden James, 1, the monitor shall terminate visitation immediately if any conduct or action by [Spears] endangers the minor children.”).

5 See Bonnie S. Newton, Visitation Centers: A Solution Without Critics, 71-JAN. FLA. B.J. 54, 56 (1997); see generally Karen Oehme, Supervised Visitation in Florida: A Cause for Optimism, A Call for Caution, 71-FEB. FLA. B.J. 50, 50 (1997) (outlining the numerous visitation programs that Florida has developed).

6 For a decade now, the Florida Department of Children and Families has supported the technical assistance and training for supervised visitation programs. See the Clearinghouse on Supervised Visitation Website, http://familyvio.csw.fsu.edu/CHV.php (last visited Feb. 10, 2009).


I. AN OVERVIEW OF THE HISTORY OF SUPERVISED VISITATION

Supervised visitation is contact between a noncustodial parent and his or her “child overseen by a trained third party in a controlled environment. . . .” 9 Supervised visitation programs were originally created for dependency cases: those in which children were removed from the parent’s home by a child protective agency because of alleged child abuse or neglect. 10 The service allows children to safely maintain family attachments and reduces children’s’ sense of abandonment when they are removed from their parents’ care. 11

During the 1990s, courts began to expand the use of supervised visitation programs to help address a variety of other family dysfunctions found in many cases involving divorce or disputed custody. These frequently recurring problems include substance abuse, mental illness, threats of abduction, and domestic violence. 12 Instead of prohibiting contact between parents accused of wrongdoing and their children, courts began to order families to use visitation programs to enhance family safety during contact, 13 while other services were offered to reduce family problems. 14 Individual judges also began to take an active role in

9 Id. at 16. The contact between the parent and the child is structured so that program personnel may actively encourage the parent-child relationship by providing age-appropriate activities, helping parents develop or enhance parenting skills when necessary, modeling appropriate interactions with the child, and discouraging inappropriate parental conduct. Id.; see also Mary L. Pulido & Janine M. Lacina, Supervised Visitation: Meeting the Needs of Today’s Families, in THE NEW YORK SOCIETY FOR PREVENTION OF CRUELTY TO CHILDREN PROFESSIONALS’ HANDBOOK: SUPERVISED VISITATION SERVICES FOR HIGH-RISK FAMILIES 12 (2008).

10 See, e.g., Daniel F. Perkins & Sylvia J. Ansay, The Effectiveness of a Visitation Program in Fostering Visits with Noncustodial Parents, 47 Fam. Rel. 253, 253 (1998) (contending that research has demonstrated the potential benefits of supervised visitation programs).


encouraging the formation and shaping of new visitation programs, especially in communities that did not offer the service.\textsuperscript{15} Large constituent groups, such as the National Center for State Courts, later hailed supervised visitation as an opportunity for continuity and safety for children “adjusting to changes in their life situation.”\textsuperscript{16}

While individual cities and towns began opening new visitation programs,\textsuperscript{17} the Family Violence Committee and Family Violence Department of The National Council of Juvenile and Family Court Judges (NCJFCJ) developed the Model Code on Domestic and Family Violence.\textsuperscript{18} Portions of the NCJFCJ Model Code, published in 1994, address the issue of visitation between perpetrators of domestic violence and their children. One provision states: “A court may award visitation by a parent who committed domestic or family violence only if the court finds that adequate provision for the safety of the child and the parent who is a victim of

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\item See, e.g., Thomas C. Dudgeon, On-the-Spot Mediation and Supervised Visitation: A Pilot Project Comes to Courtroom 2003, in DCBA BRIEF (1999), http://www.dcba.org/brief/febissue/1999/art20299.htm (describing how members of the legal community actively help shape the local Illinois visitation program); Judge Donna M. Petre Wins 2006 Benjamin Aranda III Access to Justice Award, Release No. 82, (Nov. 2, 2006), http://www.courthousenews.com/presscenter/newsreleases/2006-05-30-news-release-pdf.pdf (describing how Judge Donna M. Petre won an Access to Justice Award for, among other things, creating two supervised visitation programs); Nancy K. D. Lemon, The Legal System’s Response to Children Exposed to Domestic Violence, 9 DOMESTIC VIOLENCE & CHILD. 67, 70 (1999), available at http://www.futureofchildren.org/information2827/information_show.htm?doc_id=70509 (supervised visitation and visitation exchange centers are springing up around the country, often under the auspices of courts); Website for Re-election of Judge Joan Posner, http://www.joanposner.com/community.html (last visited Nov. 15, 2008) (announcing that Judge Joan Posner served on the Advisory Committee for the Supervised Visitation Program of Family Services, Inc.). In Florida, the website of the first visitation program states: “We opened in 1993 as the Family Visitation Center, the first of its kind in Florida. It was the brainchild of the Honorable Judge Dorothy Pate, who was moved to act after hearing frequent complaints from parents who were not being allowed to see their children who had been placed in foster care.” About the Family Nurturing Center of Florida, http://www.fncflorida.org/about (last visited Nov. 21, 2008).
\item See Robert B. Straus, Supervised Visitation and Family Violence, 29 FAM L.Q. 229, 233 (1995) (noting “a handful of programs in 1982” and “fifty-six known supervised programs operating in twenty-eight different states” in 1994 while cautioning that the statistics “represent about a third to one-half of the existing programs”).
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domestic or family violence can be made.” Another describes the need to establish a secure setting for supervised visitation that would allow “court ordered visitation in a manner that protects the safety of all family members.” A comment to the section reads: “Visitation centers may reduce the opportunity for retributive violence by batterers, prevent parental abductions, safeguard endangered family members, and offer the batterer continuing contact and [offer the batterer continued contact and an ongoing] relationship with their children.”

