

# **INCARCERATED PARENTS MANUAL: YOUR LEGAL RIGHTS AND RESPONSIBILITIES**

**PRODUCED AND DISTRIBUTED BY**

**LEGAL SERVICES FOR PRISONERS WITH CHILDREN**

**Updated June 2010 by:**

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## **Dedication**

When staff members from Legal Services for Prisoners with Children first met Lydia Watkins<sup>1</sup> it was her birthday and she was imprisoned at Valley State Prison for Women in Chowchilla, California. She had a court hearing that day to determine custody arrangements for her three-year-old daughter Geneva whom Lydia had not seen in over a year. She thought we were there to take her to court and was deeply disappointed when she found that was not true. (We were there for a totally different reason which is not relevant to this story.) Geneva was being cared for by an acquaintance of Lydia's. This acquaintance refused to relinquish custody of Geneva so that mother and daughter could be reunited at a community mother-infant facility. For the next year-and-a-half, Lydia fought for custody of her daughter. Her insistence on protecting her own rights and those of her daughter's paid off and Lydia and Geneva were eventually reunited.

We have met hundreds of women and men in prison who have been just as dedicated as Lydia, who have truly fought for the "best interests of the child." For your determination, for your perseverance, but most of all for your love of your children, we dedicate this manual to all of you.

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<sup>1</sup>Lydia's and Geneva's names are fictional but their story is true.

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## **Samples: Forms and letters to use**

1. Letter to attorney (seeking to attend juvenile dependency court)
2. Letter to the judge (seeking transportation to court, an attorney, and reunification services)
3. Caregiver's Authorization Affidavit
4. Power of Attorney (giving caregiver custody of child)
5. De Facto Parent Application (JV-295)
6. Petition for Custody and Support of Minor Children (FL-260)
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9. Proof of Service of Summons (FL-115)
10. Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act (FL-105)
11. Order to Show Cause (FL-300)
12. Application for Order and Supporting Declaration (FL-310)
13. Child Custody and Visitation Application Attachment (FL-311)
14. Request to Waive Court Fees (FW-001)
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16. Letter to court clerk (with forms to be filed)
17. Request to Change Court Order (JV-180)
18. Notice of Intent to File Writ Petition (JV-820)
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## Introduction

If you are a parent in prison or jail, you probably have many questions and concerns about your children and about your legal rights as a parent. Your children may be with relatives or they may be in foster care or a group home. If your children are in foster care, you may have questions about your legal rights and about the juvenile dependency court proceedings involving your children. If your children are with a divorced spouse or if a legal guardianship has been established, you may have questions about how to reunify with your children once you are released from prison.

This booklet is designed to answer many of the legal and practical questions that incarcerated parents have about custody of their children, both during and after the time they are in prison or jail. It is not intended to replace your lawyer. If you have a lawyer, use him/her: ask questions, give information, and tell him/her what you want for your family.

The booklet is based on California law as of June 2010. All code sections refer to California law (for example, "Penal Code" is the California Penal Code). Laws are different in other states, but many of the suggestions may be useful. *Be sure* to check the relevant legal codes to make sure that the information and forms are up to date.

A note about formatting: Any time you see a word or phrase typed in *bold italics*, the legal definition of that word or phrase is in the glossary at the back of this booklet.

**This manual has been updated and some sections expanded. All information, including the addresses for the family law facilitators, is current as of June 2010. It is your responsibility to check relevant legal codes, court rules, and forms when using this manual.**

## **Arrest: What happens to my child?**

The law does not *require* the arresting officers to let you make arrangements for your child at the time of arrest. The arresting officer may let you make a phone call to make sure that your child is with a responsible relative or close friend.

If you are unable to make a call, ask the first attorney assigned to you to get a *court order* allowing you to make emergency phone calls to locate your child and arrange for his/her care. If you do not have family who can care for your child, contact a trusted friend to care for your child or help you talk with your child.

### **What if my child is with me?**

If your child is with you when you're arrested, the arresting or booking officer may allow you to arrange care for your child before being booked. If so, call **as soon as possible**:

- The child's other *parent*;
- A responsible relative of the child; or,
- A responsible friend—someone your child knows and trusts.

### **What if my child is not with me?**

If your child is **not** with you, let the school, day care center, or other *caregiver* know:

- That you will not be able to pick up your child; and,
- That your relative/friend/babysitter will be picking up the child; or,
- Whom they can call to care for your child.

### **What if my child is not picked up?**

If your child is not picked up by a relative or friend, s/he will likely be placed in an *emergency shelter* through the county *Child Protective Services* (CPS) agency (Welfare & Institutions Code Secs. 300(g) & 306).

### **What if my child goes to CPS?**

If your child is brought to CPS, act as quickly as possible:

- Call a relative immediately; or,
- Have your relative call CPS immediately; and,
- Tell your relative to bring any proof that exists about their relationship (birth certificate, signed letter from you, passport).

CPS will release your child to a parent, guardian, or responsible *relative* who poses no risk or danger to your child. (Welfare & Institutions Code Sec. 309(a).)

CPS will initiate an **emergency assessment** of relatives who come forward to care for the child. This assessment includes a criminal background check (including pending criminal charges), verification of their relationship to the child, and a visit to the home to ensure that the environment is safe. **CPS may also consider a “nonrelative extended family member” as a caregiver.** (Welfare & Institutions Code Sec. 309(d).)

If CPS does not place a child with a relative within 48 hours, CPS must file papers in court to make the child a **dependent of the court.**

BE PERSISTENT: ask your public defender, chaplain, community services or medical staff for help.

## **How do I get transported to juvenile dependency court?**

NOTE: Jail mail moves slowly. You cannot depend on receiving hearing **notices** in time to get to court. Keep track of your child's **hearing** dates. Ask your lawyer and social worker to let you know of any changes in court dates.

Try to get a transport order:

1. Call or write your lawyer and/or the judge and tell them that you want to be present. (**Sample #1** or **Sample #2.**)
2. Ask the court to issue an order that you be transported to the hearing. (Penal Code Sec. 2625.)
3. Ask for a filed, stamped copy of the judge's order to be sent to the warden or sheriff where you are incarcerated and to the county sheriff where the **juvenile dependency court** is located. (**Sample #2.**)

**The court must send a copy of the transport order to the warden or sheriff not less than 15 days from the date the prisoner is to be transported.** (Penal Code Sec. 2625.)

## **Placement: Where will my child live?**

If CPS is involved, you have a right to a lawyer. Otherwise, you may have to get help from the county **Family Law Facilitator** or other legal aid office.

### **1. No Court Involvement**

If CPS does not become involved, then you may be able to arrange care for your child with the child's other parent, another relative, or friend without any court involvement. There are two forms which can help with this arrangement: the Caregiver's Authorization Affidavit and a Power of Attorney.

### Caregiver's Authorization Affidavit (Sample #3.) (Family Code Secs. 6550 & 6552.)

The *Caregiver's Authorization Affidavit* is a two-page form signed by a *qualified relative* to ensure a child's medical and educational needs are met. It allows relatives to enroll a child in school and to consent to school-related medical care on behalf of a child. It is good for one year and can be renewed.

#### Limitations:

- This authorization is for temporary situations.
- The caregiver is not automatically eligible for *Temporary Assistance for Needy Families (TANF)* or other benefits.
- It can be revoked at any time.
- It does **not** give the caregiver legal custody of your child.

### Power of Attorney (Sample #4.)

This form lets the caregiver make decisions about a child for you until the parent is released. A *Power of Attorney* authorizes both relatives and friends to act as a caregiver to a child. An *immediate relative* may receive TANF or *CalWORKS*; *distant relatives* and friends cannot.

#### Limitations:

- The form must be *notarized*.
- Even notarized forms are not legally binding *custody* agreements.
- The form is not a court order.

## 2. Court Involvement

### Legal Guardianship (Juvenile Dependency Court or Probate Court)

*Legal Guardianship* is a *legal custody* court order that transfers legal rights of a child to another person indefinitely. A legal guardianship suspends a parent's rights, but does not *terminate* them. Legal guardianship orders may be issued in the probate court or in the juvenile dependency court in connection with CPS placement. A legal guardian may be a relative, partner, friend, or *foster parent*. Once the court appoints a legal guardian, s/he has full legal responsibility for a child including making education, health and medical decisions. A legal guardian can apply for Kin-GAP, CalWORKS, or other benefits for a child.

Right to counsel: A parent has the right to an appointed attorney in the juvenile dependency court and may have a lawyer appointed at a proceeding to terminate the guardianship. A parent may not have an automatic right to an appointed attorney in probate court in a case brought to establish a guardianship.



See **Family Reunification: How do I get my child back when I get out** for more information about what the courts will look at when deciding whether they will terminate the guardianship.

### **Foster Care (Juvenile Dependency Court)**

Foster care is residential care that has been approved by CPS and ordered by the juvenile dependency court. A foster care provider can be a relative, extended family member, or a nonrelative. (Welfare & Institutions Code Sec. 11402.) Relatives who care for a child who is a dependent of the court can get financial help and services through CPS. Parents have a right to counsel in juvenile dependency court. The **Foster Care and Dependency** section of this manual describes your rights in detail.

### **De Facto Parent**

A *de facto parent* is one who has assumed the role of a parent on a day-to-day basis. This means that the person has provided emotional support, taken care of the child's physical needs, and given the child affection for a substantial period of time just as the natural parent would do. (Rules of Court 5.502(10).)

In order to be considered a *de facto* parent for a child who is in the juvenile dependency court system, a person files an application for *de facto* parent status. On the application, the person tells the court how long s/he has been caring for the child and about the relationship s/he has with the child. It is important to tell the court all the ways you have cared for the child's needs. For example, you made sure the child went to school or day care, you spoke with the teacher about the child's progress, you took the child to the doctor for regular check-ups, you helped them with homework, you read stories to them before bedtime, etc. In other words, to be considered a *de facto* parent, the person caring for the child should show the court all the ways s/he has been a "parent" to the child. See De Facto parent application (**Sample #5**, form JV-295).

### **Indian Child Welfare Act**

The *Indian Child Welfare Act (ICWA)* is based on the belief that "it is in the best interest of an American Indian Child that the role of the tribal community in the child's life be protected." (25 U.S.C. Sec. 1902.) ICWA applies to temporary placement situations and to court proceedings that result in adoption or termination of parental rights. ICWA does *not* apply to disputes between parents in a divorce action. (25 U.S.C. Sec. 1901 *et seq.*) If you and/or your child are of Native American heritage, you must tell your lawyer, the social worker in the juvenile dependency court or the probate court investigator immediately. If the court finds that you and/or your child are active members of an Indian Tribe, it must work towards maintaining the stability of this tie to the tribe when determining placement of your child in a foster home or in the home of a guardian. The court will do this by contacting the tribe to seek its input and assistance.

## **Custody Order from the Family Court**

If the custodial parent can no longer care for the child, the non-custodial parent may come forward to take custody of the child. The parent taking custody of the child can obtain a court order formalizing this new arrangement. If the parents were married, custody can be obtained in a divorce case. Alternatively, a married parent who does not want to file for divorce may file a Petition for Custody and Support of Minor Children (**Sample #6**, form FL-260) and a Summons (**Sample #7**, form FL-210). If the parents were unmarried, the form used depends on whether paternity has been established. If paternity has not been established, the parent seeking custody may file a Petition to Establish Parental Relationship (**Sample #8**, FL-200) and Summons (**Sample #7**, form FL-210). If paternity has been established, the parent seeking custody may file a Petition for Custody and Support of Minor Children (**Sample #6**, form FL-260) and Summons (**Sample #7**, form FL-210). In any of these cases, the following forms can also be filed:

- Proof of Service of Summons (**Sample #9**, form FL-115)
- Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act (**Sample #10**, form FL-105)
- Order to Show Cause (**Sample #11**, FL-300)
- Application for Order and Supporting Declaration (divorce cases only) (**Sample #12**, form FL-310)
- Child Custody of Visitation Application Attachment (**Sample #13**, form FL-311)
- Request to Waive Court Fees (**Sample #14**, FW-001)
- Order on Court Fee Waiver (**Sample #15**, FW-003)

Anytime you mail documents to the court, you can also include a cover letter addressed to the court clerk (**Sample #16**).

## **Foster Care and Dependency: What happens in dependency court?**

If you are unable to arrange placement for your child after your arrest, then CPS will try to place him/her with the other parent, or other relative. In the meantime, CPS may place your child in an emergency shelter or *foster care*. If CPS cannot place your child with relatives or believes your child is at risk of harm, CPS will file a *Juvenile Dependency Petition*. If this happens:

- Call or write CPS and let them know where you are and that you want a lawyer as soon as you know there is a case regarding your child. Even though you are in jail, you can protect your child and your rights.
- Make sure you let CPS know the names of **all** relatives on both sides of the family (maternal and paternal) who may be available to care for your child. If your child's placement changes, this will help ensure that s/he remains in family care.

### **Important Suggestions**

- Ask to be present at every court hearing.
- Ask relatives and close friends who know your child to be present in court. (Rules of Court 5.534(f).)
- Talk to your lawyer: tell him/her what you want for your child and ask questions.
- Talk to your child's social worker: make sure s/he knows you care.
- Tell the court if specific counseling or other treatment services are not offered at your facility. You are exempted from participating in services that you do not have access to. (Welfare & Institutions Code Sec. 361.5(a)(3).)
- Go to whatever parenting, counseling, AA/NA meetings, or other classes are offered.

If a *petition* is filed, you have:

- A right to be notified.
- A right to be present.
- A right to a lawyer at each of the following court hearings:
  - Detention hearing;
  - Jurisdiction hearing;
  - Disposition hearing;
  - Status Review hearings; and
  - Permanent Plan hearing.

### **Detention Hearing**

A Juvenile Dependency Petition is filed if CPS believes that "there is a substantial risk that the child will suffer serious physical harm or illness by the inability of the parent or legal guardian to provide regular care for the child." (Welfare & Institutions Code Sec. 300.)

A ***Detention Hearing*** is scheduled within 48 hours (excluding weekends and holidays) of CPS making an ***emergency response*** to provide care and placement for your child. This hearing is to decide whether the child is to continue to be ***detained*** in custody. (Rules of Court 5.670(e).)

At the Detention Hearing, the court will appoint lawyers for the parents, and sometimes for the child. Make sure you talk to the Social Worker so that s/he can get to know you. The court will also consider whether visitation should occur between the child and others, including the child's siblings. (Rules of Court 5.670(g).) The court will set a ***Jurisdiction Hearing*** date for 15 ***court days*** later. (Rules of Court 5.670(f).)

At this hearing, reports from the social worker, police officer, or any other documents submitted will be taken into consideration when deciding whether further detention is necessary. The parent, the child, and the guardian have the right to confront and cross-examine the people who prepared any report or any other document submitted to the court. You cannot be forced to testify against yourself. (Rules of Court 5.674(d)(1).)

**The court may rely solely on the written reports mentioned above. Those reports must include:**

1. A statement of reasons why the child was **removed** from the parent's custody.
2. A description of the services that have been provided, and of any available services that would prevent the need for the child to remain in custody.
3. Identification of the need for the child to remain in custody.
4. Information about a **non-custodial parent** or any relative with whom the child might be placed.  
(Rules of Court 5.676(b).)

The court will then make a decision about further detention and may also consider **detention alternatives** including placement with a relative or a nonrelative extended family member. If a relative or nonrelative is to be considered, the court will listen to the recommendations of the social worker who has made an emergency assessment of the relative or nonrelative (including a criminal records check and any prior report alleging child abuse). (Rules of Court 5.678(e).)

### **Jurisdiction Hearing**

At the Jurisdiction Hearing, the juvenile dependency court decides whether or not to make your child a dependent of the court, based on the **dependency petition**, the social worker's report and anything else presented at the hearing. If the judge finds that the **allegations** in the petition are true ("**sustains** the petition"), and that these allegations show that your child is at a risk of harm, your child will become a dependent of the court i

You have the right (Rules of Court 5.682(b)) to disagree with the statements and:

1. Present your own evidence.
2. Cross-examine witnesses.
3. Bring witnesses to court.
4. Remain silent.

If the judge finds the allegations to be true by a **preponderance of the evidence**, the court takes legal custody of your child and decides where s/he should live and with whom—also known as disposition. It is important to object to and refute any false allegations or unproven statements because the information in the petition is used as a basis to require a reunification plan and can be used in future proceedings.

### **Disposition Hearing**

At a disposition hearing, CPS recommends, and the court decides, on a **case plan** for you and your child. A **case plan** includes where your child will live, what services CPS needs to provide to you and your child (called "reunification services"), and what you need to do to **reunify** with your child if s/he is not with you. It is very important to object at this hearing to any errors that may exist. If you do not raise these issues, the court can consider that you gave up your right to

appeal. It is not *automatically* giving up the right, but the court has discretion to decide whether it is. (*In re S.B.* (2004) 32 Cal. App. 4<sup>th</sup> 1287.)

You have the right:

1. To review the CPS plan for you and your family, and for your lawyer to object to any false claims or unproven statements in the report. (Rules of Court Sec. 5.690(2).)
2. To ask that your child be placed either in your home county, in the county where you are incarcerated, or in the county where your child's other parent or guardian lives. (Welfare & Institutions Code Secs. 361.2(1) and (f)(1)(2).)
3. To stay in touch with your child unless the court has specifically found otherwise. You can request that the court specifically order:
  - Collect phone calls between you and your child on a regular basis.
  - Visits with your child. Age or distance alone is not sufficient reasons to deny you visits with your child. (*In re Dylan T.* (1988) 65 Cal. 4th 765.)
  - A plan to transport your child for visits.
  - Counseling for you.
  - Counseling for your child.
  - Other services for you or your child.
  - Services for extended family.(Welfare & Institutions Code Sec. 361.5(e)(1)(D).)
4. To say what you want about where your child should live.
5. To ***Family Reunification Services***, unless your child is placed with the other parent or unless you fall under one of the exceptions listed below. A court's decision not to provide you with reunification services is basically a decision that the court will not return your child to you.

**Reunification services will not be offered in any of the following situations:**

- The court cannot find you or doesn't know where you are.
- The court finds that you have a mental disability which prevents you from taking care of your child (two psychiatric evaluations are necessary here).
- The court has already taken a child away from you due to physical or sexual abuse, returned the child to you, and the child or his/her sibling is again being removed for physical or sexual abuse.
- The court has found that you caused the death of a child through abuse or neglect.
- The child is under the age of five and has suffered severe physical abuse by you or someone you know.
- The court finds that you have severely abused a child, and decides that your child would not benefit from reunification services with you.
- The court finds that you willfully abandoned your child and that the abandonment placed the child in serious danger.

- The court terminated reunification services on another child.
- You have a history of drug or alcohol abuse and have resisted treatment.
- You have lost custody and your parental rights of another child and you have not dealt to the court's satisfaction with the reasons you lost custody of that child.
- You have told the court that you do not want reunification services and that you do not want custody of your child.
- The court finds that you have taken a child from a placement, and have refused to return the child or tell the social worker where the child is.
- You have been convicted of a violent felony as defined in Penal Code 667.5 (c). (Welfare & Institutions Code Sec. 361.5(b).)

If none of the above is found, the court can still refuse to offer you reunification services if it finds your relationship with your child is detrimental. To find detriment, the court looks at:

- Your child's age.
- The strength of your relationship.
- Your sentence.
- Your crime, to the extent that it is *substantially related* to the welfare of your child or your ability to exercise custody and control regarding your child (Welfare & Institutions Code Sec. 366.21(e)).
- Treatment.
- Effect on your child if no services are offered.
- Your child's wishes if s/he is older than 10.
- Any other factors parties want the court to consider. (Welfare & Institutions Code Sec. 361.5(e)(1).)

NOTE: You can still try and show by *clear and convincing evidence* that reunification is in the child's best interest. (Welfare & Institutions Code Sec. 361.5(c).) To do this, you can present evidence of your earlier history and relationship with your child (documented behavior), that you visit with your child regularly, and any other significant factors.

If the court does not order reunification services, then it will schedule a Permanent Placement Hearing.

### **Family Reunification: How long do I have to reunify if my child is not returned to me by the disposition hearing?**

In general, an incarcerated parent must reunify with his/her child within **12 months** after the child enters foster care (Welfare & Institutions Code Sec. 361.5(a)(1)(A) [child 3 years old or older] and (B) [child under age 3 when removed from your *physical custody*]). A child is considered to have entered foster care when either (a) the jurisdictional hearing is complete, or (b) 60 days after the child was initially removed from the physical custody of his/her parent or guardian, **whichever comes first** (Welfare & Institutions Code Sec. 361.49). However, this time can be extended if the court grants a continuance.

Court-ordered services *may* be extended to **18 months** (from the date the child was removed from your physical custody) if it can be shown at the ***Status Review Hearing*** that there is a substantial probability that the child will be returned to you within the extended time period **or** you can show that reasonable services were not provided to you. (Welfare & Institutions Code Sec. 361.5(a)(3).)

To prove substantial probability that your child will be returned, the court will consider whether:

- You have consistently and regularly contacted and visited with your child.
- You have made significant progress in resolving problems that lead to the removal of your child from your home.
- You have demonstrated the capacity and ability to (1) complete the objectives of your treatment plan and (2) to provide for the child's safety, protection, physical and emotional well being, and special needs.

If court-ordered services have been offered for the maximum 18-month time limit, you still have the right to ask the court for a continuance (extension) because the court has discretion to extend reunification services beyond the 18-month period. Under Welfare & Institutions Code Sec. 352(a), the court may continue the hearing **unless the continuance is contrary to the interest of the minor**. In doing so, the court gives substantial weight to:

- A child's need for prompt resolution of his/her custody status;
- The need to provide children with stable environments; and
- The damage to a minor of prolonged temporary placement.

