



Visitation during Reunification FAQ

In General

- Visitation is the most vital part of a case plan and must be included absent the court making a “detriment finding” against the parent.
- After the judge formally places your child in foster care and grants reunification services, the judge must also give an order for visitation that is “as frequent as possible consistent with the well-being of the child.” (§ 362.1(a)(1) (A).)
 - In practice, if the child is placed in stranger foster care, this usually means at minimum once a week, although your attorney should ask for twice a week minimum, as that is more consistent with the standard.
 - If the child is placed with relatives or friends, visitation can be up to every day if transportation is available and absent a safety risk.

General Advice

1. Go to every visit.
 - a. If for some reason you cannot make it to a visit let the visitation center and child welfare worker know as far in advance as possible. Last minute emergencies happen – the key is prompt communication with everyone in order to avoid your child waiting for you at the visitation center and having a meltdown when you don’t show up.
2. Always arrive on time.
 - a. Sometimes on time means 15 minutes early when there is a need for a “safe exchange.” If you are running late, let the visitation center and child welfare worker know as soon as possible.
3. Be calm and gracious to every adult.
 - a. Do not engage in any verbal arguments with the foster parents during drop offs or pick ups, especially in front of the child welfare worker, visitation staff, or your children. If you have concerns about the foster parent, see Special Topic: Common Concerns for guidance on how and when to express them.

4. Be active and engaged with your child.
 - a. Come prepared as if you are running a preschool with activities, games, books and learning opportunities. The key is fun and/or educational. Have alternatives to any activity so that you can keep momentum. For younger children, you can bring a host of picture books or board books to the visit so that you can guarantee having good selections.
 - b. Avoid having your child look at screens.
 - c. If you are feeling tired before and during a visit explain why. This is especially important if your case came in because of allegations related to substance use. Otherwise, assumptions might be made about why you have less energy or seem drowsy.
 - d. Do not use your phone during a visit. Your focus should be on your child at all times.
5. Be gentle while giving discipline.
 - a. If your children are expressing challenging emotions during a visit, try not to express agitation or appear emotionally dysregulated.
6. Do not talk to your children about the dependency case.
 - a. If your children say they miss you and ask when they will get to come home you can say “I miss you too, I think about you all the time. I don’t know when you’ll get to come home yet but I can’t wait to see you again at our next visit.”
7. Be careful about what you bring to the visit.
 - a. It is understandable that you might want to bring meals, candy or gifts to your children during supervised visits to let them know you’re thinking about them. Doing so is fine on special occasions and with the permission of the visitation center, but the more frequently you do this, the more likely you will be labeled as a parent who bribes your children to keep them happy or to avoid difficult conversations and interactions with your children. Additionally, when children

consume candy or junk food during visits, foster parents often complain to the child welfare workers that children come home hyper and dysregulated and the parent gets blamed. CPS is often very judgmental about processed foods. Bring the healthiest foods your child will eat; for example, fruit, cheese, or crackers.

- b. If you’re visiting with your baby, bring extra diapers, formula, bottle, pacifier and a change of clothes in case the foster parent “forgets.”

8. Document everything.

- a. After a visit is over, write down when you had the visit, whether you were early, on time, or late to the visit, what you did during the visit with your children and what you were told by the visit supervisor during the visit. This will be useful information for your attorney to have if any issues arise related to visitation or to advocate on your behalf in court or to file a 388 motion. It is also important in the worst case scenario because stellar visitation is a necessary first step in preventing adoption.

Types of Visitation

Counties vary in types of visitations and the way you progress from one to another. There are two main categories:

1. Supervised—you are being watched while you visit with your child
2. Unsupervised—no one is watching you while you visit with your child

It’s important to note that some counties have a wide variety of “levels” of visitation between supervised and unsupervised (some of these are mentioned below); in some places, the actual location of the visit is important to the level of supervision required. For example, unsupervised visits might start in a “neutral” location before progressing to the home. All of these “levels” of visitation are local practices and are not actually part of law; you or your attorney can contest the progression, but be

aware that local practices become “common sense” to the Court, social workers, and attorneys in that area even if they don’t actually make any sense.

Supervised Visits

The following are different arrangements of supervised visitation. They are in order from most restrictive (i.e. least amount of freedom) to least restrictive.