Simultaneously, individual programs in many states began networking with one another, culminating in the formation of the Supervised Visitation Network (SVN). SVN began to create standards for addressing such issues as program safety protocols, staff qualifications and training, and administrative processes. The organization’s general membership adopted the standards in 1996. The SVN standards were created for member programs; however, no enforcement mechanism was developed by the group. Instead, members indicate on their membership applications whether they will comply with these standards. No state or agency has ever adopted the SVN standards in their entirety. But, by 2000, a few states—notably Kansas, California, and Florida—had launched the formal process of creating standards for the provision of supervised visitation services. In 2000, the federal government, through the Office on Violence Against Women (OVW), began to provide funds for visitation and exchange services specifically in domestic violence cases. In 2007, OVW published Guiding Principles for Safe


Havens: Supervised Visitation and Safe Exchange Programs, for grantees who received this funding under the federal Violence Against Women Act to provide supervised visitation. 29 As the OVW Report to Congress describes, there have been Safe Haven grantees in many states. Because the Safe Havens program attempts to fund programs across the nation, and focuses only on those that provide services in domestic violence cases, OVW funding has not funded all of the supervised visitation programs in any one state in the United States. 30

II. THE FLORIDA MANDATE

The first supervised visitation program in Florida, the Family Nurturing Center of Jacksonville, opened in 1993. 31 By 1996, there were fifteen programs in the state; 32 by 2004, over sixty programs had opened. 33 One commentator has called the need for such programs “compelling.” 34 Another author declared that “[e]very community that has a public school should also have a center where safe supervised visitation, waiting, and transfer can be accomplished, if necessary, without the necessity for contact between conflicted parents.” 35 Currently, every judicial circuit in Florida is home to at least one supervised visitation program. 36


30 Only five of Florida’s supervised visitation programs have been partially funded at some point by this grant. See Letter from Sharon Rogers, Director, Judge Ben Gordon Visitation Program, to Karen Oehme, Director, Institute for Family Violence Studies (Jan. 10, 2009) (on file with authors).

31 About the Family Nurturing Center of Florida, http://www.fncflorida.org/about/ (last visited Nov. 21, 2008).

32 The History of the Clearinghouse on Supervised Visitation http://familyvio.csw.fsu.edu/CHVH.php (last visited Oct. 19, 2009) (stating that the Clearinghouse on Supervised Visitation was created in 1996 when there were only fifteen programs); see also Karen Oehme & Sharon Maxwell, Florida’s Supervised Visitation Programs: The Next Phase, 78-JAN. FLA. B.J. 44, 44 (2004) (stating that at the time that the supervised visitation database was developed, forty-two programs existed in the state, up from fifteen programs in 1997).

33 Oehme & Maxwell, supra note 32, at 44.

34 Debra A. Clement, A Compelling Need for Mandated use of Supervised Visitation Programs, 36 FAM. & CONCILIATION CTS. REV. 294, 311 (1998) (concluding that “[t]here is no better service that state legislatures could perform for their most vulnerable children than to make supervised visitation programs available to every troubled family that can benefit from them.”).

Florida’s Supreme Court expressly endorses “the utilization of qualified programs for supervised visitation and/or monitored exchange” as an essential component of such courts. In 1998, the Florida Supreme Court’s Family Court Steering Committee developed a skeletal set of standards for supervised visitation and exchange programs to create uniformity in such areas as staff training, terminology, and basic practice norms. Chief Justice Major Harding endorsed the Florida Supreme Court’s Minimum Standards for Supervised Visitation Program Agreements and crafted an administrative order in 1999 mandating that the chief judges of each circuit enter into arrangements with local programs that agree to comply with the standards.

Chief Justice Harding, however, recognized the limited ability of the judicial system to create and enforce standards for programs. Writing to the Speaker of the Florida House of Representatives and the President of the Senate, Harding sought legislative support:

The lack of guidelines or standards for these Programs and lack of oversight of these [Supervised Visitation] Programs, particularly as to staff and visitor safety and staff training, is of great concern ... I urge the legislature to consider establishing a certification process, and designate an entity outside of the judicial branch to be responsible for oversight of Supervised Visitation Programs.

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In re Report of the Family Court Steering Comm., 794 So. 2d 518, 526-27 (Fla. 2001).


Florida Supreme Court Administrative Order, supra note 38.

Seven years later, the state legislature finally amended Chapter 753 of the Florida Statutes\textsuperscript{41} to provide for the development of new standards for Florida’s supervised visitation programs, as well as procedures for a certification process. FLA. STAT. §753.03, went into effect on July 1, 2007, and required the Clearinghouse on Supervised Visitation at Florida State University to create an advisory board to assist with the creation of those new standards and procedures.\textsuperscript{42} The advisory board members specifically included, among others, representatives from child protection, court administration, domestic violence, law enforcement, and supervised visitation agencies.\textsuperscript{43} These individuals became collectively known as the Supervised Visitation Standards Committee (“the Committee”).

The Committee met approximately four times per month\textsuperscript{44} to discuss standards and certification, and ultimately produced a formal Report to the Florida Legislature: Recommendations of the Supervised Visitation Standards Committee (“the Report”).\textsuperscript{45} As the group undertook this challenge, several cases arose that raised the Committee’s awareness of the unpredictability and dangers of supervised visitation dynamics. These cases also influenced the way that Committee members viewed and shaped the standards for supervised visitation. One such case involved a man using the alias Clark Rockefeller. Over a period of several weeks during the summer of 2008, the national news media frequently reported that “Rockefeller” had kidnapped his seven-year-old daughter during

\textsuperscript{41} FLA. STAT. ANN. §§ 753.01-.05 (West 2009) (Chapter 753 deals with supervised visitation and monitored exchange programs in Florida. The statute specifies that the Clearinghouse, in consultation with the advisory board, shall develop criteria and procedures for approving and rejecting certification applications for and monitoring compliance with the certification of a Supervised Visitation Program. The Clearinghouse shall recommend the process for phasing in the implementation of the standards and certification procedures, and the criteria for distributing funds to eligible Programs and designating the state entity that should certify and monitor the Supervised Visitation Programs.).