The court shall also consider these obstacles to a parent's ability to access services:

- Special circumstances of an incarcerated or institutionalized parent or parents;
- Parent or parents were court-ordered to a residential substance abuse program;
- Other barriers to the parent's access to services and ability to maintain contact with the child; and
- If at the end of the applicable time period, a child cannot be safely returned to the care and custody of a parent or guardian without court supervision, but **the child clearly desires contact with the parent or guardian**, the court shall take the child's desire into account. (Welfare & Institutions Code Sec. 361.5(a)(2).)

If your child has been in foster care for 15 of the most recent 22 months, a social worker must submit a recommendation that the court set a hearing to terminate parental rights, but there is an exception. If incarceration is a significant factor in your child's placement in foster care during this time (15 of the most recent 22 months), the court will then look at whether termination of parental rights is in the child's best interest (Welfare & Institutions Code Sec. 16508.1(b)(6).)

The court will consider:

- The age of your child.
- The degree of parent and child bonding.
- The length of your sentence.
- The nature of your treatment.
- The nature of your crime or illness.

## What happens in the later stages of dependency court?

### Status Review Hearing(s) (Six/Twelve/Eighteen Month Review)

After the disposition hearing, if your child has not been returned to you, the court must review your child's case every six months at a court hearing. Before this hearing, the social worker will write a progress report and will make recommendations based on his/her report. The first **review hearing** is the most important because the court really looks at what you and your family have done to deal with the situation that brought you before the court. You have a right to have a copy of the report at least 10 days before the hearing. *READ the report.* Tell your lawyer if you do not agree with the report.

The court may:

- Order 6 more months of services at the 6 or 12 month review hearing;
- Continue the case at the 18 month review hearing for further reunification services; or,
- order Family Reunification services terminated and set a **Permanent Plan Hearing** (also called a “**26 Hearing**”).

The court will look at your progress to reunify with your child. The court considers how hard you have worked at meeting the reunification requirements in your case plan for past six months. The court is more likely to return your child if you do all of the following during this six month period:

- Follow the case plan (reunification requirements).
- Visit your child as often as possible.
- Live in a safe place.
- Get a job on which you can support your family.
- Follow all probation or parole rules.

(Welfare & Institutions Code Sec. 366.21(e), Rules of Court 5.710(c)(2).)

In addition, the court must take into account the particular barriers to an incarcerated or institutionalized parent's access to those court-mandated services and ability to maintain contact with his/her child. (Welfare & Institutions Code Sec. 366.21(e).)

If the court does not return your child to you at this time, you have the right to appeal that decision by filing a Rule 8.452 Writ. (See **What are my rights if I disagree with the judgment of the juvenile dependency court?**)

### Permanent Plan Hearing (also called a “**26 Hearing**”)

If you have not reunified with your child or were not offered Family Reunification, the court will set a Permanent Plan Hearing. At this hearing, the court will read the social worker's recommendations for a long-term plan for your child, so that s/he will have a permanent, stable place to live. This hearing usually takes place between 12 and 18 months after your child was



detained. If no Family Reunification services have been offered, this hearing may take place much earlier. (Welfare & Institutions Code Sec. 366.26.)

The court will consider three permanent plans in this order: termination of parental rights, legal guardianship, or the placement of the child in long-term foster care. Each is described in more detail below.

1. **Termination of Parental Rights and Referral of Child for Adoption:** This may happen if reunification efforts have failed or if you were never offered reunification services at all. If your **parental rights** are terminated, you will no longer have any right to care for or even visit your child in the future.

These are considered a sufficient basis for termination of parental rights:

- The whereabouts of a parent have been unknown for 6 months.
- The parent has failed to visit or contact their child for 6 months. *However, the court will take into account the particular barriers to an incarcerated parent's or guardian's ability to maintain contact with his/her child.*
- The court has terminated reunification services.
- The parent has been convicted of a **felony indicating parental unfitness.**

(Welfare & Institutions Code Sec. 366.26(c)(1).)

When deciding whether to terminate parental rights, the court must consider whether this action would be detrimental to the child. The court considers several factors when determining detriment, including:

- The parents have maintained regular visitation and contact with the child and the child would benefit from continuing the relationship.
- A child 12 years of age or older objects to termination of parental rights.
- The child is placed in a residential treatment facility, adoption is unlikely or undesirable, and continuation of parental rights will not prevent finding the child a permanent family placement if the parents cannot resume custody when residential care is no longer needed.
- The child is living with a foster parent or Indian custodian who is unable or unwilling to adopt the child because of exceptional circumstances, but is willing and capable of providing the child with a stable and permanent environment. Moreover, the removal of the child from this caregiver would be detrimental to the emotional well being of the child. This clause does not apply to any child who is either (I) under six years of age or (II) a member of a sibling group where at least one child is under six years of age and the siblings are, or should be, permanently placed together.

- There would be substantial interference with a child's sibling relationship.
- The child is an Indian child, and there is a compelling reason to determine that termination of parental rights would not be in the best interest of the child.
- *One or both parents' or guardians' incarceration or court-ordered participation in a residential substance abuse treatment program constituted the sole reason for which reunification services were terminated.*  
(Welfare and Institutions Code 366.26 (c)(B).)

NOTE: The court may not order a *26 Hearing* be held unless there is ***clear and convincing evidence*** that reasonable services have been provided or offered to the parent or legal guardian. (Welfare and Institutions Code 366.22(b)(3).)

2. **Legal Guardianship** with a relative, friend, or stranger. A legal guardianship suspends, but does not terminate your parental rights. The court can grant legal guardianship at this hearing if it finds that termination of parental rights or adoption is not in the child's best interests or that termination would be detrimental to the child. (Welfare & Institutions Code Sec. 366.26 (c)(1).)

If you are at risk of having your parental rights terminated and you are comfortable with your child's current living situation, it might be helpful to try and discuss legal guardianship with the caregiver or foster care provider before the ***26 Hearing***, as an alternative to having the judge consider termination of parental rights. At the ***26 hearing***, you can notify the judge that you would like to enter into a voluntary legal guardianship. At this point, the court can grant the guardianship immediately, agree to consider the guardianship, or not grant the guardianship at all. If the court agrees to consider the guardianship, the court will continue the hearing and set a date for the receipt of the guardianship papers and home study. (Rules of Court 5.695, Welfare & Institutions Code Sec. 360(a).)

If legal guardianship is granted, you are no longer entitled to reunification services, but the court must make an order for visitation unless it finds that visitation would be detrimental to the child. (Welfare & Institutions Code Sec. 366.26 (c)(4)(C).)

3. **Placement of Child in Long-Term Foster Care.** This placement can be with a family member or whomever the child has been living with temporarily. This is more likely to be granted with older children.

### **Post-Permanent Plan Hearings**

These hearings are held every six months if your child is in long-term foster care. You have a legal right to attend this hearing unless your parental rights have been terminated. If you are unable to get to court, try to send a relative in your place. (Welfare & Institutions Code Sec. 366.3(d).)

## What are my rights if I disagree with the judgment of the juvenile dependency court?

### Section 388 Motion to Change Court Order:

If you have been denied reunification services or disagree with any other interim court order, you may file a **Section 388 motion** to try and change, modify, or set aside the order. In this motion, you must present a change of circumstances or evidence. You also must show that the child's best interests will be promoted by the proposed change in order. See Request to Change Court Order (**Sample #17**, form JV-180).

### Writ Relief Rule 8.452 Writ (Petition for Extraordinary Relief):

If you object to an order made at any hearing at which a **26 Hearing** is set, you may file a Petition for Extraordinary Relief (JV-825). This petition must be filed within 7 days if you were present at the hearing or 12 days after it was mailed if you were not present. In the back of this manual, you will find forms JV-825 and JV-820 ("Notice of Intent to File Write Petition") that you must file within this period. If you do not seek writ review of these orders, you give up further review of the orders in a later appeal. (Welfare & Institutions Code Sec. 366.26 (l).) Ask your lawyer to file your 8.452 Writ. If your lawyer is unable to do so, you can file the writ yourself.

Possible issues to raise in a Rule 8.452 Writ Petition:

1. If 26 Hearing was set at a disposition hearing:
  - Jurisdictional issues (*Kimberly R. v. Superior Court* (2002) 26 Cal. App. 4<sup>th</sup> 1067).
  - Challenges to sufficiency of evidence (*In re Marquis D.* (1995) 38 Cal. App. 4<sup>th</sup> 1813).
  - Wrongful denial of services (*Renee J. v. Superior Court* (2002) 96 Cal. App. 4<sup>th</sup> 1450).
2. If 26 Hearing was set after reunification services were terminated:
  - Failure to provide reasonable services (*Robin V. v. Superior Court* (1995) 33 Cal. App. 4<sup>th</sup> 1158).
  - Failure to implement reunification plan (*Steve J. v. Superior Court* (1994) 35 Cal. App. 4<sup>th</sup> 798).
  - Erroneous termination of services (*Daria D. v. Superior Court* (1998) 61 Cal. App. 4<sup>th</sup> 606).
3. If 26 Hearing was set at a Section 388 Hearing, erroneous denial of 388 petition can be raised. (*In re Anthony B.* (1999) 72 Cal. App. 4<sup>th</sup> 1017.)

### **Procedure for filing a Rule 8.452 Writ Petition:**

1. File a Notice of Intent to File Writ and Request for Record in the Juvenile Court. See Notice of Intent to File Writ Petition (**Sample #18**, form JV-820). This will notify the court to send you the court record.

Signatures: The court can excuse the absence of your signature or your counsel's, upon a showing of good cause. (Rules of Ct., Rule 8.450(e).)

2. Review the record. When you receive the record make sure the record includes:
  - The petition.
  - Any notice of hearings.
  - All court minutes.
  - Any report or other document submitted to the court.
  - The jurisdictional and dispositional findings and orders.
  - The judgment or order appealed from.
  - Any application for rehearing.
  - The notice of appeal and any order pursuant to the notice.
  - Any transcript of a sound or sound-and-video recording offered to the court under rule 2.1040.
  - Any application for additional record and any order on the application.
  - Any opinion or disposition order of a reviewing court in the same case.Rules of Court 8.404(a).

If one of the above is missing, you can write to the juvenile dependency court appeals clerk and request that the missing items be included.

3. File the writ petition. See Petition for Extraordinary Writ (**Sample #19**, form JV-825). This petition must be **received** in the Court of Appeal within 10 days from the date of the filing of the record. (Rule 8.452 (c).)

### **Appeal Process:**

After the disposition hearing:

Your trial counsel has the duty 1) to tell you if there are arguably meritorious grounds that exist for reversal and 2) to file a timely notice of appeal from the court's dispositional order. The notice of appeal must be filed within 60 days of the final order to preserve the right to appeal. (*In re Meranda P.* (1998) 56 Cal. App. 4<sup>th</sup> 1143.) In order to file this notice, you do not have to wait for a formal written judgment: just a pronouncement of the order in open court and its recording in the minutes can constitute a final order. (Rules of Ct., Rule 8.400 (d).)

It is important to move quickly because the longer your child is in temporary or permanent placement, the more likely the court will find that returning the child to you would be harmful and can then render the appeal moot. To expedite the appeals process, you can file a motion for calendar preference under Rules of Court, Rule 8.240.

**Counsel:**

You have a constitutional right to counsel in the appeals process for dependency proceedings. (*In re J.W.* (2002) 29 Cal. 4<sup>th</sup> 200.) If you are indigent, the court must appoint you counsel. See the **California Appellate Projects Contact Information** on page 35 for a list of administrative offices that assign and supervise appointed counsel representing indigent parents in dependency proceedings.

**Possible grounds for appeal include:**

1. Final orders.
2. Jurisdictional findings or dispositional orders based on incorrect standard of proof. (*Cynthia D. v. Superior Court* (1993) 5 Cal. App. 4<sup>th</sup> 242.)
3. When there were no proper specific grounds for jurisdiction.
4. Detention (only under the continuing public importance exception) “because it is an issue capable of repetition yet evading review.” (*In re Raymond G.* (1991) 230 Cal. App. 3<sup>rd</sup> 964.)
5. Inadequate notice of any hearing (failure to notify, *In re B.G.* (1974) 11 Cal. 3d 679, 688, or to *timely* notify, *In re Brendan P.* (1974) 184 Cal. App. 3d 910.)
6. Improper denial of the parent’s request for a continuance. (Welfare & Institutions Code Sec. 352(a).)
7. Denial of due process rights to present evidence or cross-examine witnesses.
8. Court’s failure to give parent a hearing on a **Section 388 Petition** when parent sufficiently pleads changed circumstances.
9. Court’s denial of paternity test to an alleged father. (*In re Baby Boy V.* (2006) 140 Cal. App. 4<sup>th</sup> 1108.)

**Ineffective Assistance of Counsel:**

To establish an ineffective assistance of counsel claim, you have to show that your lawyer acted unreasonably in comparison to competent attorneys and that if s/he had acted differently, there is a reasonable probability that the outcome of the case would have been different. (*Strickland v. Washington* (1984) 466 U.S. 668.) For example, if there is no tactical reason why your counsel did not make proper objection in court AND this action negatively impacted you (for example, if you clearly would have prevailed in court otherwise), then you can base an appeal or a petition for writ of habeas corpus on ineffective assistance of counsel. Be sure to tell your appeals counsel the ways that you were dissatisfied with your lower court attorney’s performance.

## **Family Reunification: How do I get my child back after I am released?**

After you have been released from custody, the process that you follow to get your child back will depend on which court was involved in the placement of your child. However, in every case, you must prove to the court that you are a good parent. In the eyes of the court, this means that it would not be harmful to return the child to you. If you are in dependency court and you have been offered reunification, it is important to meet all the requirements of this plan.

## **JUVENILE DEPENDENCY COURT:**

### **Foster Care:**

You have the right to a free, court-appointed lawyer. To help your lawyer work for you, you should:

Before release:

- Write to your lawyer asking that s/he set up a review hearing to be scheduled after your release.
- Write your social worker and ask for visits with your child while you are incarcerated and a revised visitation schedule to take effect as soon as you are released (**Sample #20**).
- Arrange to have a safe place to stay and get a job, education, or training as soon as possible after you are released.
- Keep records of every contact with your child. See **Making a Record** on page 19

After release:

- Meet with your lawyer to let him/her know about your progress during incarceration. Give your lawyer copies of your records.

### **Legal Guardianship through CPS:**

If legal guardianship is done through CPS, you must get the court's permission to get your child back. You have the right to a free lawyer. To get permission to get your child back, you can ask the court to terminate or *rescind* the legal guardianship by filing a **Section 388 Petition**. If you take your child without the permission of the legal guardian or the court, you could be prosecuted for kidnapping and your probation or parole can be revoked.

### **Post-release review**

If your child is not returned to you at the first court date after your release, do not give up! This is an important time for you and your family.

- Continue to follow your case plan, even if Family Reunification has been terminated.
- Visit with your child as often as possible. If you must miss a visit, call the social worker and foster parent both, at least 24 hours before, or as soon as you know you can't make it.
- Go to whatever parenting, counseling or other classes the court orders. Do not miss these appointments.

Work towards gradually increasing your visits with your child and making him/her feel comfortable with you. Once the court sees that your *supervised visits* are going well, you may be able to take your child for an afternoon, then an entire day, then an overnight visit, and then a weekend visit.

### **PROBATE COURT GUARDIANSHIP:**

Try to obtain legal assistance once you are released from jail or prison. You can ask the probate court to appoint you an attorney or you can call the local Bar Association to find out what free legal representation services are available in your county. You can also call a Family Law Facilitator (See **list of Family Law Facilitators**) for assistance if you want do the process on your own, *pro per*.

File a Petition to Terminate Guardianship (**Sample #21**, form GC-255). The person asking to end the guardianship must be able to prove to the court that this is in the child's best interest. (Probate Code 1601.)

You can also try to get visitation rights by filing a Petition for Visitation (**Sample #22**, ATTACHMENT PB-4013). The court may require that you establish a bond with your child and otherwise prove that you can be a stable, responsible parent before changing custody from an otherwise acceptable guardian.

### **FAMILY COURT (OR NO PRIOR COURT INVOLVEMENT)**

Informally, try to get visitation and build a relationship with your child gradually. If this fails and there is already a family court case concerning your child (divorce, Petition to Establish Parental Rights or Petition for Custody and Support of Minor Children), then you can file an Order to Show Cause in that same case.

If you do not have a divorce case (if married) or you have not filed a Petition to Establish Parental Relationship or a Petition for Custody and Support of Minor Children (if married or DNA paternity has been established), then you can file one of the above to try and get custody and/or visitation rights.

## **Making a Record: What can I do while I'm in jail or prison?**

While you are incarcerated, there are things you can do to help your efforts to reunify with your child after you are released. Try to stay in contact with your child and participate in any rehabilitation programs available to you. Keep records of all of your efforts by writing down the time and date of everything you do for you and your child. This means keeping track of every phone call and visit with your child, your child's caregiver, the social worker, or your lawyer.

### **Steps to make a record:**

1. Get a notebook or special pad of paper and use it only for your child's case. Write down the *date and time of*:
  - Each call you make to or about your child;
  - Each visit you have with your child;
  - Each call you make to your child's caregiver, and what the call was about;
  - Each call you make to the social worker, and what the call was about;
  - Each meeting you have with the social worker, and what the meeting was about;
  - Each call you make to your lawyer; and
  - Each meeting you have with your lawyer.
2. Write letters to your child and save copies of those letters.

3. If your child is too young to understand letters, draw pictures to him/her, and save copies of the pictures, and write down the date sent.
4. Ask to see your child's report cards.
5. Go to any available classes, meetings or programs that your detention facility offers and write down the dates and time.
6. Keep copies of certificates, or other proof, showing that you attended classes, groups or meetings (whether the court ordered you to attend or not).
7. Ask the teachers and counselors of any programs you complete to write a letter about how you did.

After you are released, you will have to prove to the judge that you can safely parent. By keeping a record, you can prove that you care about what happens to your child. A judge is much more likely to believe that you called your child every Sunday if you show him/her your written record than if you simply tell the judge that you made the calls.

## **Paternity: How do I show that I am the dad?**

California distinguishes between *presumed*, *natural*, and *alleged* fathers. Presumed fatherhood status ranks the highest and is based on marriage, a written agreement (Voluntary Declaration of Paternity), or a fathering relationship with the child (see below for more information). A natural father is one who has established paternity through DNA testing. An alleged father has not established paternity through DNA testing, but is someone that either the mother of the child or he himself claims is the father. You should try and establish that you are the presumed father first, but if you cannot, try to establish that you are the natural father.

### **How do I establish that I am the presumed father?**

If you and the child's mother are, or were, legally married, then it is "presumed" that you are the father of the child as long as the child was born during the marriage or within 300 days after the marriage ended due to death, divorce, or a judgment of separation. (Family Code Sec. 7611.) A presumed father is entitled to reunification services and custody of his child.

If you are not married to the child's mother, you can achieve presumed father status if you and the child's mother sign a ***Declaration of Paternity***. A Voluntary Declaration of Paternity establishes paternity and has the same force and effect as a judgment of paternity issued by a court. It gives the father ***presumed father*** status for purposes of custody, visitation, and child support. (Family Code Sec. 7573.)

The declaration can be signed by both parents in the hospital after the baby is born or at anytime later. If later, both the mother and the father must sign at the same time in the presence of a Notary Public. After the form is signed and notarized, it is then sent to the Child Support Services. (Family Code Sec. 7571.) Since the Declaration of Paternity Form varies by county, contact the Family Law Facilitator in your area for the correct form. See **List of Family Law Facilitators**.



The third and final way to establish presumed father status is by proving to the court that you “receive the child into your home and openly hold out the child as your natural child.” (Family Code Sec. 7611(d).) This can be argued in probate and dependency proceedings or you can do this by filing a Petition to Establish Parental Relationship (see below).

NOTE: If you are requesting presumed father status after reunification has ended and your parental rights were terminated, file a **Section 388 Petition** to try and modify the order based on changed circumstances. In this petition, you must establish that it would be in the minor’s best interest for the court to grant your petition. (*In re Eric E.* (2006) 137 Cal. App. 4<sup>th</sup> 252.)

### **How do I file a Petition to Establish Parental Relationship?**

If you and the child’s mother were not married and you cannot agree or are unable to use the Declaration of Paternity, then you can file an action in family court to establish that you are the natural or presumed father. You may seek custody, visitation, and/or child support orders as part of this action. You will have to file the petition, a summons, and several other forms (it depends upon whether you are trying to get visitation or custody or just establish paternity), pay a filing fee (which can be waived), set a hearing date, have the child’s mother served with the documents, and then get to court. (**Samples #7-15.**) During this proceeding, if a biological relationship is not established, the court will look at whether you have received the child into your home and openly held out the child as your natural child. (Family Code Sec. 7611(d) and *In re Spencer W.* (1997) 48 Cal. App. 4<sup>th</sup> 1647.)

### **What are my rights in juvenile dependency court?**

A presumed father is entitled to notice, reunification services, and custody of his child. (*In re Cody B.* (2007) 153 Cal. App. 4<sup>th</sup> 1004.) An **alleged father** is only entitled to notice and an opportunity to appear and assert a position, though he can attempt to change his paternity status by completing the Statement Regarding Paternity (**Sample #23**, form JV-505). (*In re O.S.* (2002) 102 Cal. App. 4<sup>th</sup> 1402, 1408.) A **natural father** is not entitled to reunification services but is also not precluded from them. The juvenile dependency court *may* order reunification services for the natural father if it determines that the services will benefit the child. (Welfare & Institutions Sec. 361.5(a).)