1. Therapeutic visitation

- a. **What it is:** Visitation with a therapist present. The “therapist” could be a licensed psychologist, a marriage and family therapist, a social worker, or even a trainee.
- b. **What happens at the visit:** Therapist provides interventions for parents, makes statements about the quality of the relationship, gives recommendations to the Agency, keeps visitation logs
- c. **When is it ordered:** A court can order **only** therapeutic visitation in some circumstances, usually where the parent has abused the child, the child is stating fear of the parent, or the child is refusing to visit. However, family therapy can also be ordered in conjunction with other types of visitation as part of the case plan.
- d. **How to do it well:** Succeeding at therapeutic visitation requires paying close attention to the therapist, incorporating their feedback, and keeping calm. Think of this like a parenting class only you are learning by doing. Keep careful notes, ask questions about anything you don’t understand or need more direction on, and also be proactive about addressing any special needs of your child. Let the therapist know anything you need in order to better do what they are asking you to do; for example, you might need to discuss your learning style. Some people need written feedback rather than oral, so ask if you can write down their suggestions or whether they can provide write-ups to you.

2. Agency Supervised Visitation

- a. **What it is:** visitation that is supervised by the child welfare worker, usually at the Agency offices.
- b. **What happens at the visit:** the child welfare worker sits in a room with you and the child and takes notes on what you are doing. They do not usually give

advice on parenting and, if they are giving advice, it’s considered a problem by the Agency.

- c. **When is it ordered:** Courts rarely order that the child welfare workers themselves supervise. It usually happens by default or as an early assessment; meaning, in the beginning of the case, a worker will want to watch the parent and child interact before making their recommendation for how the case should proceed or they will have to supervise because visitation services are not available from a third-party vendor.

- d. **How to do it well:** It is critical to be the most active, engaged, gentle, and authoritative parent you can be in front of the child welfare worker because, unlike other forms of visitation, this is the person actively making decisions about your access to your child. Follow all general advice. If possible, it’s good to thank the worker for supervising, especially if they are supervising because there is no other available service.

3. Professional Visitation Center

- a. **What it is:** third-party vendors who contract with the Social Services Agency to provide visitation services. Some visitation centers are set up to look more like homes with toys and games available; some are in Churches or in more office-like settings. All visitation centers have their own orientations and rules and guidelines that you must follow.
- b. **What happens at the visit:** you have an assigned visitation supervisor who takes notes. They rarely, if ever, give any advice to the parent. They do not usually have any specialized degree. They produce a visitation log and make suggestions to the social worker about when your visits should progress. Often they have their “steps” to graduating out of supervised, these include:

- i. Observed visits—visit supervisor does not remain in the room the whole time but goes in and out, usually checks in during 30 minute increments ii. Community monitored visits—parents are allowed to go outside center with child and supervisor
- iii. Community unmonitored visits—parents are allowed to take children

to another location like a park with a series of a check-ins

- c. **When is it ordered:** this is the preferred type of supervised visits in most large counties; supervised visitation is ordered whenever the Agency convinces the court that there is a risk to unsupervised. Most dependency cases start with supervised visits to any parent named in the petition (any parent who has been “charged” with some kind of neglect or abuse).

- d. **How to do it well:** Follow all general visitation advice above.

4. Friend or Family Supervision

- a. **What it is:** the Agency approves a friend or family member to supervise your visits. This is usually the friend or family member who has the children.
- b. **What happens at the visit:** the family or friend is not required to take notes. They will be interviewed by the social worker about how the visits are going though. They are also given specific guidelines from the Agency; for example, the Agency might say, it’s ok if you aren’t in the same room or they might say, you have to stay in the room with the parent and child the entire time. This type of visitation is almost always the most frequent option for supervised visits.
- c. **When is it ordered:** this is often ordered when the child is placed with family or friends. Occasionally, it is ordered when family requests visitation from the court and offers to supervise.
- d. **How to do it well:** Follow general visitation advice, but also remember that your family or friends are still being asked to report on you and even when they might not mean to, they could say something the Agency took the wrong way, so try to follow the general advice even though you are in a comfortable environment with someone you trust.

Unsupervised Visits

Unsupervised visitation mostly varies in the amount of time; here is the configurations from least time to most time.

1. A couple hours: when unsupervised visits are first recommended by the Agency & Judge or ordered by the Judge over the Agency’s objection, they are usually only a couple hours more than whatever frequency the person has been getting of supervised.