\textsuperscript{42} FLA. STAT. ANN. § 753.03. Applicable provisions read that: “the clearinghouse shall develop standards for supervised visitation programs in order to ensure the safety and quality of each program. Standards must be uniform for all the programs and must address the purposes, policies, standards of practice, program content, security measures, qualifications of providers, training standards, credentials and background screening requirements of staff, information to be provided to the court, and data collection for supervised visitation programs.” \textit{Id.}


\textsuperscript{44} Supervised Visitation Standards Committee Meeting Minutes and Notes, http://familyvio.csw.fsu.edu/phpBB3/viewtopic.php?f=1&t=102 (follow “minutes.zip” hyperlink) (last visited Nov. 23, 2008).

\textsuperscript{45} See generally RECOMMENDATIONS OF THE SUPERVISED VISITATION STANDARDS COMM., REP. TO THE FLA. LEG., supra note 8.
supervised visitation. Although the child was later found unharmed, police determined that Christian Gerhartsreiter—the man’s real name—was a “person of interest” in a double murder. This case raised serious issues concerning safety, as the Committee learned that this was not the first child kidnapped from a supervised visit by a parent. These cases influenced the Committee’s views on “off-site visitation,” and the new standards have more stringent rules to avoid a similar tragedy. Since previous rules were silent on the issue, the Committee crafted additional training, insurance, and court provisions to add layers of protection to the process.

In an even more shocking incident—this time in Florida—a sixteen-year-old was allegedly stabbed by his mother in the abdomen and neck during a supervised visit in the office of a mental health professional. The visit monitor was a nurse, who watched in horror as the boy’s mother took a decorative dagger and a drywall...

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46 The Man Who Calls Himself ‘Clark Rockefeller’ is Indicted for Parental Kidnapping, BOSTON GLOBE, Sept. 26, 2008, available at http://www.boston.com/news/local/breaking_news/2008/09/the_man_who_cal.html. The visit supervisor was walking down the street accompanying the father-daughter pair, when a black SUV pulled up, and Mr. “Rockefeller” jumped in the car with his daughter. See Abduction Suspect Clark Rockefeller to be Extradited to Boston, FOX NEWS, Aug. 4, 2008, http://www.foxnews.com/story/0,2933,396788,00.html. The visit supervisor tried to stop the abduction, and was dragged a short way. Id. The driver of the car, Daryl Hopkins, said that he had been hired by Rockefeller before, and that this time he was to pick up the father and daughter and take them to Newport, Rhode Island for an “important meeting.” See Driver: Clark Rockefeller Said he was Running from Gay Friend, FOX NEWS, Aug. 13, 2008, http://www.foxnews.com/story/0,2933,402961,00.html. The national news reported the kidnapping. After his arrest on August 2 (when the child was found unharmed), the FBI and Boston police department confirmed the true identity of the man: Christian Karl Gerhartsreiter, an immigrant from West Germany. See ‘Rockefeller’ Kidnap Trial Underway, BOSTON NEWS, May 29, 2008, http://www.thebostonchannel.com/news/19587900/detail.html.

47 The Man Who Calls Himself ‘Clark Rockefeller’ is Indicted for Parental Kidnapping, supra note 46.


49 RECOMMENDATIONS OF THE SUPERVISED VISITATION STANDARDS COMM., REP. TO THE FLA. LEG., supra note 8, at 47.

50 Id. at 50.

knife out of her purse and stabbed her son repeatedly. This case caused the Committee to add language prescribing a program’s duty to check parcels and packages if a parent brings such items to the visit.52 The new standards require that all programs have

[p]olicies and procedures addressing parcel/containers [sic] brought to the Program by participants. Programs may choose to create a mandatory prohibition or a mandatory inspection of all bags, parcels, purses, duffels, briefcases, backpacks and/or any other type of container in which items may be concealed. Programs should give participants a choice as to whether to leave items at home, or have them subject to inspection at the Program. These policies must reflect staff awareness of the dangers associated with weapons, substances, or other dangerous, illegal, or inappropriate items which may knowingly or unknowingly be brought into the visitation program by participants.53

Another tragedy in Florida occurred when Harold Dunn allegedly shot and killed his estranged wife at a daycare center where their child was enrolled.54 Dunn’s wife had filed for divorce, and media accounts report that Dunn had supervised visitation with their two-year-old daughter in a relative’s home.55 Neither of these tragedies occurred at a Florida supervised visitation program. Still, the chilling facts troubled the Committee, which decided to send a strong cautionary message to judges regarding any type of visitation supervision, not only those cases sent to supervised visitation programs.56 The Committee felt that a two-tiered system that makes programs adhere to standards, but leaves all other court-ordered visits unprotected by security measures, poses grave but often unacknowledged hazards to families and children.57 Thus, the Committee created a new hierarchy that asks judges to use certified programs before resorting to other

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52 RECOMMENDATIONS OF THE SUPERVISED VISITATION STANDARDS COMM., REP. TO THE FLA. LEG., supra note 8, at 43.
53 Id.
56 See, e.g., E-mail from Arlene Carey, Policy Analyst at Florida’s Department of Children and Families and Member of the Supervised Visitation Standards Committee to Karen Oehme, Director, Institute for Family Violence Studies (Feb. 10, 2009) (on file with the authors).
57 Id.
professionals or paraprofessionals in the community. In addition, the Committee recommended that judges require all agency staff to read the standards and training material before supervising visits.

The Report itself can serve as a training tool for administrators, staff, and volunteers. It may also have value for individuals and agencies interested in developing new supervised visitation programs. It has already been circulated to many other states, which have been tracking the status of the Committee’s work and have expressed interest in its recommendations.

III. THE FLORIDA STANDARDS

The Report describes a new mission statement for Florida’s supervised visitation and monitored exchange programs:

The mission of Florida’s Supervised Visitation and Monitored Exchange Programs is to use well-trained staff to provide safe and respectful Supervised Visitation and Monitored Exchange services and to coordinate these services within each community. Programs accomplish this mission by adhering to the following four principles involving safety, training, dignity and diversity, and community.

The Report then explains the four overarching principles—safety, training, dignity and diversity, and community—and the ensuing standards and highly specific compliance measures through which the four principles are implemented. These are summarized in the next sections.