### **Does the court require my consent in order for my child to be adopted?**

You are entitled to contest or consent to an adoption if you are the presumed father. If you are a natural father, but not the presumed father, you are entitled to notice of the proceedings, but not necessarily a right to contest or consent to them. If you receive notice or any information about the mother of your child relinquishing her parental rights, you have 30 days to bring an action to establish paternity. (Family Code Sec. 7631.)

If you are the natural father, but not the presumed father, and adoption proceedings take place, you may still have a right to consent or contest to an adoption and the termination of your parental rights if the court declares you are a “biological plus” father.

The “biological plus” relationship is explained here:

“[I]f an unwed father promptly comes forward and demonstrates a full commitment to his parental responsibilities-- emotional, financial, and otherwise--his federal constitutional right to due process prohibits the termination of his parental relationship absent a showing of his unfitness as a parent.” (*Adoption of Kelsey S.* (1992) Cal.4th 816, 849.)

The court can also find the natural father’s consent is required for the adoption if it finds that retaining parental rights is in the best interests of the child. In determining best interests, the court will look at:

- Efforts made by the father to obtain custody of the child.
  - The age and prior placement of the child.
  - The effects of a change of placement on the child.
  - All other relevant evidence.
- Family Code Sec. 7664(b).

Note: A court can dispense with notice is if “the natural father or possible natural father cannot be located or his whereabouts are unknown or cannot be ascertained.” (Family Code Sec. 7666(b).)

## **Child Support: How can I pay when I don’t have any money?**

### **What do I do if I am served child support papers while incarcerated?**

If you are served with a Summons and Complaint from the Department of Child Support Services (DCSS), you should file an “Answer” to the Complaint within 30 days from the date you were served with the complaint. If you are not the father of the child, this is your only chance to contest paternity. If you are the father, you will need to make the court aware that you are incarcerated and have no source of income. Your Answer should be sent directly to the court having jurisdiction in your case as well as to the DCSS.

The instructions and proper form for answering the complaint will be attached to the Summons and Complaint. It is very important that you do not ignore these papers, because if you fail to file the Answer (or make an appearance in court), the court can enter a **default judgment** against you. If you need assistance you should contact/write to the Family Law Facilitator in the county in which the complaint was filed. See **Family Law Facilitators in California, page 32**. You are only entitled to a court-appointed attorney in cases where there is an issue of paternity or where you are being charged with contempt of court.

### **What do I do if there is a default judgment against me?**

If you think the support order was entered against you inappropriately, you may be able to have the order “set aside” (reversed). There are four grounds (reasons) to set aside a support order, depending on the type of order and why you need it set aside.

1. **The order was due to fraud, perjury, or lack of notice.**

If you can show the order was based on fraud or perjury, you **must** bring an action to set aside within *six months* after you learned of the fraud or perjury. If you want to set aside based on lack of notice, the action must be brought within *six months* after you knew or should have known of the order. (Family Code Secs. 3690-91.)

2. **Default judgment was entered against you based on presumed income.**

If box number 3 on the Judgment Regarding Parental Obligations was checked, then the court did not have information about your actual income or income history and presumed you make enough money to meet your child(ren)'s minimum basic needs. There is an easy way to set aside a default judgment based on presumed income. File a Notice of Motion to Cancel Set-Aside Support Order Based on Presumed Income and Proposed Answer with the court within *90 days* after (1) child support is collected from you or (2) you are served with notice of collection, whichever happens first.

3. **Default judgment was based on mistaken identity.**

You must file a claim with the county DCSS along with supporting documents. *They must investigate and resolve your claim within 30 days.* If they think your claim has merit, they must immediately terminate enforcement proceedings and ask the court to set aside the support order. If DCSS rejects the claim or fails to follow the required steps to terminate the order, you may file an action in the Superior Court to establish your mistaken identity. (Family Code Secs. 17433, 17530, 17800.)

4. **The judgment was issued because of your mistake, inadvertence, surprise or excusable neglect.**

You may ask the court to set aside the default judgment for *up to six months* after it was entered if it was issued because of your mistake, inadvertence, surprise, or excusable neglect. (Code of Civil Procedure Sec. 473(2)(b).)

**What do I do if I know I have a current child support order?**

One of the basic rules in child support cases is that the court cannot make retroactive modifications (changes). This means that your child support obligation continues while you are incarcerated unless you request the court to change the order. While the court cannot legally eliminate your past due child support, it can and will reduce your current payment to zero while you are incarcerated. There are two modification procedures available to you: (1) have the county DCSS modify the order, or (2) do the ***motion for modification*** yourself. It would be helpful to do both. It may take more time for DCSS to modify the order than for you do it yourself. However, you might notify DCSS at this time in case the court process stalls so they can also be working on it.

1. **How do I have the county DCSS do the modification?**

If the county DCSS was involved in getting the original child support order, you can write their office directly. Tell them that you are in custody, how long you expect to be incarcerated, and that you need to have the order modified. The DCSS **must** get a modification for you within 6 months if your case meets certain requirements. The DCSS services are free to you.

2. **How do I file a request for modification on my own?**

To request a modification, you should contact the Family Law Facilitator in the county in which you owe the child support (see Resource list). Write to the facilitator and ask for the proper forms to fill out for a modification (see Note below). After you have the forms filled out, make three (3) copies of everything. Send the originals and two copies to the facilitator. Ask the facilitator to file the papers for you and send you a “stamped” copy (be sure to enclose a self-addressed stamped envelope so the facilitator can return the stamped copy to you). See **letter to Family Law Facilitator (seeking legal forms and assistance) (Sample #24)**.

When you receive the “stamped” copy from the facilitator, you must find someone over the age of 18 to serve the papers. You may not serve the papers yourself. The documents can be served in two ways: (1) by personal delivery, or (2) by first-class mail. The person who serves the documents must complete a Proof of Service and file it with the court clerk. The county DCSS office and the other parent must be served no later than 26 days before the hearing if service is by mail or no later than 21 days if service is by personal delivery.

NOTE: It is very important to take the above steps as soon as possible because the court will only reduce your payment to zero as of the date you file the request for modification. The forms you will need are:

- Notice of Motion (**Sample #25**, form FL-301)
- Application for Order and Supporting Declaration (**Sample #12**, form FL-310)
- Financial Statement (Simplified) (**Sample #26**, form FL-155)

If the child support order was obtained in family court with no DCSS involvement, you will also need the following forms to avoid having to pay a filing fee:

- Application for Waiver of Court Fees and Costs (**Sample #14**, form FW-001), and
- Order on Application for Waiver of Court Fees and Costs (**Sample #15**, form FW-003).

**What do I do if my current order is zero but I have an arrearage (owe a past due amount)?**

As stated above, the court cannot make retroactive modifications. There are two programs within the DCSS to help parents pay off arrearages (past due child support). One program is the

***Compromise of Arrearages-Family Reunification Program*** that is for parents who owe past due child support because aid was paid while the child was in foster care or living with a legal guardian or relative caregiver. You can apply for this program if your child is still a minor and now living with you and your net income is less than 250% of the federal poverty level.

The second program is called the ***Compromise of Arrears Program (COAP)*** and is available to parents who owe arrearages of \$5,000 or more. There are additional criteria to be eligible for COAP.

You should contact the county DCSS for more information on both of these programs.

## **Special Immigrant Juvenile Status: What is it? Who qualifies?**

### **What is Special Immigrant Juvenile Status?**

Special Immigrant Juvenile Status (SIJS) is a way for a dependent of juvenile dependency court to become a permanent resident of the United States (meaning, get a “green card”). If the juvenile applies for this status and is successful, s/he may remain in the U.S., work legally, qualify for in-state tuition at college, and in five years apply for U.S. citizenship. However, if the application is denied, the child might be deported.

### **Who qualifies for SIJS?**

In order to qualify for SIJS, the child *must* have been declared to be a dependent of a U.S. juvenile dependency court OR the child must have been legally committed to, or placed under the custody of, a state agency or department, or an individual or entity appointed by a state (such as a guardian), by a juvenile dependency court. The court must have found the child “eligible for long-term foster care” (which in this context means that parental reunification is not possible), and that it is not in the child’s best interest to be returned to the home country. The court must have made its findings based on the abuse, neglect, abandonment, or a similar basis found under state law.

### **Who can complete the application?**

The child, a caseworker, or an attorney can complete the application for SIJS, which will be submitted to the Citizen and Immigration Service (CIS) bureau of the Department of Homeland Security (DHS). The child must complete CIS forms, obtain a special medical exam, and provide fingerprints, a photograph, and proof of age. The application must include an order from a dependency court that the child is eligible for long-term foster care due to abuse, neglect or abandonment. There is a fee for the application process, but a fee waiver is available. The CIS will grant the applicant employment authorization as soon as the application is filed, and schedule a date for the SIJS interview. Generally, the CIS will decide the case at the time of the SIJS interview.

**NOTE: It is important to apply for SIJS as soon as possible while the child is a dependent in the juvenile dependency court because it may take from 6 to 18 months after submitting the application to get an SIJS interview.** If the child is emancipated before the interview takes

place, the current policy is to *deny* the application. For more information on this issue, consult an attorney who specializes in immigration law or the Immigrant Legal Resource Center at 663 Mission Street, San Francisco, CA 94103-2473, (415) 255-9499, <http://www.ilrc.org>.

## **Conclusion**

We hope that this manual will aid you in answering some of your questions about what happens to your children when you are incarcerated and what you can do to regain legal custody or reunify when you are released. In many cases prisoners are not given access to information regarding their legal rights as parents and struggle to do all that they can from inside. Our goals for this manual are to help you make a workable plan for your child while you are incarcerated, to keep you informed on current California family law, and to highlight your legal rights. The forms in the back of the manual should give you a good start in beginning to fight for your rights as a parent and we encourage you to get started as soon as possible.

We know that the process can be painful and discouraging at times, but always try to keep in mind the end result of your struggles—reunifying with your family!! This manual can do no more than answer your questions and guide you through the process, but you must have the strength to endure and persevere in your efforts. As advocates, we wish you the very best and support you in your fight.

## Definitions: What do these legal words mean?

**26 Hearing** - hearing held pursuant to Welfare and Institutions Code Section 366.26 to terminate parental rights or establish guardianship of children who have been made dependents of the juvenile court.

**Adoption** - permanent legal custody of another's child; adoption takes place after the parents' rights have been terminated by the court or given up voluntarily by the parents.

**Allegation** - a declaration or claim concerning the behavior or actions of an individual.

**Alleged father**- a man who may be the father of a child, but whose biological paternity has not been established.

**CalWORKS**- California Work Opportunity and Responsibility to Kids Act; a division of state government that provides for aid and medical assistance.

**Caregiver** - the person who takes care of a child when the parent is incarcerated or unavailable.

**Caregiver Authorization Affidavit** - an affidavit that has the primary purpose of declaring that an individual has assumed a certain amount of authority for a child.

**Case plan** - the court-approved plan written by the CPS social worker; it describes the parents' reunification requirements including: visitation, classes, counseling, or treatment that must be followed before the child is returned to the parent(s).

**Child Protective Services (CPS)** - county office responsible for the welfare of children who have allegedly experienced abuse and/or neglect from their primary caretakers. We use this term generally throughout the manual to mean Department of Social Services (DSS), Department of Health Services (DHS), and Department of Family and Children Services (DFCS).

**Clear and convincing evidence** - a standard of proof that requires that "evidence be so clear as to leave no substantial doubt; sufficiently strong to command the unhesitating assent of every reasonable mind." (*In re Angelique C.* (2003) 113 Cal. App. 4<sup>th</sup> 509, 519.)

**Compromise of Arrearages-Family Reunification Program** - a program through the Department of Child Support Services (DCSS) for parents who owe past due child support because aid was paid to a foster care family or a legal guardian or relative caregiver. If the child is still a minor and is now living with his/her parent and the parent's income is less than 250% of the federal poverty level, the parent can apply for relief under this program.

**Compromise of Arrears Program (COAP)** - a program through the Department of Child Support Services (DCSS) available to parents who owe \$5,000 or more in past due child support. There are additional criteria on who is eligible for this program.

**Court day** - days when the judge is in the courtroom. This is usually Monday through Friday, except holidays and weekends.

**Court order** - a direction from the judge on some matter.

**Custodian** - the caregiver who has daily responsibility for a child either temporarily or permanently (see legal custody and physical custody below).

**Declaration of Paternity** - a legal document that, when signed by both parents, says the man is the natural father of the child; signing the Declaration is voluntary.

**Default judgment** - a judgment entered against a defendant when the defendant fails to respond to a plaintiff's action or fails to appear in court.

**Dependency petition** - a petition filed by the Juvenile dependency court claiming that the child should be made a dependent of the court.

**Dependent of the court** – when a child is removed from the custody of a parent or guardian under Welfare & Institutions Code Sec. 300 and the court finds the allegations for detaining the child to be true in a detention hearing, the child is declared a dependent of the court.

**Detained** – the term for what happens to a child who has been temporarily removed from parent(s) through Child Protective Services.

**Detention** - removing a child temporarily from parent(s) by Child Protective Services (CPS) pursuant to Welfare & Institutions Code Sec. 300.

**Detention alternatives** - a child detained in custody can be placed in any of the following: emergency shelter, a suitable licensed home or facility, a place exempt from licensure designated by the juvenile dependency court, a certified family home, or in the assessed home of a relative or nonrelative extended family member. (Welfare & Institutions Code Sec. 319(f).)

**Disposition Hearing** - the hearing held after the court has sustained the dependency petition and made a child a dependent of the court. At this hearing, the court will order a plan for the child.

**Distant relative** - any relative who is not the child's parent, sibling (brother or sister), aunt, uncle, or grandparent.

**Emergency assessment** - an evaluation by a social worker of a child's relative. The social worker will determine whether the relative's home is a proper placement for the child. The assessment includes: an in-home visit to assess the safety of the home and the relative's ability to care for the child, a criminal records check, and an investigation of any allegations of prior child abuse or neglect by that relative or any adult living in the relative's home.



**Emergency response** - the actions taken by CPS immediately after it is told that a child is without his/her parent to make sure that someone is caring for the child.

**Emergency shelter** - the temporary housing where CPS places a child while it locate relatives or arranges for a more permanent place for the child (and his/her siblings) to live.

**Family Law Facilitator** - a neutral office in the family courts which assists people through the court process when they do not have lawyers.

**Family reunification services** - services provided by CPS to the child and his/her parent(s) when the child is not living with them. It is designed to address the problems that led to Juvenile Dependency Court involvement.

**Felony Indicating Parental Unfitness**- The 23 felonies listed in Penal Code Sec. 667.5.

**Foster parent** - a person given temporary placement of a child from CPS.

**Foster Care** - out-of-home care provided to children whose parents cannot care for them and who need temporary or long-term substitute parenting; both the foster parents and their homes are licensed by the state or county and are monitored by licensing workers and/or social workers.

**Immediate relative** - any relative who is one's parent, sibling, aunt, uncle, or grandparent.

**Indian Child Welfare Act** - federal law that regulates Indian child custody cases.

**Jurisdiction hearing** - a hearing to determine whether a child should be made a dependent of the court based on allegations in the *Dependency Petition*.

**Juvenile dependency court** - a branch of the Superior Court which deals with children under the age of 18. The dependency court deals with abuse and neglect cases, usually because of the parent's behavior. The delinquency court deals with acts by a youth that would be criminal if the youth was an adult.

**Kin-GAP** - Kinship Guardianship Assistance Payments; the aid provided on behalf of children in kinship care. "Kinship guardian" means a relative who has been appointed the legal guardian of a dependent child pursuant to Sec. 366.26 of the Welfare & Institutions Code.

**Legal custody** - the right to make decisions about a child's wellbeing including the child's health, education and welfare.

**Legal guardianship** - court-ordered custody that gives a caregiver legal custody of a child under the age of 18.

**Long-term foster care** - long-term custody arrangement where Child Protective Services supervises the child's care with the foster parents.

**Minor** - anyone under the age of 18.

**Motion for Modification** - (also known as a 388 Petition) is a paper that can be filed to ask the juvenile dependency court to change a court order based on changes in circumstances.

**Natural father** - a person who has a biological relationship with the child which was proven through paternity testing.

**Non-custodial parent** - the parent who does not have physical custody of his/her child.

**Notice** - legal information about a court hearing: when and where it will take place.

**Notarized** - swearing that statements are true under oath before an official "Notary Public."

**Parental rights** - the legal rights of a parent to raise a child as s/he sees fit.

**Permanent Plan Hearing** - hearing in juvenile dependency proceedings to decide the best permanent situation for a child when a parent cannot raise his/her child.

**Petition** - a written request for specific court action and a hearing on the request.

**Physical custody** - the person the child lives with is the one with physical custody.

**Power of Attorney** - a written agreement between the parent of the child and the caregiver, which gives the caregiver responsibility and authority over certain matters concerning the child (for example, medical needs, schooling, public assistance and Medi-Cal, legal matters, etc.).

**Preponderance of the evidence**- a legal standard of proof in which the existence of the contested fact is more probably true than not.

**Presumed father**- If a person who claims to be the father of a child and the child's mother are, or were, legally married, then it is "presumed" that he is the father of the child as long as the child was born during the marriage or within 300 days after the marriage ended due to death, divorce, or a judgment of separation. (Family Code Sec. 7611). Presumed father status can also be attained if both parties sign a Voluntary Declaration of Paternity.

**Pro per/pro se** - appearing on one's own behalf without an attorney.

**Qualified relative** - a family member who the court recognizes as able to take care of the child.

**Relative** – in general, an adult who is related to the child by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, all relatives whose status is preceded by the words "great," "great-great," or "grand," or the spouse of any of these persons, even if the marriage was terminated by death or dissolution. However, only the following relatives shall be given preferential consideration for placement of the child by the Juvenile

**Dependency Court:** an adult who is a grandparent, aunt, uncle, or sibling of the child. (Welfare & Institutions Code Sec. 319(f)(2).)

**Removed** - when the court takes the child from his/her parent's custody.

**Rescind/Rescission** - to revoke or annul an agreement, law, or judgment.

**Reunify/Reunification** - the goal in dependency to bring the child and his/her parent(s) together again.

**Review Hearing** - hearing held to review the previous decisions made by the court and to decide whether to keep or to change these decisions.

**Revoke** - to cancel or repeal.

**Rules of court** – a set of rules that set forth certain procedures for the judge and lawyers to follow in a court case.

**Section 388 Petition-** Refers to a Welfare & Institutions Code Sec. 388 petition to try and change, modify, or set aside the order of the court. See **Request to Change Court Order (Sample #17, form JV-180)**.

**Status review hearing** - a hearing held every six months by the **juvenile dependency court** in order to review a dependent child's case and to order a CPS plan for the child.

**Supervised Visits** - visits between a parent and child where a social worker or other responsible adult is present.

**Sustain** - when the court finds a petition to be true.

**Temporary Assistance for Needy Families (TANF)** – a division of the county/state/federal government that presides over the welfare subsidies allocated to dependent children. It succeeded "Aid to Families with Dependent Children."