2. Extended day: these are usually 6-8 hours.
3. Overnights: these are usually one night or all weekend.
4. Trial visit: in some counties, Judges will order a "trial visit" or 2 weeks of unsupervised visitation before moving a case from reunification to family maintenance. Note: The legality of this is somewhat questionable as it does not appear in any statute and is functionally a "return" of the child to the parent without calling it that. For this reason, this isn't a common practice everywhere. Why some courts like it is that it allows them to change their mind about a return without going through the procedures that would be necessary to do that; for example, if the Agency returns the child and then changes its mind; they must file a 387 petition and you are entitled to a trial date to fight the removal just like you would with the original petition. With a trial "visit," the Agency can change its mind without any procedural protections.

Visitation FAQ:

What happens if I'm not getting the amount of visits the Judge ordered?

Just like you are required to follow a court order, the Agency is as well. Keep careful documentation of the visits and any missed visits and write an e-mail to your worker asking for a make-up visit for lost time. If the worker does not respond, email them next with their supervisor included. If you miss more than two weeks of visits, file a 388 motion with the court to ask the Court to order the agency to be compliant with the court order and to give make-up visits.

The Agency canceled my visit, what do I do?

The following **are not** reasons the Agency can violate the court ordered frequency of visitation absent offering a make-up visit:

1. There was no one available to supervise the visit
2. There was no transportation for the children
3. The foster parents want to take the child somewhere

If the Agency does not give you visits for the above reasons, ask for date for a make-up visitation on the day of the missed visit and if visits continue to be missed, file a 388 motion.

The following are reasons the Agency can suspend a visit but will owe you a make-up visit:

1. The child is sick or you are sick
2. The child refuses to visit for some reason

If the Agency does not give you visits for the above reasons, ask for a date for a make-up visit on the day of the missed visit. If visits continue to be missed for these reasons, file a 388 motion. Refusal to visit is tricky, because although refusal to visit is not a valid reason to refuse a court order, in practice, few courts will have someone drag a child to a visit. There are, however, many ways to problem-solve refusal to visit depending on the reason for refusal which include: therapeutic visitation, changing the venue for the visits, building up to in-person visits with zoom visits structured around games. If a child is refusing to visit a parent in a case that does not involve the parent abusing the child, then, a normal request is therapy to understand the reason for refusal and also so that the therapist can communicate some ways to get visitation going.

If the Agency believes that you are suddenly a risk to your child in the current visitation format, they **must** file a 388 motion to request to change the level of visitation; although, in practice, they will first suspend the visits or stop the visit and later file. For example, if the Agency decides overnights are not safe but the Court has ordered them, they must file an emergency 388 motion in order to ask that visitation move back to supervised. Reasons the Agency might do this: a positive drug test, suspicion that a victim of domestic violence and the alleged abuser are communicating, violation of any court order, report from child about something bad that happened at a visit, extreme issues after visitation. You are entitled to fight this motion and bring your own evidence.

The foster parent is sabotaging my visits, what do I do?

The best thing you can do in any case is produce your own positive evidence. Sometimes, it's the only thing you can do. For example, let's say you are at unsupervised visitation, and your visits always go really well, except for your kid wanting to stay at the end. But the foster parent says that every time you pick up the child for visits, she throws up, has nightmares, screams and cries, etc., or that on the way to visits she pulls out her hair. The foster parent might even provide pictures. Now the social worker is talking about whether to move you back to supervised visits.

• What **can't** you do?

- o Get a new foster parent—the Agency might decide the placement is detrimental on their own, but they will rarely listen to you about it
- o Talk to the foster parent about the issue—the chances of this going well are pretty slim, as there are not a lot of good reasons for her to be saying these things to the social worker and not you except that she believes you are a bad parent. Very little you say to her will change this. You are very likely in a custody battle, and even when custody battles happen between people who were married, they are very ugly. She might even believe that you are abusing your child.

• What **can** you do?

- Get other eyes on you and your child. This would be a request for professional assessment or it could be an informal arrangement with your friends and family. You need some witnesses.
 - Friends and family: The quickest way to do this is to get family and friends to your visit, preferably at a public place. They can then report to the social worker. It's also more normal at a park when you have friends there to take a bunch of video and pictures than it would be to do so at home, so you can be showing the worker without looking like you took the video just to prove the foster parent wrong.
 - Professionals: Ask for family therapy or even drop-ins from the worker. Family therapy is better than individual therapy because at individual therapy your child will be taken by the foster parent who will interact with the therapist beforehand. At family therapy, you are the person giving and receiving input. The way to talk about this is to say that it seems, from the foster parent's report, that your child needs additional support.
- If none of your positive evidence makes an impact or if the social worker thinks the child is at risk, ask the social worker to consider family or friend supervision instead of professional supervision.