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58 See discussion infra Part VII.
59 RECOMMENDATIONS OF THE SUPERVISED VISITATION STANDARDS COMM., REP. TO THE FLA. LEG., supra note 8, at 22 (stating that “prior to being able to supervise any visits after October 1, 2009, all agency staff who supervise visits must complete a review of the online training . . . and certify to their own agencies that they have read and are familiar with these Principles.”).
60 See RECOMMENDATIONS OF THE SUPERVISED VISITATION STANDARDS COMM., REP. TO THE FLA. LEG., supra note 8.
61 E.g., California, New York, and Kansas. See E-mail from Shelly LaBotte, California Administrative Offices of the Courts, to Karen Oehme (Dec. 4, 2008); E-mail from Becky Heatherman, KNVP Project Coordinator to Karen Oehme (Dec. 8, 2008); E-mail from Michelle Ivory, New York Co-Chair, State Chapter of the Supervised Visitation Network State Chapter, to Karen Oehme (Dec. 4, 2008) (on file with the authors).
63 RECOMMENDATIONS OF THE SUPERVISED VISITATION STANDARDS COMM., REP. TO THE FLA. LEG., supra note 8, at 16.
64 The Florida Standards are inspired by and arranged similarly to the OVW Safe Havens Guidelines, but Florida’s internal structure is much more detailed.
A. Safety

Principle One, comprising the largest set of standards in the Report, emphasizes safety: “The unique safety needs of individuals are of paramount importance in supervised visitation and monitored exchange programs.”\(^{65}\) Recognizing that “each individual family member” in a case may have “unique needs with regard to safety,” the standards mandate that programs be “structured and administered” so as to identify and meet those needs.\(^{66}\) In doing so, programs can serve an important role for families\(^{67}\) by offering a variety of services, including one-on-one supervision, group supervision, and monitored exchange services. This “[s]upervised visitation” has been called “a useful and concrete safety mechanism that can easily be included in a court order.”\(^{68}\) In addition, the principle acknowledges that case referrals may present distinctive risks to program staff and volunteers.\(^{69}\) Such risks are not uncommon in social services organizations.\(^{70}\)

The standards within this principle range from provisions that track current law, to simple lists of policies that programs must develop to enhance child, adult, and site safety, to broad directives aimed at helping administrators consider the subtle issues that can be involved in making those policies. Standard XIV, for example, directly repeats the requirements of Florida’s Keeping Children Safe

\(^{65}\) RECOMMENDATIONS OF THE SUPERVISED VISITATION STANDARDS COMM., REP. TO THE FLA. LEG., supra note 8, at 26.

\(^{66}\) Id.

\(^{67}\) See, e.g., Lavita Nadkarni & Barbara Zeek Shaw, Making a Difference: Tools to Help Judges Support the Healing of Children Exposed to Domestic Violence, 39 CT. REV. 24, 28 (2002) (stating that “[s]upervised visitation between an abusive parent and his children has been highly recommended when domestic violence has occurred”) (citing Peter G. Jaffe & Robert Geffner, Child Custody Disputes & Domestic Violence, in CHILDREN EXPOSED TO MARITAL VIOLENCE: THEORY, RESEARCH & APPLIED ISSUES 371-408 (George W. Holden et al. eds., 1998)), available at http://digitalcommons.unl.edu/cgi/viewcontent.dgi?article=1147&context-ajacourtreview.


\(^{69}\) See RECOMMENDATIONS OF THE SUPERVISED VISITATION STANDARDS COMM., REP. TO THE FLA. LEG., supra note 8, at 26.

\(^{70}\) See Agnieszka A. Kosny & Joan M. Eakin, The Hazards of Helping: Work, Mission and Risk in Non-Profit Social Service Organizations, 10 HEALTH, RISK & SOC’Y 149, 149 (2008) (Supervised visitation staff and volunteers, like their counterparts at other social services agencies, often face unpleasant and/or hazardous job conditions. “Despite some of the intrinsic rewards that work in non-profit organizations offers, jobs in these organizations can be characterized by high demands, long working hours, low pay and exposure to violence and infectious disease, conditions which may be deleterious to worker health.” Id.)
which calls for special conditions to be placed on those who supervise visits in child sexual abuse cases. Standards I, IX, and XII are all lists of policies and procedures that programs must develop: e.g., case acceptance, rejection, and discharge policies, documentation requirements for case files, and procedures for responding to critical incidents, suspected child abuse, and medical emergencies. Standard XV addresses a narrow concern: requiring programs to have “written gift policies.” However, the standard guides administrators to consider many issues when creating such a policy. Instead of creating a one-size-fits-all mandate, it asks rule makers to reflect on the “normal expectations” of children at birthdays and holidays, the potential for a parent to use gift-giving as a means to communicate with the other parent “through the child” contrary to court order, “and the fact that many caseworkers encourage parents to bring clothing, food, and gifts to their children at visits.” These all involve complex dynamics; calling on programs to consider them heightens awareness that families are different, each case is unique, and families deserve staff consideration of their needs at visits. Moreover, Principle One also includes the requirement of child orientation “in most cases.” This standard makes it clear that programs should familiarize children with the program in accordance with their age and maturity level, and help them to understand program protocols.

The new standards under Principle One also look to the future. For example, the Committee decided to anticipate the eventual existence of “stand alone” monitored exchange programs in Florida. Such programs are confined to offering a monitored site for a child to be transferred back and forth between parents who have unsupervised parenting time with that child. These programs would offer the exchange, but not a supervised visitation. No such programs exist yet in Florida.

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72 See RECOMMENDATIONS OF THE SUPERVISED VISITATION STANDARDS COMM., REP. TO THE FLA. LEG., supra note 8, at 27. Among other things, this Standard obliges supervised visitation program staff to have special training in child sexual abuse issues, to obtain background information about the case itself, and to prohibit certain types of behavior when a case referral involves child sexual abuse. Id.
73 Id.
74 Id. at 36.
75 Id. at 42.
76 Id. at 46.
77 Id. The issue of parcels/packages was discussed at several meetings. See, e.g., Supervised Visitation Standards Committee Meeting Minutes, Apr. 4, 2008, available at http://familyvio.csw.fsu.edu/phpBB3/viewtopic.php?f=15&t=123 (the language was “approved” at the April 17 meeting).
78 RECOMMENDATIONS OF THE SUPERVISED VISITATION STANDARDS COMM., REP. TO THE FLA. LEG., supra note 8, at 36.
79 See id.
80 Id. at 50-53.
81 Id. at 25.
but they are commonly found in the Mid-Atlantic states, and the Committee decided to take a proactive approach by creating an entire set of standards for them.