**Terminate** - when the court cuts off or ends a course of action. Most often used with services, rights, or visits.

**Welfare & Institutions Code** - The group of California laws dealing with dependency, delinquency, and CPS.

## Family Law Facilitators in California Contact Information (by County) (current as of May 2010)

### **Alameda:**

**1)** 1225 Fallon Street, Room 109  
Oakland, CA 94612  
510-272-1393

**2)** 224 West Winton, Room 179  
Hayward, CA 94544

**3)** 5672 Stoneridge Dr. 1st floor  
Pleasanton, CA 94588

**4)** 39439 Paseo Padre Parkway  
Fremont, CA 94538

**Alpine:** 1354 Johnson Blvd.  
S. Lake Tahoe, CA 96150  
530-573-3066

**Amador:** 500 Argonaut Lane  
Jackson, CA 95642  
209-754-1443

**Butte:** 1675 Montgomery St.  
Oroville, CA 95965 (530) 532-7004

**Calaveras:** 593 W. St. Charles,  
San Andreas, CA 95249  
209-754-1443

**Colusa:** 547 Market Street  
Courthouse Annex  
Colusa, CA 95932  
530-458-0601

### **Contra Costa:**

**1)** 751 Pine Street, Martinez, CA 94553

**2)** 100 37th Street, Room #201  
Richmond, CA 94805  
925-957-7887

**Del Norte:** 625 F St., Suite B  
Crescent City, CA 95531  
707-465-3894

### **El Dorado locations:**

**1)** 495 Main St., Placerville, CA 95667  
530-621-6433

**2)** 1354 Johnson Blvd., Suite 2  
S. Lake Tahoe, CA 96150  
530-573-3066

### **Fresno:**

1100 Van Ness Ave, Rm. 401  
Fresno, CA 93724 (559) 457-2100

**Glenn:** 119 North Butte St  
Willows, CA 95988  
530-934-7304

**Humboldt:** 825 Fifth Street  
Eureka, CA 95501  
707-445-7256 ex. 1321

**Imperial:** 939 Main St.,  
El Centro, CA 92243  
760-482-4739

**Inyo:** 314 W. Line Street, Suite D  
Bishop, CA 93514  
760-872-4444

**Kern:** 1215 Truxtun Avenue  
Bakersfield, CA 93301  
661-868-4815

### **Kings locations:**

**1)** 1426 South Drive  
Hanford, CA 93230  
559-582-1010 ext. 3093

**2)** 1000 Chittenden Ave  
Corcoran, CA 93212  
559-992-5193

**3)** 501 E. Kings St.  
Avenal, CA 93204  
559-386-5225

**4)** 449 C St.  
Lemoore, CA 93245  
559-924-7757

**Lake:** 380-J N. Main Street  
Lakeport, CA 95453  
707-263-9024

**Lassen:** 145 South Lassen St.  
Susanville, CA 96130  
530-251-8353

### **Los Angeles locations:**

**1)** 111 N. Hill St., Room 426  
LA, CA 90012 (213) 974-5004

**2)** 600 S. Commonwealth Ave, #1617  
LA, CA 90005 (213) 351-8113

**3)** 12720 Norwalk Blvd., Rm. 104E  
Norwalk, CA 90650  
562-807-7300

**4)** 300 E. Olive Street, Room 113  
Burbank, CA 91502  
818-557-3583

**5)** 200 W. Compton Blvd.  
200F Compton, CA 90220  
310-603-3218

**6)** 42011 Fourth St. West, #3575A  
Lancaster, CA 93534  
661-974-7348

**7)** 415 W. Ocean Blvd., Rm. 40B  
Long Beach, CA 90802  
562-491-6432

**8)** 300 E. Walnut St, Rm. 300  
Pasadena, CA 91101  
626-356-5030

**9)** 400 Civic Center Plaza, #114  
Pomona, CA 91766  
909-620-3150

**10)** 900 Third Ave, #1026  
San Fernando, CA 91340  
818-898-2606

**11)** 825 Maple Ave., outside Dept. J  
Torrance, CA 90503  
310-222-1714

**12)** 6230 Sylmar Ave, Room 212A  
Van Nuys, CA 91401  
818-374-7108

**Madera:** 117 South Lake Street  
Madera, CA 93638  
559 674-5600

**Marin:** 3501 Civic Center Dr., Rm. 244  
San Rafael, CA 94903  
415-492-1111

**Mariposa:** 5092 Jones St. (PO Box 1262)  
Mariposa, CA 95338  
209-742-5322

**Mendocino:** 100 N. State St, #212  
Ukiah, CA 95482  
707-463-5666

**Merced:** 2260 N Street  
Merced, CA 95340 (209) 725-4165

**Modoc:** 201 S. Court Street  
Alturas, CA 96101  
530-233-2008

**Mono:** 1914 Meridian Blvd.  
Mammoth Lakes, CA 93546  
760-258-7372

**Monterey:** 1200 Aguajito Road  
Monterey, CA 93940  
831-647-5800

**Napa:** 825 Brown Street  
Napa, CA 94559  
707-299-1137

**Orange:** 341 The City Drive  
Orange, CA 92868  
657-622-5500

**Placer:** 10820 Justice Center Dr.  
Roseville, CA 95678  
916-408-6446

**Plumas:** 89 Court Street  
Quincy, CA 95971  
530-283-4792

### **Riverside locations:**

**1)** 880 North State Street  
Hemet, CA 95243  
909-600-6443

**2)** 4175 Main Street  
Riverside, CA 92501  
909-955-1583

Family Law Facilitators in California Contact Information (by County) (current as of May 2010)

**3)** 46-200 Oasis Street  
Indio, CA 92201  
760-863-7880

**Sacramento:** 3341 Power Inn Rd, #113  
Sacramento, CA 95826  
916-875-3400

**San Benito:** 440 Fifth Street  
Hollister, CA 95023  
831-636-4079

**San Bernardino:**

**1)** 655 W. 2nd Street

San Bernardino, CA 92415

**2)** 351 N. Arrowhead Avenue

San Bernardino, CA 92415

**3)** 14455 Civic Drive

Victorville, CA 92392

**4)** 8303 N. Haven Ave.

Rancho Cucamonga, CA 91730

**5)** 6527 White Feather Road

Joshua Tree, CA 92252

**San Diego:**

**1)** 220 W. Broadway, Room 4001

San Diego, CA 92101

619-450-5200

**2)** 1555 - 6th Avenue

San Diego, CA 92101

619-450-5200

**3)** 250 E. Main Street

El Cajon, CA 92020

619-450-5200

**4)** 325 S. Melrose Drive

Vista, CA 92083

760-201-8200

**5)** 500 Third Ave, Rm. 390

Chula Vista, CA 91910

619-450-5200

**6)** 1409 Fourth Ave, 4th Floor

San Diego, CA 92101, 619-450-5200

**San Francisco:** 400 McAllister St. 9

San Francisco, CA 94102

415-551-3991

**San Joaquin:** 540 E. Main St.,

Stockton, CA 95202

209-468-8280

**San Luis Obispo:**

**1)** 1120 Mill Street, Suite A

San Luis Obispo, CA 93408

**2)** 901 Park St., Room 111

Paso Robles, CA 93446

805-788-3418

**San Mateo:**

**1)** 400 County Center, Floor 2

Redwood City, CA 94063

650-363-4590

**2)** 1050 Old Mission Road

South San Francisco, CA 94080

**San Barbara:**

**1)** 1100 Anacapa St, 1st Floor

Santa Barbara, CA 93101

805-882-4660

**2)** 201 S. Miller Street, Suite 208

Santa Maria, CA 93454, (805) 614-6442

**Santa Clara:**

**1)** 99 Notre Dame Avenue

San Jose, CA 95113

408-882-2900

**2)** 605 W. El Camino Real

Sunnyvale, CA 94087

408-481-3500

**3)** 170 Park Avenue

San Jose, CA 95113

**Santa Cruz:** 1 Second St.

Watsonville, CA 95076

831-786-7200, press number 4

**Shasta:** 1500 Court St, Room 115

Redding, CA 96001

530-245-6900

**Sierra:**

**1)** 201 Church Street, Suite 10

Nevada City, CA 95959

530-470-2567

**2)** 100 Courthouse Square

Downieville, CA 95936

**3)** 604B Main Street

Loyalton, CA 96118

**Siskiyou:** (530) 842-0157

**1)** 311 Fourth St, Yreka, CA 96097

**2)** 550 Main St, Weed, CA 96094

**Solano:** 600 Union Avenue

Fairfield, CA 94533

707-207-7348 (closed Wed)

**Sonoma:** 600 Administration Dr.

Room 223-J

Santa Rosa, CA 95403

707-521-6545

**Stanislaus:** 800-11th St., Rm. 220

Modesto, CA 95354

209-530-3299

**Sutter:** 430 Center Street

Yuba City, CA 95991

530-822-3305

**Tehama:** 345 Pine Street

Red Bluff, CA 96080

530-527-8649

**Trinity:** 11 Court Street

Weaverville, CA 96093

530-623-5641

**Tulare:** 3400 W. Mineral King, Ste. C

Visalia, CA 93291

559-737-5500

**Tuolumne:** 41 West Yaney

Sonora, CA 95370

209-533-6565

**Ventura:**

**1)** 800 S. Victoria Ave, Rm. 30

Ventura, CA 93009

805-662-6661

**2)** 3855-F Alamo St., 2nd floor

Simi Valley, CA 93065

**3)** 4353 E. Vineyard Ave., #206

Oxnard, CA 93036

805-981-5974

**Yolo:**

1100 Main St., Ste. 300

Woodland, CA 95695

(530) 406-6794

**Yuba:** 120 Fifth Street

Marysville, CA 95901

530-749-7685

## Friends Outside Contact Information

Friends Outside administers a network of prison visitor hospitality centers at all California State prisons. The centers offer respite from travel, transportation from the nearest public transit to the prison, crisis intervention, information and referral, emergency clothing, and snacks. Main Office: PO Box 4085, Stockton, CA 95204. | Phone: 209/955-0701 | Fax: 209/955-0735 | Email: [info@friendsoutside.org](mailto:info@friendsoutside.org)

Friends Outside Visitor Centers			
as of June 22, 2010			
<b>Northern Region</b>			
Inst	Phone/FAX	Admin Day/Hours	Visiting Days
California Correctional Center	530-257-2211	None at this time	Sat & Sun: 0730 - 1530
CSP Solano/California Medical Facility	707-469-9345	Tuesday 0800 - 1200	Sat & Sun: 0630 - 1630
CSP Sac/Folsom	F: 916-985-0544	Thursday 0800 - 1200	Sat & Sun: 0730 - 1530
Duel Vocational Institute	209-835-4141 ext. 5645 F: 209-830-3810	Wednesday 0900 - 1300	Sat & Sun: 0800 - 1600
High Desert State Prison	530-257-5581	Thursday 1130 - 1530	Sat & Sun: 0730 - 1530
Mule Creek State Prison	209-274-4749	Thursday 0900 - 1300	Sat: 1130 -1630 Sun: 0800 - 1600
Pelican Bay State Prison	707-465-6269	Thursday 0800 - 1200	Sat & Sun: 0800 - 1600
Sierra Conservation Center	209-984-5523	Tuesday 0900 - 1300	Sat & Sun: 0800 - 1600
San Quentin (north)	415-482-8509	Wednesday 0800 - 1600	Sat & Sun: 0730 - 1530
<b>Central Region</b>			
Avenal State Prison	559-386-4370	Thursday 0830 - 1230	Sat & Sun: 0800 - 1600
Central California Women's Facility	559-665-4617	Thursday 0900 - 1300	Sat & Sun: 0800 - 1600
California Substance Abuse Treatment Facility and State Prison	559-992-9756	None at this time	Sat & Sun: 0730 - 1530
Corcoran State Prison	559-992-4499	Thursday 0800 - 1200	Sat & Sun: 0730 - 1530
Correctional Training Facility/Salinas Valley State Prison	831-678-1236	Thursday 0900 - 1300	Sat & Sun: 0800 - 1600
Kern Valley State Prison	661-725-3912	Thursday 0700 - 1100	Sat & Sun: 0800 - 1600
North Kern State Prison	661-725-3833	Thursday 1300 - 1700	Sat & Sun: 0800 - 1600
Pleasant Valley State Prison	559-935-0660	Wednesday 0900 - 1300	Sat & Sun: 0800 - 1600
Valley State Prison for Women	559-665-1913	Thursday 6:00-10:00	Sat & Sun: 0800 - 1600
Wasco State Prison	661-758-8332	Friday 1100 - 1500	Sat & Sun: 0730 - 1530
<b>Southern Region</b>			
Calipatria State Prison	760-348-2232	Tuesday 0900 - 1300	Sat & Sun: 0730 - 1530
California Correctional Institute	661-822-3407	None	Sat & Sun: 0715 - 1515
Centinela State Prison	760-352-2466	Tuesday 0900 - 1300	Sat & Sun: 0730 - 1530
California Institute for Men (south)	909-597-5428	Tuesday 1000 - 1400	Sat & Sun: 0800 - 1530
California Institute for Women	909-597-0234	Tuesday 0900 - 1300	Sat & Sun: 0730 - 1530
California Men's Colony	805-543-3888	Thursday 0900 - 1300	Sat & Sun: 08:30 - 1630
California Rehab Center	951-737-7010	Tuesday 0900 - 1300	Sat & Sun: 0645 - 1445
California State Prison - Los Angeles County (LAC)	661-728-0844	Monday 1000 - 1400	Sat & Sun: 0800 - 1600
Chuckawalla Valley State Prison	760-921-8294	Wednesday 0800 - 1200	Sat & Sun: 0730 - 1530
Ironwood State Prison	760-921-1964	Tuesday 0900 - 1300	Sat & Sun: 0730 - 1530
Richard J Donovan Correctional Facility	619-710-1645	Wednesday 0800-1200	Sat & Sun: 0730 - 1530

## California Appellate Projects

<b>District</b>	<b>Counties</b>	<b>Contact Information</b>
First	Alameda Contra Costa Del Norte Humboldt Lake Marin	Mendocino Napa San Francisco San Mateo Solano Sonoma
Second	Los Angeles San Luis Obispo Santa Barbara Ventura	California Appellate Project - Los Angeles 520 S. Grand Avenue, 4th Floor Los Angeles, CA 90071 213-243-0300 213-243-0303 (fax) www.lacap.org
Third	Alpine Amador Butte Calaveras Colusa El Dorado Glenn Lassen Modoc Mono Nevada Placer	Plumas Sacramento San Joaquin Shasta Sierra Siskiyou Sutter Tehama Trinity Yolo Yuba
Fourth	Imperial Inyo Orange Riverside San Bernardino San Diego	Appellate Defenders, Inc. 555 West Beach Street, Suite 300 San Diego, CA 92101 619-696-0282 619-696-7789 (fax)
Fifth	Fresno Kern Kings Madera Mariposa	Merced Stanislaus Tulare Tuolumne
Sixth	Monterrey San Benito Santa Clara Santa Cruz	Sixth District Appellate Project 100 N. Winchester Blvd, Suite 310 Santa Clara, CA 95050 408-241-6171 408-241-2877 (fax) www.sdap.org

## **Samples: Forms and letters to use**

1. Letter to attorney (seeking to attend juvenile dependency court)
2. Letter to the judge (seeking transportation to court, an attorney, and reunification services)
3. Caregiver's Authorization Affidavit
4. Power of Attorney (giving caregiver custody of child)
5. De Facto Parent Application (JV-295)
6. Petition for Custody and Support of Minor Children (FL-260)
7. Summons (FL-210)
8. Petition to Establish Parental Relationship (FL-200)
9. Proof of Service of Summons (FL-115)
10. Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act (FL-105)
11. Order to Show Cause (FL-300)
12. Application for Order and Supporting Declaration (FL-310)
13. Child Custody and Visitation Application Attachment (FL-311)
14. Request to Waive Court Fees (FW-001)
15. Order on Court Fee Waiver (FW-003)
16. Letter to court clerk (with forms to be filed)
17. Request to Change Court Order (JV-180)
18. Notice of Intent to File Writ Petition (JV-820)
19. Petition for Extraordinary Writ (JV-825)
20. Letter to social worker (seeking reunification and court attendance)
21. Petition to Terminate Guardianship (GC-255)
22. Petition for Visitation (ATTACHMENT PB-4013)
23. Statement Regarding Paternity (JV-505)
24. Letter to Family Law Facilitator (seeking legal forms and assistance)
25. Notice of Motion (FL-301)
26. Financial Statement (FL-155)



## SAMPLE LETTER TO YOUR ATTORNEY

(Your name)  
(Your address)  
(City, CA zip code)

(Date)

Ms./Mr. (Lawyer's name)  
(Address of the attorney)

Dear Ms./Mr. (Lawyer's name):

I am writing to introduce myself and to let you know that I would like to attend the court proceedings regarding the custody of my child. The hearing is scheduled for **(date of hearing)**.

I understand that you have been appointed to represent me and help me retain custody of my child, **(name of your child)**. **(His/her)** date of birth is **(date of birth)** and the case number is **(#)**. I intend to be reunited with **(him/her)** upon my release from **(name of institution)**. If I am not granted physical and/or legal custody of **(child=s name)**, I would like **(name of relative)** who is my **(relationship)** to be given custody.

I understand that I have a right to attend any hearings held under Welfare & Institutions Code section 300 where my child may be made a dependent of the court or under section 366.26 where my parental rights may be terminated. I am requesting that you file a motion with the court to have me transported from **(name of facility)** to the hearing.

I look forward to speaking with you about my case so that I will know how I can work to reunite with my child(ren) and to prevent the court from terminating my parental rights.

Thank you for your attention to this matter.

Sincerely,

(Your signature)  
(Print your name)

**SAMPLE LETTER TO THE JUDGE**

**(Remember to send a copy of this to the other parent and/or any other persons who are parties to this action. If you fail to send copies to the other parties or their attorneys, the court will consider this an *ex parte* communication and may not consider the information).**

**(Your name)  
(Your address)  
(City, CA zip code)**

**(Date)**

Honorable **(name of judge)**  
Superior Court of California  
County of (\_\_\_\_\_)  
**(Address)**  
(City, CA Zip code)

Dear Judge **(Name)**:

I am writing this letter to introduce myself and to request that the court issue an order allowing me to attend court hearings concerning my child pursuant to Penal Code Section 2625. The next hearing is scheduled for **(date of hearing)**.

I would also like to request that the court appoint an attorney to represent me at these hearings because I am an indigent and cannot afford an attorney.

My child=s name is **(name of child)**, **(his/her)** date of birth is **(child=s date of birth)** and the case number is **(#)**. I am very concerned about the welfare of my child, and I believe that it is in my child=s best interest to return to my custody. **(Add your reasons here)**.

My release date is **(date)**, and I want very much to be reunited with **(name of child)** upon my release from **(name of institution)**.

Please send a copy of the Order for Transport to the director at **(name of institution)** or the sheriff for **(county where the prison/jail is located)** county and to the sheriff for **(county where juvenile court is located)** county.

Thank you for your attention to this matter.

Sincerely,

**(Your signature)  
(Your printed name)**

**Caregiver's Authorization Affidavit**

*Use of this affidavit is authorized by Part 1.5 (commencing with Section 6550) of Division 11 or the California Family Code.*

Instructions: Completion of items 1-4 and the signing of the affidavit is sufficient to authorize enrollment of a minor in school and authorize school-related medical care. Completion of items 5-8 is additionally required to authorize any other medical care. Print clearly.

The minor named below lives in my home and I am 18 years of age or older.

- 1. Name of minor: \_\_\_\_\_
- 2. Minor's birth date: \_\_\_\_\_
- 3. My name (adult giving authorization): \_\_\_\_\_
- 4. My home address: \_\_\_\_\_

5.  I am a grandparent, aunt, uncle, or other qualified relative of the minor (see back of this form for a definition of "qualified relative").

6. Check one or both of the following boxes (for example, if one parent was advised and the other cannot be located, you check both boxes).

I have advised the parent(s) or other person(s) having legal custody of the minor of my intent to authorize medical care, and have received no objection.

I am unable to contact the parent(s) or other person(s) having legal custody of the minor at this time, to notify them of my intended authorization.

- 7. My date of birth: \_\_\_\_\_
- 8. My California driver's license or identification number: \_\_\_\_\_

**Warning: Do not sign this form if any of the statements are incorrect, or you will be committing a crime punishable by a fine, imprisonment, or both.**

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: \_\_\_\_\_

Signed: \_\_\_\_\_

## **Notices**

1. This declaration does not affect the rights of the minor's parents or legal guardian regarding the care, custody, and control of the minor, and does not mean that the caregiver has legal custody of the minor.
2. A person who relies on this affidavit has no obligation to make any further inquiry or investigation.

## **Additional Information TO CAREGIVERS**

1. "Qualified relative," for purposes of item 5, means a spouse, parent, stepparent, brother, sister, stepbrother, stepsister, half-brother, half-sister, uncle, aunt, niece, nephew, first cousin, or any person denoted by the prefix "grand" or "great," or the spouse of any of the persons specified in this definition, even after the marriage has been terminated by death or dissolution.
2. The law may require you, if you are not a relative or a currently licensed foster parent, to obtain a foster home license in order to care for a minor. If you have any questions, please contact your local department of social services.
3. If the minor stops living with you, you are required to notify any school, health care provider, or health care service plan to which you have given this affidavit. The affidavit is invalid after the school, health care provider, or health care service plan receives notice that the minor no longer lives with you.
4. If you do not have the information requested in item 8 (California driver's license or I. D.), provide another form of identification such as your social security number or Medi-Cal number.

## **TO SCHOOL OFFICIALS**

1. Section 48204 of the Education Code provides that this affidavit constitutes a sufficient basis for a determination of residency of the minor, without the requirement of a guardianship or other custody order, unless the school district determines from actual facts that the minor is not living with the caregiver.
2. The school district may require additional reasonable evidence that the caregiver lives at the address provided in item 4.

## **TO HEALTH CARE PROVIDERS AND HEALTH CARE SERVICE PLANS**

1. A person who acts in good faith reliance upon a caregiver's authorization affidavit to provide medical or dental care, without actual knowledge of facts contrary to those stated on the affidavit, is not subject to criminal liability or to civil liability to any person, and is subject to professional disciplinary action, for that reliance if the applicable portions of the form are completed.
2. This affidavit does not confer dependency for health care coverage purposes.

**POWER OF ATTORNEY TO PROVIDE CARE FOR CHILD**

I, \_\_\_\_\_, being of sound mind and body, declare the following:

1. That I am the natural mother/father of \_\_\_\_\_ who was born on \_\_\_\_\_, \_\_\_\_\_.

2. That I am presently incarcerated at \_\_\_\_\_ located in \_\_\_\_\_.

3. That, during this time, my child, \_\_\_\_\_, is being cared for by \_\_\_\_\_.

4. That I wish to give full Power of Attorney to \_\_\_\_\_ with respect to the care and custody of my child \_\_\_\_\_.

5. That, specifically, I give \_\_\_\_\_ full Power of Attorney with respect to the care and custody of \_\_\_\_\_ in matters affecting his/her medical needs, schooling, public assistance, Medi-Cal, CalWORKS, legal matters, and all other matters pertaining to the well-being of my child.

6. I understand that this Power of Attorney is not a legal custody order and that I am not giving up my parental rights by signing this agreement.

7. This agreement will remain in effect until \_\_\_\_\_ or until revoked in writing.

State of California

County of \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_ before me,

\_\_\_\_\_ [name and title of officer], personally appeared

\_\_\_\_\_ [name of signer], who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to be the within instrument and acknowledged to me that s/he executed the same in his/her authorized capacity, and that by his/her signature on the instrument, the person, or the entity upon behalf which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

**WITNESS** my hand and official seal

\_\_\_\_\_ [Notary Public Signature]



The address of any licensed foster family home must remain confidential unless the judge or the foster parent authorizes release of the address. Court clerks should not send this page to the parties without a court order or authorization of the foster parent. (Welf. & Inst. Code, § 308(a).)