B. Training

The second overarching principle, training, echoes the safety theme of Principle One. In fact, the issue of adequate training is inextricably linked to safety: one of the ways in which safety is enhanced in supervised visitation programs is through the training of staff and volunteers who have contact with families. Principle Two acknowledges the crucial nature of adequate training: “Supervised Visitation and Monitored Exchange Program staff and volunteers must have specific qualifications and skills as well as initial and ongoing training on the complex and often overlapping issues that bring families to their Programs.” Commentators and lawmakers have long noted the role of training in the effective provision of supervised visitation services, because “while untrained supervisors may be able to guard against blatant physical or sexual assault, they are poorly equipped to recognize and intervene when the perpetrator insidiously oversteps boundaries.”

The new standards and accompanying compliance measures provide unprecedented specificity in what staff needs to know and how administrators must verify that they know it. Thus, topics for training and descriptions of training hours

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84 See, e.g., Maureen Sheeran & Scott Hampton, Supervised Visitation in Cases of Domestic Violence, 50 JUV. & FAM. CT. J. 13, 18 (1999), available at devbehavpeds.onhs.c.edu/assets/pdf/ac/handouts/203/sup%20Visitation%20in%20Cases%20of%20DV.pdf. “In order to develop a better understanding of domestic violence and to ensure that programs are rooted in that understanding, it is recommended that visitation providers receive significant training in domestic violence . . . .” Id.

85 RECOMMENDATIONS OF THE SUPERVISED VISITATION STANDARDS COMM., REP. TO THE FLA. LEG., supra note 8, at 64.

of all personnel who have contact with families are listed in an attempt to “raise the level of professionalism of Programs . . . .”87 Before they have unaccompanied access to families at the program, all staff, volunteers, and interns must have twenty-four hours of training in a host of topics related to families in crisis; these include child maltreatment, family violence, intervention to promote change, and danger assessments.88 In addition, a new requirement of continuing education for staff and volunteers after their first year of employment mandates that full-time personnel participate in seven additional hours of training each year, and part-time personnel receive three hours of additional training each year.89 This requirement will ensure ongoing training for all those who have contact with families. The standards contain a new Model Code of Conduct,90 as well as specific directives embedded in compliance measures for ensuring that the training requirements are met.91 Moreover, program directors are guided to seek specific sources for training. A list of trainings that serve to meet the training requirements includes those sponsored by the Florida Department of Children and Families or its contracted agencies, the Florida Bar, the Office of the State Courts Administrator, the Guardian ad Litem Program, and the Florida Council Against Sexual Assault, among others.92

C. Dignity and Diversity

Florida is a large and diverse state. In 2008, its population was estimated at over eighteen million.93 At the time of its 2000 census, 78% of the population was White; 16.8% were “Hispanic or Latino (of any race),” and 14.6% were Black or African American.94 The families referred to supervised visitation reflect diversity, with White/Caucasian children making up approximately 63%, Black/African American children making up approximately 21%, and Hispanic/Latino children

87 RECOMMENDATIONS OF THE SUPERVISED VISITATION STANDARDS COMM., REP. TO THE FLA. LEG., supra note 8, at 64.
88 Id. at 71. Standard III(B) lists mandatory training topics such as child maltreatment, domestic violence, substance abuse issues, professional boundaries, and conflict resolution. Id.
89 Id. at 73.
90 Id. at 79.
91 Id. at 73. The compliance measures state that “[a]ll personnel files must reflect the topics, source/media, and hours of continuing education for each person for each calendar year.” Id.
92 Id.
94 Additionally, 1.7% were Asian, 0.1% Native Hawaiian and other Pacific Islander, 0.3% American Indian and Alaska Native, 3.0% “some other race”, and 2.4% “two or more races.” U.S. Census Bureau, Profile of General Demographic Characteristics: 2000 (2000), available at http://factfinder.census.gov/servlet/QTable?_bm=n&lang=en&qr_name=DEC_2000_SF1_U_DP1&ds_name=DEC_2000_SF1_U&geo_id=04000US12.
making up approximately 13% of the children at these programs. Principle Three acknowledges both the diversity of clients and the importance of staff’s treating them with respect stating, “all clients who use Supervised Visitation and Monitored Exchange Programs are entitled to be treated in a fair and respectful manner that acknowledges their dignity and diversity.”

Treating clients with dignity is a cornerstone of ethical practice for many professionals. From start to finish, the new standards frequently guide visitation staff back to the concept of respect. For example, the mission statement of Florida’s supervised visitation and exchange programs calls for “safe and respectful . . . services . . . ” Principle One characterizes client intake as an opportunity for clients to be “respected participants in the process,” while Principle Two calls for monitors to provide “constructive feedback, correction, or redirection respectfully” to parents. Similarly, the Code of Conduct (required for all staff/volunteers) states that “participants” are “entitled to respectful, well-trained” program personnel. Specific direction is also provided to personnel regarding how to communicate respectfully. For example, Principle Three directs that when program policies are being communicated to participants, staff must emphasize that those policies “are not punitive in nature but instead rather are part of a broad program purpose of keeping families safe.” Moreover, the standards repeatedly link respect and safety. Standard One of Principle One, for example, observes that “[p]articipants who are knowledgeable and familiar with these procedures may be more likely to consider themselves as partners in the visitation process, making the process safer.”