Court name and street address:

**Superior Court of California, County of****Case Number:**

① My/Our name(s): \_\_\_\_\_

\_\_\_\_\_

My/Our address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

My/Our phone #: (\_\_\_\_) \_\_\_\_\_

② I am/We are asking that I/we be appointed de facto parent(s) of  
(Child's name): \_\_\_\_\_

Date: \_\_\_\_\_  
*Type or print your name*

▶ \_\_\_\_\_  
*Signature of person requesting de facto parent status*

Date: \_\_\_\_\_  
*Type or print your name*

▶ \_\_\_\_\_  
*Signature of person requesting de facto parent status*

Date: \_\_\_\_\_  
*Type or print attorney's name*

▶ \_\_\_\_\_  
*Signature of attorney (if applicable)*

Attorney's address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Attorney's phone #: (\_\_\_\_) \_\_\_\_\_





ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):  <hr/> TELEPHONE NO. (Optional): _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER:  RESPONDENT:	
<b>PETITION FOR CUSTODY AND SUPPORT OF MINOR CHILDREN</b>	CASE NUMBER: _____
<b>NOTICE: This action will not terminate a marriage or establish a parental relationship.</b>	

**1. Jurisdiction for bringing action**

- a. Petitioner is the  mother  father of the minor children.
- b. Respondent is the  mother  father of the minor children.
- 2. a.  Petitioner is married to the respondent, and no action is pending in any court for dissolution, legal separation, or nullity.
- b.  Petitioner and respondent have signed a *Voluntary Declaration of Paternity* regarding the minor children, and no action regarding the children has been filed in any other court. *(Attach a copy of declaration)*
- c.  Petitioner and respondent are not married and have legally adopted a child together.
- d.  Petitioner and respondent have been determined to be the parents in juvenile or governmental child support case number \_\_\_\_\_  
 County \_\_\_\_\_ State \_\_\_\_\_ Country (if not the United States) \_\_\_\_\_

**3. The following minor children are the subject of this action:**

<u>Child's name</u>	<u>Date of birth</u>	<u>Age</u>	<u>Sex</u>
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Continued on Attachment 3.

4. A completed *Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA)* (form FL-105) is attached.

**5. Child custody and visitation.** I request the following orders:

- |                                    | Petitioner               | Respondent               | Joint                    | Other                    |
|------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| a. Legal custody of children to    | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| b. Physical custody of children to | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| c. Visitation of children with:    | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

(1) The proposed schedule for visitation is as follows:

- See the attached form FL-311, *Child Custody and Visitation Attachment*.

PETITIONER/PLAINTIFF:	CASE NUMBER:
RESPONDENT/DEFENDANT:	

5. d.  I request that visitation be supervised for the following persons, with the following restrictions:

Continued on Attachment 5d.

- e.  I request that the child abduction prevention orders requested on form FL-312 be approved.
- f.  I request that the proposed holiday schedule set out in  form FL-341(C)  other be approved.
- g.  I request that additional orders regarding child custody set out in  form FL-341(D)  other be approved.
- h.  I request that joint legal custody orders set out in  form FL-341(E)  other be approved.

6. **Fees and cost of litigation**

- a. Attorney fees will be paid by  petitioner  respondent.
- b.  Each party will pay own fees.

7. **Child support.** The court may make orders for support of the children and issue an earnings assignment without further notice to either party. *A completed Income and Expense Declaration (form FL-150) or Financial Statement (Simplified) (form FL-155) is attached.*

8. Other (specify):

9. **I have read the restraining order on the back of the *Summons (Uniform Parentage—Petition for Custody and Support)* (form FL-210) that is being filed with this petition, and I understand that it applies to me when this petition is filed.**

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

\_\_\_\_\_  \_\_\_\_\_  
 (TYPE OR PRINT NAME) (SIGNATURE OF PETITIONER)

A blank *Response to Petition for Custody and Support of Minor Children* (form FL-270) must be served on the respondent with this *Petition*.

**NOTICE: If you have a child from this relationship, the court is required to order child support based on the incomes of both parents. You should supply the court with information about your income. Otherwise, the child support order will be based on information supplied by the other parent. Any party required to pay child support must pay interest on overdue amounts at the "legal rate," which is currently 10 percent.**

**SUMMONS—UNIFORM PARENTAGE—PETITION FOR CUSTODY AND SUPPORT**

**CITACION JUDICIAL—DERECHO DE FAMILIA**

**NOTICE TO RESPONDENT (Name):**  
**AVISO AL DEMANDADO (Nombre):**

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

You are being sued. *A usted le estan demandando.*

**PETITIONER'S NAME IS:**  
**EL NOMBRE DEL DEMANDANTE ES:**

CASE NUMBER: (Número del Caso)

You have **30 CALENDAR DAYS** after this Summons and Petition are served on you to file a *Response to Petition to Establish Parental Relationship* (form FL-220) or *Response to Petition for Custody and Support of Minor Children* (form FL-270) at the court and serve a copy on the petitioner. A letter or phone call will not protect you.

*Usted tiene 30 DIAS CALENDARIOS después de recibir oficialmente esta citación judicial y petición, para completar y presentar su formulario de Respuesta (Response form FL -220) ante la corte. Una carta o una llamada telefónica no le ofrecerá protección.*

If you do not file your Response on time, the court may make orders affecting custody of your children. You may be ordered to pay support and attorney fees and costs. If you cannot pay the filing fee, ask the clerk for a fee waiver form. If you want legal advice, contact a lawyer immediately.

*Si usted no presenta su Respuesta a tiempo, la corte puede expedir órdenes que afecten la custodia de sus hijos ordenen que usted pague mantención, honorarios de abogado y las costas. Si no puede pagar las costas por la presentación de la demanda, pida al actuario de la corte que le dé un formulario de exoneración de las mismas (Waiver of Court Fees and Costs).*

*Si desea obtener consejo legal, comuníquese de inmediato con un abogado.*

**NOTICE** *The restraining order on the back is effective against both mother and father until the petition is dismissed, a judgment is entered, or the court makes further orders. This order is enforceable anywhere in California by any law enforcement officer who has received or seen a copy of it.*

**AVISO** *Las prohibiciones judiciales que aparecen al reverso de esta citación son efectivas para ambos cónyuges, madre el esposo como la esposa, hasta que la petición sea rechazada, se dicte una decisión final o la corte expida instrucciones adicionales. Dichas prohibiciones pueden hacerse cumpliren cualquier parte de California por cualquier agente del Orden público que las haya recibido o que haya visto una copia de ellas.*

1. The name and address of the court is: *(El nombre y dirección de la corte es)*

2. The name, address, and telephone number of petitioner's attorney, or petitioner without an attorney, is:  
*(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es)*

[SEAL]

Date (Fecha): \_\_\_\_\_ Clerk (Actuario), by \_\_\_\_\_, Deputy

**NOTICE TO THE PERSON SERVED:** You are served

- a.  as an individual.
- b.  on behalf of respondent
  - under:  Code Civ. Proc., § 416.60 (minor)  Code Civ. Proc., § 416.90 (individual)
  - Code Civ. Proc., § 416.70 (ward or conservatee)  other:

c.  by personal delivery on (date): \_\_\_\_\_  
(Read the reverse for important information)  
*(Lea el reverso para obtener información de importancia)*

**STANDARD RESTRAINING ORDER—SUMMONS**  
**Uniform Parentage Act, Petition for Custody**  
***PROHIBICION JUDICIAL ESTANDARE—Ley Uniforme de Paternidad***

**STANDARD RESTRAINING ORDER**

**You and the other party are restrained from removing from the state the minor child or children for whom this action seeks to establish a parent-child relationship without the prior written consent of the other party or an order of the court.**

This restraining order is effective against petitioner upon filing a petition and against respondent on personal service of the summons and petition or on waiver and acceptance of service by respondent.

This restraining order is effective until the judgment is entered, the petition is dismissed, or the court makes a further order.

This order is enforceable anywhere in California by any law enforcement officer who has received or seen a copy of it.

***PROHIBICIONES JUDICIALES ESTANDARES***

***A partir de este momento, a usted y a la otra parte se les prohíbe que saquen del estado al hijo o hijos menores de las partes, para quienes esta acción judicial procura establecer una relación entre hijo y padres, sin el consentimiento previo por escrito de la otra parte o sin una orden de la corte.***

Esta prohibición judicial entrará en vigencia para el demandante una vez presentada la petición, y para el demandado una vez que éste reciba la notificación personal de la citación judicial y petición, o una vez que renuncie su derecho a recibir dicha notificación y se dé por notificado.

Esta prohibición judicial continuará en vigencia hasta que se dicte la decisión final, la petición sea rechazada o la corte expida instrucciones adicionales.

Podrán hacerse cumplir en cualquier parte de California por cualquier agente del orden público que las haya recibido o que haya visto una copia de ellas.

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, state bar number, and address):</i>  TELEPHONE NO. <i>(Optional):</i> _____ FAX NO. <i>(Optional):</i> _____ E-MAIL ADDRESS <i>(Optional):</i> _____ ATTORNEY FOR <i>(Name):</i> _____	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER:  RESPONDENT:	
<p style="text-align: center;"><b>PETITION TO ESTABLISH PARENTAL RELATIONSHIP</b></p> <input type="checkbox"/> <b>Child Support</b> <input type="checkbox"/> <b>Child Custody</b> <input type="checkbox"/> <b>Visitation</b> <input type="checkbox"/> <b>Other <i>(specify):</i></b>	CASE NUMBER:

1. Petitioner is
  - a.  the mother.
  - b.  the father.
  - c.  the child or the child's personal representative *(specify court and date of appointment):*
  - d.  other *(specify):*
  
2. The children are
 

a. <u>Child's name</u>	<u>Date of birth</u>	<u>Age</u>	<u>Sex</u>
------------------------	----------------------	------------	------------

  - b.  a child who is not yet born.
  
3. The court has jurisdiction over the respondent because the respondent
  - a.  resides in this state.
  - b.  had sexual intercourse in this state, which resulted in conception of the children listed in item 2.
  - c.  other *(specify):*
  
4. The action is brought in this county because *(you must check one or more to file in this county):*
  - a.  the child resides or is found in the county.
  - b.  a parent is deceased and proceedings for administration of the estate have been or could be started in this county.
  
5. Petitioner claims *(check all that apply):*
  - a.  respondent is the child's mother.
  - b.  respondent is the child's father.
  - c.  parentage has been established by Voluntary Declaration of Paternity *(attach copy)*.
  - d.  respondent who is child's parent has failed to support the child.
  - e.  *(name):* \_\_\_\_\_ has furnished or is furnishing the following reasonable expenses of pregnancy and birth for which the respondent as parent of the child is obligated:  

<u>Amount</u>	<u>Payable to</u>	<u>For (specify):</u>
---------------	-------------------	-----------------------
  - f.  public assistance is being provided to the child.
  - g.  other *(specify):*
  
6. A completed *Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA)* (form FL-105) is attached.

PETITIONER:  RESPONDENT:	CASE NUMBER:
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Petitioner requests the court to make the determinations indicated below.

**7. PARENT-CHILD RELATIONSHIP**

- a.  Respondent    b.  Petitioner  
 c.  Other (*specify*):

is the parent of the children listed in item 2.

**8. CHILD CUSTODY AND VISITATION**

	Petitioner	Respondent	Joint	Other
a. Legal custody of children to	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Physical custody of children to	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

c. Visitation of children:

- (1)  None  
 (2)  Reasonable visitation.  
 (3)  Petitioner     Respondent    should have the right to visit the children as follows:

(4)  Visitation with the following restrictions (*specify*):

d. Facts in support of the requested custody and visitation orders are (*specify*):

- Contained in the attached declaration.  
 e.  I request mediation to work out a parenting plan.

**9. REASONABLE EXPENSES OF PREGNANCY AND BIRTH:**

Reasonable expenses of pregnancy and birth be paid by as follows:	Petitioner <input type="checkbox"/>	Respondent <input type="checkbox"/>	Joint <input type="checkbox"/>
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**10. FEES AND COSTS OF LITIGATION**

	Petitioner	Respondent	Joint
a. Attorney fees to be paid by	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Expert fees, guardian ad litem fees, and other costs of the action or pretrial proceedings to be paid by	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**11. NAME CHANGE**

Children's names be changed, according to Family Code section 7638, as follows (*specify*):

**12. CHILD SUPPORT**

The court may make orders for support of the children and issue an earnings assignment without further notice to either party.

13. I have read the restraining order on the back of the *Summons* (FL-210) and I understand it applies to me when this Petition is filed.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

_____ (TYPE OR PRINT NAME)	_____ (SIGNATURE OF PETITIONER)
-------------------------------	------------------------------------

A blank *Response to Petition to Establish Parental Relationship* (form FL-220) must be served on the Respondent with this Petition.

**NOTICE: If you have a child from this relationship, the court is required to order child support based upon the income of both parents. Support normally continues until the child is 18. You should supply the court with information about your finances. Otherwise, the child support order will be based upon information supplied by the other parent. Any party required to pay child support must pay interest on overdue amounts at the "legal" rate, which is currently 10 percent.**

ATTORNEY OR PARTY WITHOUT ATTORNEY ( <i>Name, State Bar number, and address</i> ):  _____  TELEPHONE NO.: _____ FAX NO. ( <i>Optional</i> ): _____ E-MAIL ADDRESS ( <i>Optional</i> ): _____ ATTORNEY FOR ( <i>Name</i> ): _____	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER:  RESPONDENT:	
<b>PROOF OF SERVICE OF SUMMONS</b>	CASE NUMBER:

1. At the time of service I was at least 18 years of age and not a party to this action. **I served the respondent with copies of:**
- a.  Family Law: *Petition* (form FL-100), *Summons* (form FL-110), and blank *Response* (form FL-120)
  - or-
  - b.  Family Law—Domestic Partnership: *Petition—Domestic Partnership* (form FL-103), *Summons* (form FL-110), and blank *Response—Domestic Partnership* (form FL-123)
  - or-
  - c.  Uniform Parentage: *Petition to Establish Parental Relationship* (form FL-200), *Summons* (form FL-210), and blank *Response to Petition to Establish Parental Relationship* (form FL-220)
  - or-
  - d.  Custody and Support: *Petition for Custody and Support of Minor Children* (form FL-260), *Summons* (form FL-210), and blank *Response to Petition for Custody and Support of Minor Children* (form FL-270)
- and**
- e.  (1)  Completed and blank *Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act* (form FL-105)
  - (5)  Completed and blank *Financial Statement (Simplified)* (form FL-155)
  - (2)  Completed and blank *Declaration of Disclosure* (form FL-140)
  - (6)  Completed and blank *Property Declaration* (form FL-160)
  - (3)  Completed and blank *Schedule of Assets and Debts* (form FL-142)
  - (7)  *Order to Show Cause* (form FL-300), *Application for Order and Supporting Declaration* (form FL-310), and blank *Responsive Declaration to Order to Show Cause or Notice of Motion* (form FL-320)
  - (4)  Completed and blank *Income and Expense Declaration* (form FL-150)
  - (8)  Other (*specify*):
2. Address where respondent was served:
3. I served the respondent by the following means (*check proper box*):
- a.  **Personal service.** I personally delivered the copies to the respondent (Code Civ. Proc., § 415.10) on (*date*): \_\_\_\_\_ at (*time*): \_\_\_\_\_
  - b.  **Substituted service.** I left the copies with or in the presence of (*name*): \_\_\_\_\_ who is (*specify title or relationship to respondent*):
    - (1)  **(Business)** a person at least 18 years of age who was apparently in charge at the office or usual place of business of the respondent. I informed him or her of the general nature of the papers
    - (2)  **(Home)** a competent member of the household (at least 18 years of age) at the home of the respondent. I informed him or her of the general nature of the papers

PETITIONER:	CASE NUMBER:
RESPONDENT:	

3. b. (cont.) on (date): \_\_\_\_\_ at (time): \_\_\_\_\_
- I thereafter mailed additional copies (by first class, postage prepaid) to the respondent at the place where the copies were left (Code Civ. Proc., § 415.20b) on (date): \_\_\_\_\_
- A **declaration of diligence** is attached, stating the actions taken to first attempt personal service.
- c.  **Mail and acknowledgment service.** I mailed the copies to the respondent, addressed as shown in item 2, by first-class mail, postage prepaid, on (date): \_\_\_\_\_ from (city): \_\_\_\_\_
- (1)  with two copies of the *Notice and Acknowledgment of Receipt (Family Law)* (form FL-117) and a postage-paid return envelope addressed to me. **(Attach completed Notice and Acknowledgment of Receipt (Family Law) (form FL-117).)** (Code Civ. Proc., § 415.30.)
- (2)  to an address outside California (by registered or certified mail with return receipt requested). **(Attach signed return receipt or other evidence of actual delivery to the respondent.)** (Code Civ. Proc., § 415.40.)
- d.  **Other (specify code section):**  
 Continued on Attachment 3d.

4. The "NOTICE TO THE PERSON SERVED" on the *Summons* was completed as follows (Code Civ. Proc., §§ 412.30, 415.10, 474):
- a.  As an individual **or**
- b.  On behalf of respondent who is a
- (1)  minor. (Code Civ. Proc., § 416.60.)
- (2)  ward or conservatee. (Code Civ. Proc., § 416.70.)
- (3)  other (specify): \_\_\_\_\_

5. **Person who served papers**

Name:

Address:

Telephone number:

This person is

- a.  exempt from registration under Business and Professions Code section 22350(b).
- b.  not a registered California process server.
- c.  a registered California process server:  an employee or  an independent contractor
- (1) Registration no.: \_\_\_\_\_
- (2) County: \_\_\_\_\_
- d. **The fee** for service was (specify): \$ \_\_\_\_\_

6.  **I declare** under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

—or—

7.  **I am a California sheriff, marshal, or constable**, and I certify that the foregoing is true and correct.

Date:

\_\_\_\_\_  
 (NAME OF PERSON WHO SERVED PAPERS)

▶ \_\_\_\_\_  
 (SIGNATURE OF PERSON WHO SERVED PAPERS)



ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, State Bar number, and address):</i>  <hr/> TELEPHONE NO.: _____ FAX NO. <i>(Optional)</i> : _____ E-MAIL ADDRESS <i>(Optional)</i> : _____ ATTORNEY FOR <i>(Name)</i> : _____	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b>  STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER: _____ <i>(This section applies only to family law cases.)</i> RESPONDENT: _____ OTHER PARTY: _____	
GUARDIANSHIP OF <i>(Name):</i> _____ <i>(This section applies only to guardianship cases.)</i>	CASE NUMBER: _____
<b>DECLARATION UNDER UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT (UCCJEA)</b>	

1. I am a party to this proceeding to determine custody of a child.
2.  My present address and the present address of each child residing with me is confidential under Family Code section 3429 as I have indicated in item 3.
3. There are *(specify number)*: \_\_\_\_\_ minor children who are subject to this proceeding, as follows:  
***(Insert the information requested below. The residence information must be given for the last FIVE years.)***

a. Child's name		Place of birth	Date of birth	Sex
Period of residence to present	Address <input type="checkbox"/> Confidential	Person child lived with <i>(name and complete current address)</i> <input type="checkbox"/> Confidential		Relationship
to	Child's residence <i>(City, State)</i>	Person child lived with <i>(name and complete current address)</i>		
to	Child's residence <i>(City, State)</i>	Person child lived with <i>(name and complete current address)</i>		
to	Child's residence <i>(City, State)</i>	Person child lived with <i>(name and complete current address)</i>		
b. Child's name		Place of birth	Date of birth	Sex
<input type="checkbox"/> Residence information is the same as given above for child a. <i>(If NOT the same, provide the information below.)</i>				
Period of residence to present	Address <input type="checkbox"/> Confidential	Person child lived with <i>(name and complete current address)</i> <input type="checkbox"/> Confidential		Relationship
to	Child's residence <i>(City, State)</i>	Person child lived with <i>(name and complete current address)</i>		
to	Child's residence <i>(City, State)</i>	Person child lived with <i>(name and complete current address)</i>		
to	Child's residence <i>(City, State)</i>	Person child lived with <i>(name and complete current address)</i>		

- c.  Additional residence information for a child listed in item a or b is continued on attachment 3c.
- d.  Additional children are listed on form FL-105(A)/GC-120(A). *(Provide all requested information for additional children.)*

SHORT TITLE: _____	CASE NUMBER: _____
-----------------------	-----------------------

4. Do you have information about, or have you participated as a party or as a witness or in some other capacity in, another court case or custody or visitation proceeding, in California or elsewhere, concerning a child subject to this proceeding?  
 Yes  No (If yes, attach a copy of the orders (if you have one) and provide the following information):

Proceeding	Case number	Court (name, state, location)	Court order or judgment (date)	Name of each child	Your connection to the case	Case status
a. <input type="checkbox"/> Family						
b. <input type="checkbox"/> Guardianship						
c. <input type="checkbox"/> Other						

Proceeding	Case Number	Court (name, state, location)
d. <input type="checkbox"/> Juvenile Delinquency/ Juvenile Dependency		
e. <input type="checkbox"/> Adoption		

5.  One or more domestic violence restraining/protective orders are now in effect. (Attach a copy of the orders if you have one and provide the following information):

Court	County	State	Case number (if known)	Orders expire (date)
a. <input type="checkbox"/> Criminal				
b. <input type="checkbox"/> Family				
c. <input type="checkbox"/> Juvenile Delinquency/ Juvenile Dependency				
d. <input type="checkbox"/> Other				

6. Do you know of any person who is not a party to this proceeding who has physical custody or claims to have custody of or visitation rights with any child in this case?  Yes  No (If yes, provide the following information):

a. Name and address of person  <input type="checkbox"/> Has physical custody <input type="checkbox"/> Claims custody rights <input type="checkbox"/> Claims visitation rights  Name of each child	b. Name and address of person  <input type="checkbox"/> Has physical custody <input type="checkbox"/> Claims custody rights <input type="checkbox"/> Claims visitation rights  Name of each child	c. Name and address of person  <input type="checkbox"/> Has physical custody <input type="checkbox"/> Claims custody rights <input type="checkbox"/> Claims visitation rights  Name of each child
---	---	---