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96 RECOMMENDATIONS OF THE SUPERVISED VISITATION STANDARDS COMM., REP. TO THE FLA. LEG., supra note 8, at 75.
97 See, e.g., Allan Borowski, On Human Dignity and Social Work, 50 INT’L SOC. WORK 723, 723 (2007), available at http://isw.sagepub.com/cgi/reprint/50/6/723 (“A concern with human dignity is integral to what social workers do on a day-to-day basis. In the course of their professional and caring relationships with poor and other clients, with associates and, indeed, with complete strangers, social workers are called upon to invest each and every human life that is touched by their activities with dignity.”). The National Association of Social Workers has specific standards addressing the importance of respect for all people as it pertains to social work practice. See National Association of Social Workers, NASW Standards for Cultural Competence in Social Work Practice (2001), available at http://www.socialworkers.org/practice/standards/NASWCulturalStandards.pdf.
98 RECOMMENDATIONS OF THE SUPERVISED VISITATION STANDARDS COMM., REP. TO THE FLA. LEG., supra note 8, at 16.
99 Id. at 34.
100 Id. at 74.
101 Id. at 75.
102 Id.
103 Id. at 27, 79.
Principle Three also emphasizes the need for supervised visitation programs to recognize the unique strengths, experiences, and values of their diverse clientele. Differences among racial and ethnic groups “may affect the helping process”\(^\text{104}\) with these clients; thus, when adjusting one’s efforts to assist people of other cultures, “acknowledging of differences are as important as highlighting similarities.”\(^\text{105}\) New compliance measures call for supervised visitation program administration to demonstrate diversity efforts in hiring staff, attracting volunteers, using interpreters, and creating policies.\(^\text{106}\) These mandates complement the requirements in Principle Two that include cultural issues as part of the required twenty-four hours of training for all staff, as well as the new requirement for at least one hour of staff and volunteer continuing education each year dedicated to issues of multiculturalism.\(^\text{107}\) The attainment of multicultural competence\(^\text{108}\) has been defined by some as an ethical imperative.\(^\text{109}\) Other groups of social service providers have formally installed the importance of cross-cultural knowledge in

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\(^{104}\) Jerry V. Diller, Cultural Diversity: A Primer for the Human Services 15 (2d ed. 2004).

\(^{105}\) See id.

\(^{106}\) Recommendations of the Supervised Visitation Standards Comm., Rep. to the Fla. Leg., supra note 8, at 76-78. Standard II states that all programs must prioritize staff diversity and the use of interpreters for non-English speaking families; Standard IV states that all programs must be responsive to diverse views of family; and Standard V states that programs must undertake a periodic assessment of multiculturalism efforts. Id.

\(^{107}\) Recommendations of the Supervised Visitation Standards Comm., Rep. to the Fla. Leg., supra note 8, at 73.

\(^{108}\) One definition of multicultural competence includes “practice that is geared towards knowledge of and skills in working with cultural groups other than one's own.” Jill E. Korbin, Culture and Child Maltreatment: Cultural Competence and Beyond, 26 Child Abuse & Neglect 637, 638 (2002).

\(^{109}\) See Kevin W. Allison et al., Human Diversity and Professional Competence: Training in Clinical and Counseling Psychology Revisited, 49 Am. Psychologist 792, 795 (1994) (stating that those who deal with clients need to recognize the value of serving individuals of diverse groups); Vivian H. Jackson, Cultural Competency, 22 Behav. Health Mgmt. 20, 23 (2002) (stating that “if we are successful in negotiating the cross-cultural barrier, we can reduce other barriers to effective treatment utilization, facilitate the development of trust, enhance the individual’s investment and continued participation in treatment, and address the variable service delivery requirements of diverse consumers”); Robbie J. Steward et al., The Multicultural Responsive Versus the Multiculturally Reactive: A Study of Perceptions of Counselor Trainees, 26 J. Multicultural Counseling & Dev. 13, 13 (1998).
their practice standards, but commentators continue to decry the lack of cultural consciousness in services to high-risk families.\textsuperscript{111}

The need for foreign language interpreters is highlighted in Standard III of Principle Three, stating that all programs should provide interpreters for families whose primary language is not English.\textsuperscript{112} Florida’s entire court system has been grappling with the need for interpreters, as evidenced in the Florida Supreme Court’s 2008 Report on Perceptions of Fairness and Diversity in the Courts.\textsuperscript{113} According to the Report, the court system has failed to keep pace with the needs of the increased immigrant population in the state,\textsuperscript{114} resulting in an insufficient number of interpreters in the court system.\textsuperscript{115} In order to address this problem in the arena of supervised visitation, programs are required to collaborate with community agencies and groups to facilitate the availability of bilingual staff, volunteers, and interns.\textsuperscript{116} There is no requirement, however, that programs make interpreters available in every case. Thus, the Report acknowledges that “in any given community, there are potentially dozens of [different] languages spoken by [citizens], and it may not be possible for [programs] to provide staff who speak those languages.”\textsuperscript{117} The Report, therefore, urges programs to seek funding for interpreters, bilingual staff, and volunteers in every community that these programs serve.

\textbf{D. Community}

Recognizing that supervised visitation and monitored exchange services are often not the only services that can help families in crisis, Principle Four urges

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\item \textsuperscript{110} For example, The National Association of Social Workers has specific standards addressing issues of cultural competence and diversity in social work practice. See, e.g., National Association of Social Workers, supra note 97, at 4, 18 (e.g., “Standard 3. Cross-cultural knowledge- social workers shall have and continue to develop specialized knowledge and understanding about the history, traditions, values, family systems, and artistic expressions of major client groups that they serve.”).
\item \textsuperscript{111} See, e.g., Theresa Hughes, The Neglect of Children and Culture: Responding to Child Maltreatment with Cultural Competence and a Review of Child Abuse and Culture: Working with Diverse Families, 44 FAM. CT. REV. 501, 502 (2006) (asserting that there is an educational void regarding promoting and developing cultural competence).
\item \textsuperscript{112} RECOMMENDATIONS OF THE SUPERVISED VISITATION STANDARDS COMM., REP. TO THE FLA. LEG., supra note 8, at 76.
\item \textsuperscript{114} Id. at 61.
\item \textsuperscript{115} Id. at 65.
\item \textsuperscript{116} RECOMMENDATIONS OF THE SUPERVISED VISITATION STANDARDS COMM., REP. TO THE FLA. LEG., supra note 8, at 76.
\item \textsuperscript{117} Id.
\end{itemize}
programs to be an active part of the community’s network of social services.118 “All Supervised Visitation and Monitored Exchange Programs shall operate within a coordinated community network of groups and agencies that seek to address common family problems.”119 The Standards create an obligation on the part of program staff to affirmatively reach out to other programs: to create cross-training opportunities, to learn about the functions and services of other agencies, and to be prepared to link families to those other services appropriately.120 Compliance measures in this section provide a list of common community agencies, including certified domestic violence centers, Guardian ad Litem programs, child advocacy centers, and rape crisis centers.121 Program staff now have an obligation to be “knowledgeable” about those programs.122 Records of solicitation and offers of cross-training must be kept in administrative files to fulfill this requirement.123 In addition, collaboration with community groups such as homeless coalitions, family law advisory groups, and child-abuse prevention groups is required.124