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: \_\_\_\_\_ \_\_\_\_\_  
 (TYPE OR PRINT NAME) (SIGNATURE OF DECLARANT)

7.  Number of pages attached: \_\_\_\_\_

**NOTICE TO DECLARANT: You have a continuing duty to inform this court if you obtain any information about a custody proceeding in a California court or any other court concerning a child subject to this proceeding.**

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):    TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	<b>FOR COURT USE ONLY</b>												
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b>  STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:													
PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT:													
<table style="width:100%; border: none;"> <tr> <td style="width:33%;"><b>ORDER TO SHOW CAUSE</b></td> <td style="width:33%;"><input type="checkbox"/> <b>MODIFICATION</b></td> <td style="width:33%;"><input type="checkbox"/> <b>Injunctive Order</b></td> </tr> <tr> <td><input type="checkbox"/> <b>Child Custody</b></td> <td><input type="checkbox"/> <b>Visitation</b></td> <td><input type="checkbox"/> <b>Other (specify):</b></td> </tr> <tr> <td><input type="checkbox"/> <b>Child Support</b></td> <td><input type="checkbox"/> <b>Spousal Support</b></td> <td></td> </tr> <tr> <td><input type="checkbox"/> <b>Attorney Fees and Costs</b></td> <td></td> <td></td> </tr> </table>	<b>ORDER TO SHOW CAUSE</b>	<input type="checkbox"/> <b>MODIFICATION</b>	<input type="checkbox"/> <b>Injunctive Order</b>	<input type="checkbox"/> <b>Child Custody</b>	<input type="checkbox"/> <b>Visitation</b>	<input type="checkbox"/> <b>Other (specify):</b>	<input type="checkbox"/> <b>Child Support</b>	<input type="checkbox"/> <b>Spousal Support</b>		<input type="checkbox"/> <b>Attorney Fees and Costs</b>			CASE NUMBER:
<b>ORDER TO SHOW CAUSE</b>	<input type="checkbox"/> <b>MODIFICATION</b>	<input type="checkbox"/> <b>Injunctive Order</b>											
<input type="checkbox"/> <b>Child Custody</b>	<input type="checkbox"/> <b>Visitation</b>	<input type="checkbox"/> <b>Other (specify):</b>											
<input type="checkbox"/> <b>Child Support</b>	<input type="checkbox"/> <b>Spousal Support</b>												
<input type="checkbox"/> <b>Attorney Fees and Costs</b>													

1. TO (name):
2. YOU ARE ORDERED TO APPEAR IN THIS COURT AS FOLLOWS TO GIVE ANY LEGAL REASON WHY THE RELIEF SOUGHT IN THE ATTACHED APPLICATION SHOULD NOT BE GRANTED. **If child custody or visitation is an issue in this proceeding, Family Code section 3170 requires mediation before or concurrently with the hearing listed below.**

a. Date:	Time:	<input type="checkbox"/> Dept.:	<input type="checkbox"/> Room:
----------	-------	---------------------------------	--------------------------------

b. The address of the court is  same as noted above  other (specify):

c.  The parties are ordered to attend custody mediation services as follows:

3. THE COURT FURTHER ORDERS that a completed *Application for Order and Supporting Declaration* (form FL-310), a **blank Responsive Declaration** (form FL-320), and the following documents be served with this order:

- a. (1)  Completed *Income and Expense Declaration* (form FL-150) and a **blank Income and Expense Declaration**
- (2)  Completed *Financial Statement (Simplified)* (form FL-155) and a **blank Financial Statement (Simplified)**
- (3)  Completed *Property Declaration* (form FL-160) and a **blank Property Declaration**
- (4)  Points and authorities
- (5)  Other (specify):

b.  Time for  service  hearing is shortened. Service must be on or before (date):

Any responsive declaration must be served on or before (date):

c.  You are ordered to comply with the temporary orders attached.

d.  Other (specify):

Date:

\_\_\_\_\_  
JUDICIAL OFFICER

**NOTICE: If you have children from this relationship, the court is required to order payment of child support based on the incomes of both parents. The amount of child support can be large. It normally continues until the child is 18. You should supply the court with information about your finances. Otherwise, the child support order will be based on the information supplied by the other parent.**

**You do not have to pay any fee to file declarations in response to this order to show cause (including a completed Income and Expense Declaration (form FL-150) or Financial Statement (Simplified) (form FL-155) that will show your finances). In the absence of an order shortening time, the original of the responsive declaration must be filed with the court and a copy served on the other party at least nine court days before the hearing date. Add five calendar days if you serve by mail within California. (See Code of Civil Procedure 1005 for other situations.) To determine court and calendar days, go to [www.courtinfo.ca.gov/selfhelp/courtcalendars/](http://www.courtinfo.ca.gov/selfhelp/courtcalendars/).**



**Requests for Accommodations**

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the proceeding. Contact the clerk's office or go to [www.courtinfo.ca.gov/forms](http://www.courtinfo.ca.gov/forms) for Request for Accommodations by Persons With Disabilities and Response (Form MC-410). (Civil Code, § 54.8.)



PETITIONER:  RESPONDENT:	CASE NUMBER:
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**APPLICATION FOR ORDER AND SUPPORTING DECLARATION**  
**—THIS IS NOT AN ORDER—**

**Petitioner**    **Respondent**    **Claimant**   requests the following orders:

1.  **CHILD CUSTODY**                       **To be ordered pending the hearing**
- |                                      |   |   |
|--------------------------------------|---|---|
| a. <u>Child</u> ( <i>name, age</i> ) | b. <u>Legal custody to</u><br>(person who makes decisions<br>about health, education, etc.) ( <i>name</i> ) | c. <u>Physical custody to</u><br>(person with whom child lives.)<br>( <i>name</i> ) |
|--------------------------------------|---|---|

Modify existing order  
 (1) filed on (*date*):  
 (2) ordering (*specify*):

As requested in form    FL-311    FL-312    FL-341(C)    FL-341(D)    FL-341(E)

2.  **CHILD VISITATION**                       **To be ordered pending the hearing**

a. As requested in:   (1)  Attachment 2a   (2)  Form FL-311   (3)  Other (*specify*):

b.  Modify existing order  
 (1) filed on (*date*):  
 (2) ordering (*specify*):

c.  One or more domestic violence restraining/protective orders are now in effect. (*Attach a copy of the orders if you have one.*) The orders are from the following court or courts (*specify county and state*):

- |   |   |
|---|---|
| (1) <input type="checkbox"/> Criminal: County/state: _____<br>Case No. ( <i>if known</i> ): _____ | (3) <input type="checkbox"/> Juvenile: County/state: _____<br>Case No. ( <i>if known</i> ): _____ |
| (2) <input type="checkbox"/> Family: County/state: _____<br>Case No. ( <i>if known</i> ): _____   | (4) <input type="checkbox"/> Other: County/state: _____<br>Case No. ( <i>if known</i> ): _____    |

3.  **CHILD SUPPORT** (*An earnings assignment order may be issued.*)

a. Child (*name, age*)                                      b. Monthly amount (if not by guideline)  
 \$

c.  Modify existing order  
 (1) filed on (*date*):  
 (2) ordering (*specify*):

4.  **SPOUSAL OR PARTNER SUPPORT** (*An earnings assignment order may be issued.*)

- |  |  |
|--|--|
| a. <input type="checkbox"/> Amount requested ( <i>monthly</i> ): \$<br>b. <input type="checkbox"/> Terminate existing order<br>(1) filed on ( <i>date</i> ):<br>(2) ordering ( <i>specify</i> ): | c. <input type="checkbox"/> Modify existing order<br>(1) filed on ( <i>date</i> ):<br>(2) ordering ( <i>specify</i> ): |
|--|--|

5.  **ATTORNEY FEES AND COSTS**    a.  Fees: \$                                      b.  Costs: \$

**NOTE: To obtain domestic violence restraining orders, you must use the forms *Request for Order (Domestic Violence Prevention)* (form DV-100) and *Temporary Restraining Order and Notice of Hearing (Domestic Violence Prevention)* (form DV-110).**

PETITIONER:  RESPONDENT:	CASE NUMBER:
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6.  PROPERTY RESTRAINT       **To be ordered pending the hearing**
- a. The  petitioner  respondent  claimant is restrained from transferring, encumbering, hypothecating, concealing, or in any way disposing of any property, real or personal, whether community, quasi-community, or separate, except in the usual course of business or for the necessities of life.
- The applicant will be notified at least five business days before any proposed extraordinary expenditures, and an accounting of such will be made to the court.
- b.  Both parties are restrained and enjoined from cashing, borrowing against, canceling, transferring, disposing of, or changing the beneficiaries of any insurance or other coverage, including life, health, automobile, and disability, held for the benefit of the parties or their minor children.
- c.  Neither party may incur any debts or liabilities for which the other may be held responsible, other than in the ordinary course of business or for the necessities of life.
7.  PROPERTY CONTROL       **To be ordered pending the hearing**
- a.  The petitioner  respondent is given the exclusive temporary use, possession, and control of the following property that we own or are buying (*specify*):
- The petitioner  respondent is ordered to make the following payments on liens and encumbrances coming due while the order is in effect:
- | <u>Debt</u> | <u>Amount of payment</u> | <u>Pay to</u> |
|-------------|--------------------------|---------------|
|             |                          |               |
8.  **I request** that time for service of the *Order to Show Cause* and accompanying papers be shortened so that these documents may be served no less than (*specify number*): \_\_\_\_\_ days before the time set for the hearing. I need to have the order shortening time because of the facts specified in the attached declaration.
9.  OTHER RELIEF (*specify*):
10.  FACTS IN SUPPORT of relief requested and change of circumstances for any modification are (*specify*):  
 contained in the attached declaration.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

_____ (TYPE OR PRINT NAME)		_____ (SIGNATURE OF APPLICANT)
-------------------------------	--	-----------------------------------

PETITIONER/PLAINTIFF:  RESPONDENT/DEFENDANT:	CASE NUMBER:
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**CHILD CUSTODY AND VISITATION APPLICATION ATTACHMENT**

TO  **Petition, Response, Application for Order or Responsive Declaration**  **Other (specify):**  
 **To be ordered now and effective until the hearing**

1.  **Custody.** Custody of the minor children of the parties is requested as follows:

Child's Name	Date of Birth	Legal Custody to <i>(person who makes decisions about health, education, etc.)</i>	Physical Custody to <i>(person with whom the child lives)</i>
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2.  **Visitation.**

a.  Reasonable right of visitation to the party without physical custody (**not appropriate in cases involving domestic violence**)

b.  See the attached \_\_\_\_\_-page document dated *(specify date)*:

c.  The parties will go to mediation at *(specify location)*:

d.  No visitation

e.  Visitation for the  petitioner  respondent will be as follows:

(1)  **Weekends starting (date):**

*(The first weekend of the month is the first weekend with a Saturday.)*

1st  2nd  3rd  4th  5th weekend of the month

from \_\_\_\_\_ at \_\_\_\_\_  a.m.  p.m.  
*(day of week) (time)*

to \_\_\_\_\_ at \_\_\_\_\_  a.m.  p.m.  
*(day of week) (time)*

(a)  The parents will alternate the fifth weekends, with the  petitioner  respondent having the initial fifth weekend, which starts *(date)*:

(b)  The petitioner will have fifth weekends in  odd  even months.

(2)  **Alternate weekends starting (date):**

The  petitioner  respondent will have the children with him or her during the period

from \_\_\_\_\_ at \_\_\_\_\_  a.m.  p.m.  
*(day of week) (time)*

to \_\_\_\_\_ at \_\_\_\_\_  a.m.  p.m.  
*(day of week) (time)*

(3)  **Weekdays starting (date):**

The  petitioner  respondent will have the children with him or her during the period

from \_\_\_\_\_ at \_\_\_\_\_  a.m.  p.m.  
*(day of week) (time)*

to \_\_\_\_\_ at \_\_\_\_\_  a.m.  p.m.  
*(day of week) (time)*

(4)  **Other (specify days and times as well as any additional restrictions):**

See Attachment 2e(4).

PETITIONER:  RESPONDENT:	CASE NUMBER:
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3.  **Supervised visitation.**  
 I request that (name): \_\_\_\_\_ have supervised visitation with the minor children according to the schedule set out on page 1 and that the visits be supervised by (name): \_\_\_\_\_ who is a  professional  nonprofessional supervisor. The supervisor's phone number is (specify): \_\_\_\_\_

I request that the costs of supervision be paid as follows: petitioner: \_\_\_\_\_ percent; respondent: \_\_\_\_\_ percent.

**If item 3 is checked, you must attach a declaration that shows why unsupervised visitation would be bad for your children. The judge is required to consider supervised visitation if one parent is alleging domestic violence and is protected by a restraining order.**

4.  **Transportation for visitation and place of exchange.**

- a.  Transportation **to** the visits will be provided by (name): \_\_\_\_\_
- b.  Transportation **from** the visits will be provided by (name): \_\_\_\_\_
- c.  Drop-off of the children will be at (address): \_\_\_\_\_
- d.  Pick-up of the children will be at (address): \_\_\_\_\_
- e.  The children will be driven only by a licensed and insured driver. The car or truck must have legal child restraint devices.
- f.  During the exchanges, the parent driving the children will wait in the car and the other parent will wait in his or her home while the children go between the car and the home.
- g.  Other (specify): \_\_\_\_\_

5.  **Travel with children.** The  petitioner  respondent  other (name): \_\_\_\_\_ **must** have written permission from the other parent or a court order to take the children out of

- a.  the state of California.
- b.  the following counties (specify): \_\_\_\_\_
- c.  other places (specify): \_\_\_\_\_

6.  **Child abduction prevention.** There is a risk that one of the parents will take the children out of California without the other parent's permission. I request the orders set out on attached form FL-312.

7.  **Children's holiday schedule.** I request the holiday and visitation schedule set out on the attached  form FL-341(C)  other (specify): \_\_\_\_\_

8.  **Additional custody provisions.** I request the additional orders regarding custody set out on the attached  form FL-341(D)  other (specify): \_\_\_\_\_

9.  **Joint legal custody provisions.** I request joint legal custody and want the additional orders set out on the attached  form FL-341(E)  other (specify): \_\_\_\_\_

10.  **Other.** I request the following additional orders (specify): \_\_\_\_\_



*Clerk stamps date here when form is filed.*

If you are getting public benefits, are a low-income person, or do not have enough income to pay for household's basic needs and your court fees, you may use this form to ask the court to waive all or part of your court fees. The court may order you to answer questions about your finances. If the court waives the fees, you may still have to pay later if:

- You cannot give the court proof of your eligibility,
- Your financial situation improves during this case, or
- You settle your civil case for **\$10,000** or more. The trial court that waives your fees will have a lien on any such settlement in the amount of the waived fees and costs. The court may also charge you any collection costs.

*Fill in court name and street address:*

*Fill in case number and name:*

**Case Number:**

**Case Name:**

**1 Your Information** *(person asking the court to waive the fees):*

Name: \_\_\_\_\_

Street or mailing address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone number: \_\_\_\_\_

**2 Your Job**, if you have one *(job title):* \_\_\_\_\_

Name of employer: \_\_\_\_\_

Employer's address: \_\_\_\_\_

**3 Your lawyer**, if you have one *(name, firm or affiliation, address, phone number, and State Bar number):*

a. The lawyer has agreed to advance all or a portion of your fees or costs *(check one)*: Yes  No

b. *(If yes, your lawyer must sign here)* Lawyer's signature: \_\_\_\_\_

*If your lawyer is not providing legal-aid type services based on your low income, you may have to go to a hearing to explain why you are asking the court to waive the fees.*

**4 What court's fees or costs are you asking to be waived?**

- Superior Court *(See Information Sheet on Waiver of Superior Court Fees and Costs (form FW-001-INFO).)*
- Supreme Court, Court of Appeal, or Appellate Division of Superior Court *(See Information Sheet on Waiver of Appellate Court Fees and Costs (form APP-015/FW-015-INFO).)*

**5 Why are you asking the court to waive your court fees?**

a.  I receive *(check all that apply)*:  Medi-Cal  Food Stamps  SSI  SSP  County Relief/General Assistance  IHSS (In-Home Supportive Services)  CalWORKS or Tribal TANF (Tribal Temporary Assistance for Needy Families)  CAPI (Cash Assistance Program for Aged, Blind and Disabled)

b.  My gross monthly household income (before deductions for taxes) is less than the amount listed below. *(If you check 5b you must fill out 7, 8 and 9 on page 2 of this form.)*

Family Size	Family Income	Family Size	Family Income	Family Size	Family Income	<i>If more than 6 people at home, add \$389.59 for each extra person.</i>
1	\$1,128.13	3	\$1,907.30	5	\$2,686.46	
2	\$1,517.71	4	\$2,296.88	6	\$3,076.05	

c.  I do not have enough income to pay for my household's basic needs *and* the court fees. I ask the court to *(check one)*:  waive all court fees  waive some of the court fees  let me make payments over time *(Explain):* \_\_\_\_\_ *(If you check 5c, you must fill out page 2.)*

**6**  Check here if you asked the court to waive your court fees for this case in the last six months.

*(If your previous request is reasonably available, please attach it to this form and check here:  )*

**I declare under penalty of perjury under the laws of the State of California that the information I have provided on this form and all attachments is true and correct.**

Date: \_\_\_\_\_

*Print your name here*

*Sign here*

Case Number: \_\_\_\_\_

Your name: \_\_\_\_\_

If you checked 5a on page 1, do not fill out below. If you checked 5b, fill out questions 7, 8, and 9 only. If you checked 5c, you **must** fill out this entire page. If you need more space, attach form MC-025 or attach a sheet of paper and write Financial Information and your name and case number at the top.

7  Check here if your income changes a lot from month to month. Fill out below based on your average income for the past 12 months.

8 Your Monthly Income

- a. Gross monthly income (before deductions): \$ \_\_\_\_\_
List each payroll deduction and amount below:
(1) \_\_\_\_\_ \$ \_\_\_\_\_
(2) \_\_\_\_\_ \$ \_\_\_\_\_
(3) \_\_\_\_\_ \$ \_\_\_\_\_
(4) \_\_\_\_\_ \$ \_\_\_\_\_
b. Total deductions (add 8a (1)-(4) above): \$ \_\_\_\_\_
c. Total monthly take-home pay (8a minus 8b): \$ \_\_\_\_\_
d. List the source and amount of any other income you get each month, including: spousal/child support, retirement, social security, disability, unemployment, military basic allowance for quarters (BAQ), veterans payments, dividends, interest, trust income, annuities, net business or rental income, reimbursement for job-related expenses, gambling or lottery winnings, etc.
(1) \_\_\_\_\_ \$ \_\_\_\_\_
(2) \_\_\_\_\_ \$ \_\_\_\_\_
(3) \_\_\_\_\_ \$ \_\_\_\_\_
(4) \_\_\_\_\_ \$ \_\_\_\_\_
e. Your total monthly income is (8c plus 8d): \$ \_\_\_\_\_

9 Household Income

- a. List all other persons living in your home and their income; include only your spouse and all individuals who depend in whole or in part on you for support, or on whom you depend in whole or in part for support.
Table with columns: Name, Age, Relationship, Gross Monthly Income
(1) \_\_\_\_\_ \$ \_\_\_\_\_
(2) \_\_\_\_\_ \$ \_\_\_\_\_
(3) \_\_\_\_\_ \$ \_\_\_\_\_
(4) \_\_\_\_\_ \$ \_\_\_\_\_
b. Total monthly income of persons above: \$ \_\_\_\_\_

Total monthly income and household income (8e plus 9b): \$ \_\_\_\_\_

To list any other facts you want the court to know, such as unusual medical expenses, family emergencies, etc., attach form MC-025. Or attach a sheet of paper, and write Financial Information and your name and case number at the top. Check here if you attach another page. 
Important! If your financial situation or ability to pay court fees improves, you must notify the court within five days on form FW-010.

10 Your Money and Property

- a. Cash ----- \$ \_\_\_\_\_
b. All financial accounts (List bank name and amount):
(1) \_\_\_\_\_ \$ \_\_\_\_\_
(2) \_\_\_\_\_ \$ \_\_\_\_\_
(3) \_\_\_\_\_ \$ \_\_\_\_\_
(4) \_\_\_\_\_ \$ \_\_\_\_\_
c. Cars, boats, and other vehicles
Table with columns: Make / Year, Fair Market Value, How Much You Still Owe
(1) \_\_\_\_\_ \$ \_\_\_\_\_
(2) \_\_\_\_\_ \$ \_\_\_\_\_
(3) \_\_\_\_\_ \$ \_\_\_\_\_
d. Real estate
Table with columns: Address, Fair Market Value, How Much You Still Owe
(1) \_\_\_\_\_ \$ \_\_\_\_\_
(2) \_\_\_\_\_ \$ \_\_\_\_\_
(3) \_\_\_\_\_ \$ \_\_\_\_\_
e. Other personal property (jewelry, furniture, furs, stocks, bonds, etc.):
Table with columns: Describe, Fair Market Value, How Much You Still Owe
(1) \_\_\_\_\_ \$ \_\_\_\_\_
(2) \_\_\_\_\_ \$ \_\_\_\_\_
(3) \_\_\_\_\_ \$ \_\_\_\_\_

11 Your Monthly Expenses

- (Do not include payroll deductions you already listed in 8b.)
a. Rent or house payment & maintenance \$ \_\_\_\_\_
b. Food and household supplies \$ \_\_\_\_\_
c. Utilities and telephone \$ \_\_\_\_\_
d. Clothing \$ \_\_\_\_\_
e. Laundry and cleaning \$ \_\_\_\_\_
f. Medical and dental expenses \$ \_\_\_\_\_
g. Insurance (life, health, accident, etc.) \$ \_\_\_\_\_
h. School, child care \$ \_\_\_\_\_
i. Child, spousal support (another marriage) \$ \_\_\_\_\_
j. Transportation, gas, auto repair and insurance \$ \_\_\_\_\_
k. Installment payments (list each below):
Paid to:
(1) \_\_\_\_\_ \$ \_\_\_\_\_
(2) \_\_\_\_\_ \$ \_\_\_\_\_
(3) \_\_\_\_\_ \$ \_\_\_\_\_
l. Wages/earnings withheld by court order \$ \_\_\_\_\_
m. Any other monthly expenses (list each below). \$ \_\_\_\_\_
Paid to:
(1) \_\_\_\_\_ \$ \_\_\_\_\_
(2) \_\_\_\_\_ \$ \_\_\_\_\_
(3) \_\_\_\_\_ \$ \_\_\_\_\_
Total monthly expenses (add 11a - 11m above): \$ \_\_\_\_\_

Clerk stamps date here when form is filed.

**1 Person who asked the court to waive court fees:**  
 Name: \_\_\_\_\_  
 Street or mailing address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

**2 Lawyer, if person in 1 has one (name, address, phone number, e-mail, and State Bar number):** \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**3 A request to waive court fees was filed on (date):** \_\_\_\_\_  
 The court made a previous fee waiver order in this case on (date): \_\_\_\_\_

**Read this form carefully. All checked boxes  are court orders.**

**Notice:** The court may order you to answer questions about your finances and later order you to pay back the waived fees. If this happens and you do not pay, the court can make you pay the fees and also charge you collection fees. If there is a change in your financial circumstances during this case that increases your ability to pay fees and costs, you must notify the trial court within five days. (Use form FW-010.) If you win your case, the trial court may order the other side to pay the fees. If you settle your civil case for **\$10,000** or more, the trial court will have a lien on the settlement in the amount of the waived fees. The trial court may not dismiss the case until the lien is paid.

**4 After reviewing your (check one):**  Request to Waive Court Fees  Request to Waive Additional Court Fees **the court makes the following orders:**

a.  The court **grants** your request, as follows:

(1)  **Fee Waiver.** The court grants your request and waives your court fees and costs listed below. (*Cal. Rules of Court, rule 3.55.*) You do not have to pay the court fees for the following:

- Filing papers in Superior Court
- Making copies and certifying copies
- Sheriff’s fee to give notice
- Reporter’s daily fee (*for up to 60 days following the fee waiver order at the court-approved daily rate*)
- Preparing and certifying the clerk’s transcript on appeal
- Giving notice and certificates
- Sending papers to another court department
- Court-appointed interpreter in small claims court
- Court fees for phone hearings

(2)  **Additional Fee Waiver.** The court grants your request and waives your additional superior court fees and costs that are checked below. (*Cal. Rules of Court, rule 3.56.*) You do not have to pay for the checked items.

- Jury fees and expenses
- Fees for a peace officer to testify in court
- Fees for court-appointed experts
- Court-appointed interpreter fees for a witness
- Reporter’s daily fees (*beyond the 60-day period following the fee waiver order*)
- Other (*specify*): \_\_\_\_\_

(3)  **Fee Waiver for Appeal.** The court grants your request and waives the fees and costs checked below, for your appeal. (*Cal. Rules of Court, rules 3.55, 3.56, 8.26, and 8.818.*) You do not have to pay for the checked items.

- Preparing and certifying clerk’s transcript for appeal
- Other (*specify*): \_\_\_\_\_

Fill in court name and street address:

**Superior Court of California, County of**

---

Fill in case number and case name:

**Case Number:**

---

**Case Name:**

Case Number:

Your name: \_\_\_\_\_

b.  The court **denies** your request, as follows:

**Warning!** If you miss the deadline below, the court cannot process your request for hearing or the court papers you filed with your original request. If the papers were a notice of appeal, the appeal may be dismissed.

(1)  The court **denies** your request because it is incomplete. You have **10 days** after the clerk gives notice of this order (see date below) to:

- Pay your fees and costs, or
- File a new revised request that includes the items listed below (*specify incomplete items*):


(2)  The court **denies** your request because the information you provided on the request shows that you are not eligible for the fee waiver you requested (*specify reasons*): \_\_\_\_\_

The court has enclosed a blank *Request for Hearing About Court Fee Waiver Order (Superior Court)*, form FW-006. You have **10 days** after the clerk gives notice of this order (see date below) to:

- Pay your fees and costs, or
- Ask for a hearing in order to show the court more information. (*Use form FW-006 to request hearing.*)

c.  The court needs more information to decide whether to grant your request. You must go to court on the date below. The hearing will be about (*specify questions regarding eligibility*): \_\_\_\_\_

Bring the following proof to support your request if reasonably available: \_\_\_\_\_

	Date: _____	Time: _____	Name and address of court if different from page 1: _____
	Dept.: _____	Rm.: _____	_____

**Warning!** If item c is checked, and you do not go to court on your hearing date, the judge will deny your request to waive court fees, and you will have 10 days to pay your fees. If you miss that deadline, the court cannot process the court papers you filed with your request. If the papers were a notice of appeal, the appeal may be dismissed.

Date: \_\_\_\_\_

Signature of (check one):  Judicial Officer  Clerk, Deputy



**Request for Accommodations.** Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least 5 days before your hearing. Contact the clerk's office for *Request for Accommodation*, Form MC-410. (Civil Code, § 54.8.)

### Clerk's Certificate of Service

I certify that I am not involved in this case and (*check one*):  A certificate of mailing is attached.

I handed a copy of this order to the party and attorney, if any, listed in ① and ②, at the court, on the date below.

This order was mailed first class, postage paid, to the party and attorney, if any, at the addresses listed in ① and ②, from (*city*): \_\_\_\_\_, California on the date below.

Date: \_\_\_\_\_

Clerk, by \_\_\_\_\_, Deputy

## SAMPLE LETTER TO THE COURT CLERK

Date:

Clerk of the Court  
Superior Court of California  
County of \_\_\_\_\_  
(Address of court)  
(City, state, zip code)

Re: (Child support, child custody, visitation, dissolution of marriage, etc)  
Case No. \_\_\_\_\_

Dear Clerk:

I am incarcerated and do not have an attorney to assist me with this paperwork. I am asking for your assistance with these documents.

Enclosed please find:

1. One original and two (2) copies of the following:  
LIST THE DOCUMENTS YOU ARE SENDING, USING ALL UPPER CASE LETTERS [for example: PETITION TO ESTABLISH PARENTAL RELATIONSHIP; RESPONSE; APPLICATION FOR FEE WAIVER]
2. A self-addressed, stamped envelope

Please file and stamp these documents for me and return one copy to me in the envelope enclosed with this letter. I am also requesting that you provide me with a hearing date on this matter at least six (6) weeks after the date of this letter ***[only include this if you are the petitioner and there is no scheduled hearing in the case]***

Thank you for your attention and assistance.

Sincerely,

Sign your name

(Print your name, include your prison/jail number)  
(Name of prison/jail facility)  
(Address)  
(City, State, Zip code)

**[Note: keep a copy of this letter until you receive a stamped copy of your paperwork back from the clerk]**



*This form can be used to request a change in a court order, to ask the court to dismiss your case, or to ask the court to establish a relationship with your sibling. After filling out this form, bring it to the clerk of the court.*

Clerk stamps date here when form is filed.

**1** Your information:

## a. You are the:

- child     mother     father     legal guardian  
 foster parent     relative (*specify*): \_\_\_\_\_  
 social worker     probation officer     attorney  
 other \_\_\_\_\_

b. Your name: \_\_\_\_\_

c. Your address: \_\_\_\_\_

d. Your city, state, zip code: \_\_\_\_\_

e. Your telephone number: \_\_\_\_\_

f. *If you are an attorney:*

Your client's name: \_\_\_\_\_

Your client's address (*if confidential, see item 3*): \_\_\_\_\_

Your client's relationship to the child: \_\_\_\_\_

Your State Bar number: \_\_\_\_\_

Fill in court name and street address:

**Superior Court of California, County of**

Fill in child's name:

**Child's Name:**

Fill in case number, if known:

**Case Number:**

**2** Type of request (*check the appropriate box below and add specific details in items 6–9, as applicable*):

- I am asking the court to change a court order.  
 I am asking the court to terminate jurisdiction.  
 I am asking to have a relationship with my brother or sister and  
     I am related to the child     on the mother's side     on the father's side.  
     I am a  blood relative     relative by adoption     relative by marriage.

**3** *If you want to keep your address confidential, fill out Confidential Information (Request to Change Court Order) (form JV-182) and do not write the address on this form.*

*Check here if form JV-182 is attached.*

**4** Child's information:

a. Child's name: \_\_\_\_\_

b. Date of birth: \_\_\_\_\_

c. Child's attorney (*if known*): \_\_\_\_\_d. The child lives with or in (*check all that apply*):

- parent                       legal guardian                       relative  
 foster home                       group home                       I don't know

e. Name of person the child lives with or place where the child lives \_\_\_\_\_

Child's address : \_\_\_\_\_

*Check here if unknown.*



Child's name: \_\_\_\_\_

Case Number: \_\_\_\_\_

- 5 Information about parents, legal guardians, and others:
- a. Names of child's parents or legal guardians: \_\_\_\_\_  
 Check here if unknown.
  - b. Address of parent/legal guardian: \_\_\_\_\_  
 Check here if unknown.
  - c. Address of parent/legal guardian: \_\_\_\_\_  
 Check here if unknown.
  - d. Child's Indian tribe (if applicable and known): \_\_\_\_\_
  - e. Child's Court Appointed Special Advocate (if applicable and known): \_\_\_\_\_
  - f. Child's education surrogate (if applicable and known): \_\_\_\_\_
  - g. Child's social worker (if applicable and known): \_\_\_\_\_

*If you are asking to have a relationship with a brother or sister but not asking for a changed court order, you may skip to item 8.*

- 6 On (date, if known): \_\_\_\_\_ the judge made the following order that you feel should be changed:
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

- 7 What changed after the judge's order that would change the judge's mind? (Give new information that the judge did not have when the original decision was made):
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

- 8 What order or orders do you want the judge to make now?
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

- 9 Why would the changes you are requesting be better for the child?
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

- 10  Check here if you need more space for any of the answers. Attach a sheet of paper and write "JV-180" at the top of the page. Number of pages attached: \_\_\_\_\_





Child's name: \_\_\_\_\_

Case Number: \_\_\_\_\_

11 I have sent a copy of my request to the people listed below, as applicable. I have checked the correct boxes on the right to show whether these people agree with my request.

If you do not have an attorney, the clerk will send notice and copies of your request to all persons required to receive notice under Welfare and Institutions Code sections 297 and 386 and rules 5.524 and 5.570 of the California Rules of Court.

	Name	Agree	Disagree	Don't Know	Not Applicable
Child (if 10 years old, or older):	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Child's attorney:	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Parent:	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Parent:	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Legal guardian:	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Legal guardian:	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Social worker:	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Current caregiver/foster parent:	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Preadoptive parent:	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Court Appointed Special Advocate:	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Indian tribe:	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Indian custodian:	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sibling (if dependent and over the age of 10):	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sibling's caregiver:	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sibling's attorney:	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Attorney for parent/legal guardian:	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Attorney for parent/legal guardian:	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
County counsel:	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other:	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

12 You can ask the judge to make a decision without a court hearing if all the people listed above agree with your request. Check here  if you want a decision without a hearing.

13 If anyone disagrees with your request, please explain why (if known):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

14 I declare under penalty of perjury under the laws of the State of California that the information in this form is true and correct to my knowledge. I understand that this means I am guilty of a crime if I lie on this form.

Date: \_\_\_\_\_

\_\_\_\_\_  
Type or print your name

▶  
\_\_\_\_\_  
Sign your name



ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, State Bar number, and address):</i>  <hr/> <p style="text-align: center;">TELEPHONE NO.: _____ FAX NO. <i>(Optional)</i>: _____</p> <p>E-MAIL ADDRESS <i>(Optional)</i>: _____</p> <p>ATTORNEY FOR <i>(Name)</i>: _____</p>	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CASE NAME:	
<b>NOTICE OF INTENT TO FILE WRIT PETITION                  AND REQUEST FOR RECORD TO REVIEW ORDER SETTING A HEARING                  UNDER WELFARE AND INSTITUTIONS CODE Section 366.26                  (California Rules of Court, Rule 8.450)</b>	CASE NUMBER:

**NOTICE**

The juvenile court has decided it will make a permanent plan for this child which may result in the termination of your parental rights and adoption of the child. If you want an appeals court to review the juvenile court's decision, you must first tell the juvenile court by filing a Notice of Intent. You may use this form as your Notice of Intent. In most cases, you have only 7 days from the court's decision to file a Notice of Intent. Please see page 2 for your specific deadline for filing this form.

1. Petitioner's name:
2. Petitioner's address:
3. Petitioner's phone number:
4. Petitioner is
  - a.  parent *(name)*:
  - b.  guardian
  - c.  county welfare agency
  - d.  child
  - e.  other *(state relationship to child or interest in the case)*:
5. Child's name: \_\_\_\_\_ Child's date of birth: \_\_\_\_\_
6. a. On *(date)*: \_\_\_\_\_ the juvenile court made an order setting a hearing under Welfare and Institutions Code section 366.26. Petitioner intends to file a writ petition to challenge the findings and orders made by the court on that date and requests that the clerk assemble the record.
  - b. List all known dates of the hearing that resulted in the order:
7. The hearing under Welfare and Institutions Code section 366.26 is set for *(date, if known)*:

Date: \_\_\_\_\_

---

(TYPE OR PRINT NAME)

(SIGNATURE OF  PETITIONER  CHILD'S ATTORNEY)

**The Notice of Intent to File Writ Petition must be signed by the person intending to file the writ petition, or, if it is to be filed on behalf of the child, by the child's attorney of record. See the back of this form for more information.**

**PLEASE READ THE BACK OF THIS FORM FOR IMPORTANT INFORMATION AND DEADLINES**

**WHAT WILL HAPPEN AT THE HEARING TO MAKE A PERMANENT PLAN?**

- The court may order the termination of parental rights and adoption of the child.
- The court may order a legal guardianship for the child.
- The court may order a permanent plan of placement of the child with a fit and willing relative.
- The court may order a permanent plan of placement of the child in a foster home.

The above options are listed in the normal order of preference, because the main goal is to give the child a stable and permanent living situation.

**SEE WELF. & INST. CODE, § 366.26 FOR MORE INFORMATION**

**HOW DO I CHALLENGE THE COURT'S DECISION TO SET A HEARING TO MAKE A PERMANENT PLAN?**

- File this *Notice of Intent to File Writ Petition and Request for Record* in the juvenile court within the time specified below in the next box. This will let the court know you intend to file a writ petition, and the court will prepare the record.
- You will be notified after the record is filed in the Court of Appeal, and you will get copies of the record. **You have 10 days after the record is filed in the Court of Appeal to file and serve your writ petition.**
- You may use the optional Judicial Council form JV-825 to complete your writ petition, or, if you have an attorney, your attorney can write the writ petition for you.
- After you file a writ petition in the Court of Appeal, you must send copies of the petition to all of the parties in the case, to the child's CASA volunteer, to the child's present caregiver, and to any de facto parent who has standing to participate in the juvenile court proceedings. With your writ petition, you must file a Proof of Service confirming you have sent a copy of the petition to these people.  
**SEE WELF. & INST. CODE, § 366.26 (I); CAL. RULES OF COURT, RULES 8.450–8.452**

**WHEN DO I HAVE TO FILE MY NOTICE OF INTENT TO FILE WRIT PETITION AND REQUEST FOR RECORD?**

- If you were present when the court set the hearing to make a permanent plan, you must file the Notice of Intent within 7 days from the date the court set the hearing.
- If you were not present in court but were given notice by mail of the court's decision to set a hearing to make a permanent plan and you live in California, you must file the Notice of Intent within 12 days from the date the clerk mailed the notification.
- If you were not present in court but were given notice by mail of the court's decision to set a hearing to make a permanent plan and you live in a state other than California, you must file the Notice of Intent within 17 days from the date the clerk mailed the notification.
- If you were not present in court but were given notice by mail of the court's decision to set a hearing to make a permanent plan and you live outside the United States, you must file the Notice of Intent within 27 days from the date the clerk mailed the notification.
- If you are a party in a custodial institution you must give the Notice of Intent to custodial officials for mailing within the time specified in this box.

**SEE CAL. RULES OF COURT, RULES 8.450, 5.540(c)**

- If the order setting the hearing was made by a referee not acting as a temporary judge, you have an additional 10 days to file the Notice of Intent.

**SEE WELF. & INST. CODE, §§ 248-252; CAL. RULES OF COURT, RULE 5.538 and rule 5.540**

**SIGNATURE ON NOTICE OF INTENT**

- Must be signed by the person who intends to file the writ petition, *or*
- If petition will be filed on behalf of a child, by the child's attorney, *or*
- The reviewing court may waive this requirement for good cause on the basis of a declaration by the attorney of record explaining why the party could not sign the notice. (Cal. Rules of Court, rule 8.450(e)(3).)

COURT OF APPEAL, _____ APPELLATE DISTRICT, DIVISION _____	Court of Appeal Case Number <i>(court will provide)</i> : _____
---	---

<p>In re the Matter of:</p> <hr/> <p><i>(Name and date of birth of subject child or children)</i></p> <hr/> <p style="text-align: center;">Petitioners</p> <p style="text-align: center;">v.</p> <p>Superior Court of California, County of _____</p> <hr/> <p style="text-align: center;">Respondent</p> <hr/> <p style="text-align: center;">Real Party in Interest</p> <hr/>
---

(FILE STAMP)

Superior Court No. \_\_\_\_\_

Superior Court No. \_\_\_\_\_

Related Appeal Pending  
 Appellate Court No. \_\_\_\_\_

**PETITION FOR EXTRAORDINARY WRIT  
 (California Rules of Court, Rules 8.452, 8.456)**

**STAY REQUESTED** *(see item 11)*.

**INSTRUCTIONS—READ CAREFULLY**

- Read the entire form *before* completing any items.
- This petition must be clearly handprinted in ink or typed.
- Complete all applicable items in the proper spaces. If you need additional space, add an extra page and mark the additional page box.
- If you are filing this petition in the Court of Appeal, file the original and 4 copies.
- If you are filing this petition in the California Supreme Court, file the original and 10 copies.
- Notify the clerk of the court in writing if you change your address after filing your petition.

Individual Courts of Appeal or the Supreme Court may require documents other than or in addition to this form. Contact the clerk of the reviewing court for local requirements.

CASE NAME:  	CASE NUMBER:  
--------------------	----------------------

1. This *Petition for Extraordinary Writ (Juvenile Dependency)* is filed on behalf of petitioner.
  - a. Name:
  - b. Address:
  - c. Phone number:
  
2. Petitioner is the
 

<ol style="list-style-type: none"> <li>a. <input type="checkbox"/> child</li> <li>b. <input type="checkbox"/> mother</li> <li>c. <input type="checkbox"/> father</li> <li>d. <input type="checkbox"/> guardian</li> </ol>	<ol style="list-style-type: none"> <li>e. <input type="checkbox"/> de facto parent</li> <li>f. <input type="checkbox"/> county welfare department</li> <li>g. <input type="checkbox"/> district attorney</li> <li>h. <input type="checkbox"/> other (<i>state relationship to child or interest in the case</i>):</li> </ol>
---	--
  
3. The *Petition for Extraordinary Writ (Juvenile Dependency)* pertains to the following child or children (*specify number of children*): \_\_\_\_\_
  - a. Name of child:  
Child's date of birth:
  - b. Name of child:  
Child's date of birth:
  - c. Name of child:  
Child's date of birth:
  - d. Name of child:  
Child's date of birth:

Continued in Attachment 3.
  
4. This petition seeks extraordinary relief from the order of (*name*):
  - a.  setting a hearing under Welfare and Institutions Code section 366.26 to consider termination of parental rights, guardianship, or another planned permanent living arrangement.  
OR
  - b.  designating a specific placement after a placement order under Welfare and Institutions Code section 366.28.  
OR
  - c.  *other (specify)*:
  
5. The challenged order was made on (*date of hearing*):
  
6. The order was erroneous on the following grounds (*specify*):
  
7.
  - a.  Supporting documents are attached.
  - b.  Because of exigent circumstances, supporting documents are not attached (*explain*):
  
8. Summary of factual basis for petition (*Petitioner need not repeat facts as they appear in the record. Petitioner must reference each specific portion of the record, its significance to the grounds alleged, and disputed aspects of the record*):

Additional pages attached.

CASE NAME:  _____	CASE NUMBER:  _____
-------------------------	---------------------------

9. Points and authorities in support of the petition are attached (*number of pages attached*): \_\_\_\_\_

10. Petitioner requests that this court direct the trial court to (*check all that apply*):

- a.  Vacate the order for hearing under section 366.26.
- b.  Vacate the order designating a specific placement after termination of parental rights under section 366.28.
- c.  Remand for hearing.
- d.  Order that reunification services be  
 provided  continued.
- e.  Order visitation between the child and petitioner.
- f.  Return or grant custody of the child to petitioner.
- g.  Terminate dependency.
- h.  Other (*specify*):

11.  Petitioner requests a temporary stay pending the granting or denial of the petition for extraordinary writ.

- a. Hearing date (*must specify*):
- b. Reasons for stay (*specify*):

Additional pages attached.