The emphasis on community is also linked to the paramount issue of safety: the discussion in Principle Four states that “the more knowledgeable staff is, the safer families will be.”125 This link presumes that families who are connected to services that they need will be better off. The discussion for Principle Four acknowledges that not all of Florida’s sixty-seven counties offer the same services,126 that services may differ in quality from place to place in the state,127 and that families may not be compelled by program staff to receive or act upon

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118 This concept of a coordinated community has been described as a “competent community” in which the various component parts of the community are able to collaborate effectively in “identifying the problems and needs of its membership. In this sense, the positive functioning of both the community’s subsystems and the community as a whole is a sign of community competence. Moreover, the residents of a competent community are able to create and/or use the resources available to them to solve daily problems of living. In a competent community, individuals, families, other groups and organizations are able to identify with and find common cause with the community’s way of life in order that their energies may be used to meet the community’s needs.” PHILLIP FELLIN, THE COMMUNITY AND THE SOCIAL WORKER 70-71 (3d ed. 2001).

119 RECOMMENDATIONS OF THE SUPERVISED VISITATION STANDARDS COMM., REP. TO THE FLA. LEG., supra note 8, at 80.

120 Id. at 80-84.

121 Id. at 82-84.

122 Id. at 80.

123 Id. at 84.

124 Id. at 85.

125 Id. at 80.

126 Id. (stating that services may not be offered uniformly throughout the state, and the quality of resources may differ widely).

127 Id.
service referrals. Still programs are required to form part of the larger social services network in a “meaningful” way.

IV. CERTIFICATION PROCESS

The process for certifying supervised visitation programs requires that a program submit proof that it substantially adheres to the four principles and their compliance measures. The process is not a competitive one; any program that meets the standards can be certified. The process for demonstrating such compliance emphasizes the creation of a binder in which required documents are organized according to Principles I, II, III, and IV. In this way, a program has created a “paper trail” of its conformity with the standards. Most importantly, the certification process gives the courts and referring agencies some assurance of a program’s attention to safety training, the dignity and diversity of its clients, and its operation within a community of coordinated services.

The certification process represents a major advance in oversight of program performance. While programs in the past were required to submit an Annual Affidavit of Compliance to the local circuit’s chief judge, these affidavits included no verification process. The Florida Supreme Court specifically wanted to avoid placing any responsibility in the chief judge to ensure that the standards were being followed. A review of programs published in 2007 revealed that “most programs did not report that they had Annual Affidavits of Compliance,” and that not all programs had Letters of Agreement with the Court. This finding exposed a fundamental flaw in the previous standards. Now, once certification is implemented, the crucial component of oversight will improve the consistency with which programs are operated in the state. The certification process will surely be closely scrutinized, as Florida is the first state to enact such a process. In

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128 Id. at 81.
129 Id. at 85 (the compliance measure for Principle Four, Standard III states that, “Minimal compliance also requires a meaningful participation in community groups.”).
130 See id. at 86.
131 Id. at 88.
132 Id. at 86.
134 RECOMMENDATIONS OF THE SUPERVISED VISITATION STANDARDS COMM., REP. TO THE FLA. LEG., supra note 8, at 11.
135 Id. at 20.
136 A supervised visitation program’s ability to comply with the standards is made easier by the creation of an optional set of compliance forms designed to follow the mandatory provisions of each standard. See The Optional Compliance Tracking Forms for New SV Standards, available at http://familyvio.csw.fsu.edu/phpBB3/viewforum.php?f=15 (last visited Nov. 19, 2008).
addition, the Supervised Visitation Standards Committee will likely remain intact in order to refine the process of certification.\footnote{137}

V. IMMUNITY FOR PROGRAM PERSONNEL

Recommendation VII of the Florida Report to the Legislature\footnote{138} proposes that Florida Statutes Chapter 753 be amended to provide a presumption of good faith and immunity from liability for those providing services at Certified Visitation and Exchange Programs.\footnote{139} This limited statutory immunity for certified program personnel, including staff and volunteers, would presumably be similar to that which provides immunity to Guardians ad Litem. The Report provides an example:

All persons responsible for providing services at a Certified Supervised Visitation or Monitored Exchange Program pursuant to a court order shall be presumed prima facie to be acting in good faith and in so doing shall be immune from any liability, civil or criminal, that otherwise might be incurred or imposed.\footnote{140}

This new protection afforded to those who provide the essential components of child protection implicitly acknowledges that child custody litigation can be a “perpetual war zone”\footnote{141} by providing some protection for those on whom judges depend to reduce conflict. Some states have already created statutory protection for a host of other professionals and paraprofessionals whose job it is to assist the family in crisis. Thus, states have crafted immunities from civil liability—as long as the action was in the good faith exercise of their duties—for mediators,\footnote{142} child protective investigators,\footnote{143} and Guardians ad Litem/Court Appointed Special Advocates.\footnote{144}

\footnote{137} RECOMMENDATIONS OF THE SUPERVISED VISITATION STANDARDS COMM., REP. TO THE FLA. LEG., supra note 8, at 20.
\footnote{138} Id. at 21.
\footnote{139} Id.
\footnote{140} Id.; For an extended discussion of the need for immunity for supervised visitation personnel, see Nat Stern & Karen Oehme, Toward a Coherent Approach to Tort Immunity in Judicially Mandated Family Court Services, 92 KY. L.J. 373, 418-37 (2004).
\footnote{143} See, e.g., IND. CODE ANN. § 31-33-6-1 (West 2008); MD. CODE ANN., FAM. LAW § 5-708 (West 2003); MICH. COMP. LAWS ANN. § 722.625(5) (West 2007) (exempting from immunity negligent acts that cause injury or death); MINN. STAT. ANN. § 626.556(4) (West
VI. FUNDING ISSUES

Funding is a chronic problem for supervised visitation programs, as it is for many social services programs charged with assisting troubled families. Since the beginning of development of this service, programs have struggled to find ways to support it, without charging parents the full amount of the fee of the service. A 2007 report concluded that “[w]hile the number of Florida programs has grown so significantly, directors annually report shrinking budgets, inadequate security systems, and trouble paying staff . . . .” Programs commonly do not charge victims for services, and even those that do charge both parents charge only a nominal fee. In addition, some funding sources, including the federal


See, e.g., Letter from Patricia Waterman, Court Operations Consultant, Children’s Justice Center, to Karen Oehme (Oct. 19, 2009) (on file with authors).

See In re Report of the Family Court Steering Comm., supra note 37, at 527 (The Florida Supreme Court noted in its opinion endorsing the recommendations of the Family Court Steering Committee and the elements of a Model Family Court, which includes supervised visitation: “the failure to adequately fund the necessary services ultimately will result in the failure of the model family court concept.”).

Many programs have developed sliding fee scales that are based on the income of the parents. See, e.g., Merrimack Valley HUB Community Service Directory Listing for Alternative House, Inc., http://www.mvhub.com/cgi-bin/guide/guide.pl?rm=show_program &program_id=505929 (last visited Dec. 1, 2008).

Wendy P. Crook et al., Florida’s Supervised Visitation Programs: A Report from the Clearinghouse on Supervised Visitation 24 (2007), available at http://familyvio.csw.fsu.edu/db/1_24_2007.pdf (stating that “funding remains unstable for supervised visitation programs, with programs relying on ever-diminishing funds that provide fractions of their budgets from a pastiche of funding sources.”).

See, e.g., Collier County Child Advocacy Council, Inc.’s Family Visitation Center, http://www.caccollier.org/pdfs/family_visitation.pdf at 2 (last visited Jan. 3, 2008); Scarlet
government, restrict the amount of fee charged to any individuals for the service. Recommendation IX of the Report to the Florida Legislature is that the Florida legislature increase funding for programs. This request is tied to the need for onsite security at programs, and it acknowledges the severe budget crisis that the state is currently experiencing. Still, the call is made for new funds for “chronically-underfunded” programs and lays the “groundwork for future economic assistance to programs.” Recommendation X requests that any future funding by the state be statutorily restricted so that only programs certified under the standards are eligible for funding.


The Safe Havens: Supervised Visitation and Safe Exchange Grant Program of the Office on Violence Against Women provides the largest grant amount to individual programs (generally at least $150,000 per year); however, only five Florida programs have received these grants, as the Safe Havens funds are limited and fund many programs outside of Florida, including U.S. states, territories, and Indian communities. In addition, the Safe Havens grants are not intended for the long-term program administration and require sustainability plans. The Access and Visitation funds from the U.S. Office on Child Support Enforcement and administered by the Florida Department of Children and Families currently fund twenty-five of Florida’s programs at least partially. The grant amount ranges from $10,000 to about $40,000 per year for each funded program. See Email from Johana P. Hatcher, Prevention Manager, Department of Children and Families to Karen Oehme (Oct. 15, 2009) (on file with authors).

See, e.g., The Safe Havens: Supervised Visitation and Safe Exchange Grant Program 9 (2008), http://www.oww.usdoj.gov/docs/fy2008-safehavens.pdf. This Grant Program, which funds several visitation programs across the U.S. in domestic violence cases through the Office on Violence Against Women at the U.S. Dept. of Justice, requires that “any fees charged to individuals” must be based on family income. Id.

RECOMMENDATIONS OF THE SUPERVISED VISITATION STANDARDS COMM., REP. TO THE FLA. LEG., supra note 8, at 22.
VII. NEW HIERARCHY FOR VISITATION ORDERS

The Report recommends a new hierarchy for visitation referrals in order to have an impact beyond supervised visitation programs in Recommendation VIII of the Report. It is in this section that the Committee highlights the need for all of those who supervise visits pursuant to court or agency order to have proper training—not just supervised visitation program personnel. Recommendation VIII first asks that courts and child protective agencies prioritize referrals to supervised visitation, sending cases to programs that are certified under the standards whenever possible, before resorting to referrals to uncertified programs. If the court or agency cannot refer the case to a certified program, then the recommendation is that the court or agency require that the provider of the visitation services take the free, online training before monitoring visits. The Report recommends that all child protective agency staff who supervise visits be required to complete a review of the online training manual and certify to their own agencies that they have completed the training. Such an attempt to increase the training and knowledge base of child protective staff is not unprecedented; in 2007, the Keeping Children Safe Act mandated that all of those who supervise visits in certain child sexual abuse cases receive specific training in sexual abuse dynamics.

CONCLUSION

“It is one of the happy incidents of the federal system that a single courageous state may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments without risk to the rest of the country.” Florida, long in the vanguard of refining supervised visitation, has pioneered visitation structures and strategies that other states are free to emulate. With its recent advancement of a comprehensive approach toward visitation programs, the state has taken an unprecedented step in serving both its own citizens and those of other states that can profit from Florida’s experimentation and experience. Supervised visitation

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157 Id. at 21.
158 Id.
159 This might occur, for example, if there is no local certified program, or if the local programs cannot accept the referral.
160 Id.
161 Id.
163 Id.
has become an invaluable component of the effort to safeguard the welfare of children and other vulnerable members of troubled families. Florida’s ambitious undertaking promises to enhance and expand this vital tool within the state and, ultimately, across the nation.