12. Total number of pages attached: \_\_\_\_\_

13. I am the  petitioner  attorney for petitioner.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, except for matters that are stated on my information and belief, and as to those matters, I believe them to be true.

Date:

\_\_\_\_\_

(TYPE OR PRINT NAME)

▶

\_\_\_\_\_

(SIGNATURE OF  PETITIONER  ATTORNEY)

Address:

CASE NAME:  	CASE NUMBER:  
--------------------	----------------------

**PROOF OF SERVICE**

I served a copy of the foregoing *Petition for Extraordinary Writ (Juvenile Dependency)* on the following persons by personally delivering a copy to the person served, OR by delivering a copy to a competent adult at the usual place of residence or business of the person served and thereafter mailing a copy by first-class mail to the person served at the place where the copy was delivered, OR by placing a copy in a sealed envelope and depositing the envelope directly in the United States mail with postage prepaid or at my place of business for same-day collection and mailing with the United States mail, following our ordinary business practices with which I am readily familiar:

1. Respondent court

- a. Name and address:
  
  
  
- b. Date of service:
- c. Method of service:

2.  Social worker     Probation officer

- a. Name and address:
  
  
  
- b. Date of service:
- c. Method of service:

- Attorney for party
- a. Name and address:
  
  
  
  - b. Date of service:
  - c. Method of service:

3.  Mother     Father     Legal guardian

- a. Name and address:
  
  
  
- b. Date of service:
- c. Method of service:

- Attorney for party
- a. Name and address:
  
  
  
  - b. Date of service:
  - c. Method of service:

4.  Mother     Father     Legal guardian

- a. Name and address:
  
  
  
- b. Date of service:
- c. Method of service:

- Attorney for party
- a. Name and address:
  
  
  
  - b. Date of service:
  - c. Method of service:

5.  Mother     Father     Legal guardian

- a. Name and address:
  
  
  
- b. Date of service:
- c. Method of service:

- Attorney for party
- a. Name and address:
  
  
  
  - b. Date of service:
  - c. Method of service:

6. Child (if 10 years of age or older)

- a. Name and address:
  
  
  
- b. Date of service:
- c. Method of service:

- Attorney for party
- a. Name and address:
  
  
  
  - b. Date of service:
  - c. Method of service:



CASE NAME:  _____	CASE NUMBER:  _____
-------------------------	---------------------------

7. Child (if 10 years of age or older)

Attorney for party

a. Name and address:

a. Name and address:

b. Date of service:

b. Date of service:

c. Method of service:

c. Method of service:

8.  Child's sibling    CASA    Tribe/Bureau of Indian Affairs    Indian custodian    Grandparent  
 Child's caregiver    De facto parent

a. Name and address:

b. Date of service:

c. Method of service:

9.  Child's sibling    CASA    Tribe/Bureau of Indian Affairs    Indian custodian    Grandparent  
 Child's caregiver    De facto parent

a. Name and address:

b. Date of service:

c. Method of service:

10. Other (specify):

a. Name and address:

b. Date of service:

c. Method of service:

11. Other (specify):

a. Name and address:

b. Date of service:

c. Method of service:

12. At the time of service I was at least 18 years of age and not a party to this cause. I am a resident of or employed in the county where the mailing occurred. My residence or business address is (specify):

I declare under penalty of perjury under the laws of the State of California that the foregoing and all attachments are true and correct.

Date:

\_\_\_\_\_

(TYPE OR PRINT NAME)

▶

\_\_\_\_\_

(SIGNATURE)



## SAMPLE LETTER TO YOUR SOCIAL WORKER

(Your name)  
(Your address)  
(City, CA zip code)

(Date)

Ms./Mr. (Name of social worker)  
(Address of social worker)

Dear Ms./Mr. (Name)

My name is (your name) and my child=s name is (child=s name). (His/her) date of birth is (birth date here) and the case number is (#).

I am writing to let you know that I wish to regain custody of (child=s name) and hope to be reunited with (him/her) upon my release from (name of institution) on (release date). I am very concerned about the welfare of (child=s name) and I believe it is in the child=s best interest to be reunited with me when I am released. (Add reasons why they should be with you).

I am serving a (length of sentence) sentence, which means that I will be away from my child for (months/years). Please let me know what steps I must take to be reunited with my child when I am released. It is important to me that I have visits with my child while I am away from (him/her).

I have written to the court to ask that I be transported to the hearing scheduled for (date of hearing). If I am not granted custody of my child, I would like my relative, (name of relative), who is my (relationship), to be given custody.

Thank you for your attention to this matter.

Sincerely,

(Your signature)  
(Your printed name)



ATTORNEY OR PARTY WITHOUT ATTORNEY ( <i>Name, state bar number, and address</i> ):  <hr/> TELEPHONE NO.: _____ FAX NO.: _____ ATTORNEY FOR ( <i>Name</i> ): _____	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
GUARDIANSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE OF ( <i>Name</i> ):  <div style="text-align: right;">MINOR</div>	
<b>PETITION FOR TERMINATION OF GUARDIANSHIP</b>	CASE NUMBER: _____

1. **Petitioner** (*name*): \_\_\_\_\_ **requests that**

a.  the guardianship of the PERSON of (*minor*): \_\_\_\_\_ be terminated.

b.  the guardianship of the ESTATE of (*minor*): \_\_\_\_\_ be terminated.

(1)  The estate has been entirely exhausted through expenditures or disbursements (Probate Code, § 2626).

(2)  The estate falls within the provisions of Probate Code section 2628(b) (small estate), and no accounts have been required.

(3)  Other (*specify*): \_\_\_\_\_

2. Petitioner is the  minor  minor's guardian  minor's parent.

3.  (*Name*): \_\_\_\_\_ was appointed guardian of the PERSON on (*date*): \_\_\_\_\_

4.  (*Name*): \_\_\_\_\_ was appointed guardian of the ESTATE on (*date*): \_\_\_\_\_

5. It is no longer necessary that the minor have a guardian of the  person  estate and the best interests of the minor require termination of the guardianship for the reasons  stated in Attachment 5  stated below (*specify*): \_\_\_\_\_

6. A request for special notice

a.  has not been filed.

b.  has been filed and notice will be given to (*names*): \_\_\_\_\_

7.  Notice to the persons identified in Attachment 7 should be dispensed with because

a.  they cannot with reasonable diligence be given notice (*specify names and efforts to locate in Attachment 7*).

b.  other good cause exists to dispense with notice (*specify names and reasons in Attachment 7*).

(Continued on reverse)

**NOTICE: Guardianships terminate automatically at age 18. No petition or court order is necessary to terminate the guardianship. Nevertheless, if this is a guardianship of the estate, termination of the guardianship does not eliminate the requirement that a final report or account be filed. (See Probate Code, § 1600.)**

GUARDIANSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE OF (Name):  <div style="text-align: right; margin-top: 10px;">MINOR</div>	CASE NUMBER:
---	--------------

8. The names and residence addresses of the guardian, minor, and minor's parents, brothers, sisters, and grandparents are as follows:
- |   |  |
|---|--|
| a. Guardian:<br><br>b. Minor:<br><br>c. Father:<br><br>d. Mother:<br><br>e. Brother or sister:<br><br>f. Brother or sister: | g. Brother or sister:<br><br>h. Maternal grandfather:<br><br>i. Maternal grandmother:<br><br>j. Paternal grandfather:<br><br>k. Paternal grandmother:<br><br>l. <input type="checkbox"/> Additional names and addresses continued in Attachment 8. |
|---|--|

9. Number of pages attached: \_\_\_\_\_

Date:

\*(Signature of all petitioners also required (Prob. Code, § 1020).)

▶ \_\_\_\_\_  
(SIGNATURE OF ATTORNEY \*)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

.....  
(TYPE OR PRINT NAME)

▶ \_\_\_\_\_  
(SIGNATURE OF PETITIONER)

.....  
(TYPE OR PRINT NAME)

▶ \_\_\_\_\_  
(SIGNATURE OF PETITIONER)

### CONSENT TO TERMINATION AND WAIVER OF NOTICE

I consent to the termination of the guardianship of the  person  estate of the minor and waive notice of the hearing on this petition.

Date: .....  
(TYPE OR PRINT NAME)

▶ \_\_\_\_\_  
(SIGNATURE OF  MINOR\*  GUARDIAN  PARENT  OTHER)

Date: .....  
(TYPE OR PRINT NAME)

▶ \_\_\_\_\_  
(SIGNATURE OF  MINOR\*  GUARDIAN  PARENT  OTHER)

Date: .....  
(TYPE OR PRINT NAME)

▶ \_\_\_\_\_  
(SIGNATURE OF  MINOR\*  GUARDIAN  PARENT  OTHER)

Date: .....  
(TYPE OR PRINT NAME)

▶ \_\_\_\_\_  
(SIGNATURE OF  MINOR\*  GUARDIAN  PARENT  OTHER)

Additional signatures on attachment.

\* Minor over 12 years of age.

ATTORNEY OR PARTY WITHOUT AN ATTORNEY (Name, State bar number, and address)  TELEPHONE NO.: _____ FAX NO.: _____ ATTORNEY FOR (Name): _____	<b>FOR COURT USE ONLY</b>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA PROBATE DIVISION 191 NORTH FIRST STREET SAN JOSE, CA 95113	
GUARDIANSHIP OF: _____  _____ MINOR	
<b>PETITION FOR VISITATION</b>	<b>CASE NUMBER</b>

1. **Petitioner** (*name*): \_\_\_\_\_ **requests**

the following specific visitation schedule for the minor (*name*):

2. Petitioner is the minor's  parent  grandparent  other:

3.  *Name(s)*: \_\_\_\_\_ was appointed guardian of the PERSON on (*date*):

4. Petitioner should be granted visitation for the reasons  specified below  specified in Attachment 4.

5.  Notice to the persons identified in Attachment 5 should be dispensed with because

they cannot with reasonable diligence be given notice (*specify names and efforts to locate them in Attachment 5*).

other good cause exists to dispense with notice (*specify names and reasons in Attachment 5*).





*Clerk stamps date here when form is filed.*

① Child's name: \_\_\_\_\_

- ②  I am not the parent of this child. I do not wish to participate in juvenile court proceedings about this child. I understand that:
- I will receive no further notices of hearings in this matter.
  - I will not get a chance for custody of this child or court-ordered visitation with this child.
  - If the child cannot be returned to a custodial parent or guardian, it is possible that all parental rights will be terminated and the child will be adopted.
  - This denial applies only to the juvenile court proceedings and does not prevent the local child support agency from seeking to have another court determine that I am the child's parent for purposes of support of the child. If that occurs, I will have the right to a court trial, to confront and cross-examine witnesses and present evidence on my behalf, and to be represented by a lawyer who may be appointed if I cannot afford to hire one.

*Fill in court name and street address:***Superior Court of California, County of***Fill in case number if known:***Case Number:**

③  I know I can have an attorney for this.

a.  I want the judge to appoint an attorney for me.

**or**

b.  I give up my right to an attorney.

④  I do not know if I am the parent of the child and I  consent to  request blood or DNA testing to determine whether or not I am the biological parent. I understand that:

- If I am judged to be the parent of the child, I will have to support the child until the child reaches the age of 18 and has completed high school, or completes high school between the ages of 18 and 19, or reaches the age of 19, whichever comes first.
- If I do not support the child when I have the money to do so, I may be charged with a crime under Penal Code section 270 and, if convicted, could be sentenced to pay a fine of up to \$2,000 and spend up to one year in county jail, or one year and a day in state prison.

⑤  I believe I am the child's parent and request that the court enter a judgment of parentage. I understand that:

- If I am judged to be the parent of the child, I will have to support the child until the child reaches the age of 18 and has completed high school, or completes high school between the ages of 18 and 19, or reaches the age of 19, whichever comes first.
- If I do not support the child when I have the money to do so, I may be charged with a crime under Penal Code section 270 and, if convicted, could be sentenced to pay a fine of up to \$2,000 and spend up to one year in county jail or one year and a day in state prison.

**IMPORTANT NOTICE ON PAGE 4. READ BEFORE SIGNING.**

Case Number: \_\_\_\_\_

Your name: \_\_\_\_\_

- 6  I have already established parentage of the child by *(if known)*:
  - a.  A voluntary declaration signed by me on *(date)*: \_\_\_\_\_
  - A copy is attached.
  - b.  A court judgment of parentage on *(date)*: \_\_\_\_\_ in *(county)*: \_\_\_\_\_
  - A copy is attached.

- 7  I am married to the child's parent. Date of marriage: \_\_\_\_\_

- 8  I believe I am the parent of the child and request that the court find that I am the presumed parent of the child.
  - a.  The child lived with me from \_\_\_\_\_ to \_\_\_\_\_ and from \_\_\_\_\_ to \_\_\_\_\_.
  - b.  I have told the following people that the child is mine:
   
\_\_\_\_\_
   
\_\_\_\_\_
   
\_\_\_\_\_
   
\_\_\_\_\_
   
\_\_\_\_\_

Check here if you need more space. Attach a sheet of paper and write "JV-505, Item 8b—People I Have Told the Child Is Mine" at the top. Number of pages attached: \_\_\_\_\_

- c.  I have participated in the following activities with the child *(for example, school, daycare, sports)*:
   
\_\_\_\_\_
   
\_\_\_\_\_
   
\_\_\_\_\_
   
\_\_\_\_\_
   
\_\_\_\_\_

Check here if you need more space. Attach a sheet of paper and write "JV-505, Item 8c—Child's Activities" at the top. Number of pages attached: \_\_\_\_\_

Case Number: \_\_\_\_\_

Your name: \_\_\_\_\_

8 d.  I have given the following money or things to the child:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Check here if you need more space. Attach a sheet of paper and write "JV-505, Item 8d—Things Given to Child" at the top. Number of pages attached: \_\_\_\_\_

e.  The child has spent the following time with my family:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Check here if you need more space. Attach a sheet of paper and write "JV-505, Item 8e—Other Information" at the top. Number of pages attached: \_\_\_\_\_

f.  Other information I want the court to know is:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Check here if you need more space. Attach a sheet of paper and write "JV-505, Item 8f—Other Information" at the top. Number of pages attached: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
Type or print your name

▶ \_\_\_\_\_  
Sign your name

Date: \_\_\_\_\_

\_\_\_\_\_  
Type or print your attorney's name

▶ \_\_\_\_\_  
Signature of your attorney

Case Number:

Your name: \_\_\_\_\_

**To the alleged parent of the child:**

- As the child's alleged parent, you will not get services to help you get your child back. You will not automatically get the child to live with you or your relatives.
- If the judge finds that you are the child's parent, the judge may order services to help you get the child back, but does not have to order services for you.
- If you say that you are not the child's parent and will not take a test to find out if you are the parent, and do not want services to help you get the child back, you can fill out this form and not be a part of this case.
- You can have a trial and ask the judge to decide if you are the child's parent. You can pay a lawyer to be at the trial. If you cannot afford a lawyer, the judge may appoint one for you for free. At a trial, you can ask witnesses questions and give evidence to the judge.
- If you want the court to decide if you are the child's parent, fill out this form.

## SAMPLE LETTER TO THE FAMILY LAW FACILITATOR

Date

Family Law Facilitator  
Superior Court of California  
County of \_\_\_\_\_  
(Address)  
(City, CA Zip code)

Re: (child support, custody, visitation, etc)  
Case number (if you have one)

Dear Family Law Facilitator:

I am incarcerated and do not have an attorney to assist me. I would like your help with this \_\_\_\_\_ (child support, custody, visitation) matter. Please send me the forms I need to respond to the court (or the information you need about the proceeding). I will also need your help in filing the paperwork so please tell me what I need to do.

Thank you for your attention to this matter.

Sincerely,

(Your name)  
(Your address)

**Be sure to include a stamped, self-addressed envelope so that the facilitator can send you what you've requested. Many of the family law facilitators can only provide information and forms for child support-related matters. You may have to write to the "forms clerk" to request forms for child custody, visitation, and other matters. See sample letter to the court clerk that follows.**



ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):    TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	<b>FOR COURT USE ONLY</b>												
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:													
PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT:													
<table style="width:100%; border: none;"> <tr> <td style="width:33%;"><b>NOTICE OF MOTION</b></td> <td style="width:33%;"><input type="checkbox"/> <b>MODIFICATION</b></td> <td style="width:33%;"><input type="checkbox"/> <b>Injunctive Order</b></td> </tr> <tr> <td><input type="checkbox"/> <b>Child Custody</b></td> <td><input type="checkbox"/> <b>Visitation</b></td> <td><input type="checkbox"/> <b>Other (specify):</b></td> </tr> <tr> <td><input type="checkbox"/> <b>Child Support</b></td> <td><input type="checkbox"/> <b>Spousal Support</b></td> <td></td> </tr> <tr> <td><input type="checkbox"/> <b>Attorney Fees and Costs</b></td> <td></td> <td></td> </tr> </table>	<b>NOTICE OF MOTION</b>	<input type="checkbox"/> <b>MODIFICATION</b>	<input type="checkbox"/> <b>Injunctive Order</b>	<input type="checkbox"/> <b>Child Custody</b>	<input type="checkbox"/> <b>Visitation</b>	<input type="checkbox"/> <b>Other (specify):</b>	<input type="checkbox"/> <b>Child Support</b>	<input type="checkbox"/> <b>Spousal Support</b>		<input type="checkbox"/> <b>Attorney Fees and Costs</b>			CASE NUMBER:
<b>NOTICE OF MOTION</b>	<input type="checkbox"/> <b>MODIFICATION</b>	<input type="checkbox"/> <b>Injunctive Order</b>											
<input type="checkbox"/> <b>Child Custody</b>	<input type="checkbox"/> <b>Visitation</b>	<input type="checkbox"/> <b>Other (specify):</b>											
<input type="checkbox"/> <b>Child Support</b>	<input type="checkbox"/> <b>Spousal Support</b>												
<input type="checkbox"/> <b>Attorney Fees and Costs</b>													

1. TO (name):
2. A hearing on this motion for the relief requested in the attached application will be held as follows:

a. Date:	Time:	<input type="checkbox"/> Dept.:	<input type="checkbox"/> Rm.:
----------	-------	---------------------------------	-------------------------------

b. Address of court  same as noted above  other (specify):

3. Supporting attachments:

- |  |   |
|--|---|
| a. Completed <i>Application for Order and Supporting Declaration</i> (form FL-310) and a <b>blank Responsive Declaration</b> (form FL-320)<br>b. <input type="checkbox"/> Completed <i>Income and Expense Declaration</i> (form FL-150) and a <b>blank Income and Expense Declaration</b><br>c. <input type="checkbox"/> Completed <i>Financial Statement (Simplified)</i> (form FL-155) and a <b>blank Financial Statement (Simplified)</b> | d. <input type="checkbox"/> Completed <i>Property Declaration</i> (form FL-160) and a <b>blank Property Declaration</b><br>e. <input type="checkbox"/> Points and authorities<br>f. <input type="checkbox"/> Other (specify): |
|--|---|

Date: \_\_\_\_\_

\_\_\_\_\_  
(TYPE OR PRINT NAME)

▶  
\_\_\_\_\_  
(SIGNATURE)

**ORDER**

4.  Time for  service  hearing is shortened. Service must be on or before (date):
5. Any responsive declaration must be served on or before (date):
6. If child custody or visitation is an issue in this proceeding, Family Code section 3170 requires mediation before or concurrently with the hearing listed above. The parties are ordered to attend orientation and mandatory custody services as follows:

Date: \_\_\_\_\_

\_\_\_\_\_  
 JUDICIAL OFFICER

**NOTICE: If you have children from this relationship, the court is required to order payment of child support based on the incomes of both parents. The amount of child support can be large. It normally continues until the child is 18. You should supply the court with information about your finances. Otherwise, the child support order will be based on the information supplied by the other parent.**

**You do not have to pay any fee to file declarations in response to this *Notice of Motion* (including a completed *Income and Expense Declaration* (form FL-150) or *Financial Statement (Simplified)* (form FL-155) that will show your finances). In the absence of an order shortening time, the original of the responsive declaration must be filed with the court and a copy served on the other party at least nine court days before the hearing date. Add five calendar days if you serve by mail within California. (See Code of Civil Procedure 1005 for other situations.) To determine court and calendar days, go to [www.courtinfo.ca.gov/selfhelp/courtcalendars/](http://www.courtinfo.ca.gov/selfhelp/courtcalendars/).**

PETITIONER/PLAINTIFF:  RESPONDENT/DEFENDANT:	CASE NUMBER:
--	--------------

7. PROOF OF SERVICE BY MAIL

- a. I am at least age 18, **not a party to this action**, and am a resident or employed in the county where the mailing took place. My residence or business address is:
  
- b. I served copies of the following documents by enclosing them in a sealed envelope with postage fully prepaid, depositing them in the United States mail as follows:
  - (1) Papers served:
    - (a) *Notice of Motion* and a completed *Application for Order and Supporting Declaration* (form FL-310) **and** a blank *Responsive Declaration* (form FL-320)
    - (b)  Completed *Income and Expense Declaration* (form FL-150) **and** a blank *Income and Expense Declaration*
    - (c)  Completed *Financial Statement (Simplified)* (form FL-155) **and** a blank *Financial Statement (Simplified)*
    - (d)  Completed *Property Declaration* (form FL-160) **and** a blank *Property Declaration*
    - (e)  Points and authorities
    - (f) Other (*specify*):
  - (2) Manner of service:
    - (a) Date of deposit:
    - (b) Place of deposit (*city and state*):
    - (c) Addressed as follows:

c. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

\_\_\_\_\_  
 (TYPE OR PRINT NAME)

▶

\_\_\_\_\_  
 (SIGNATURE OF DECLARANT)



**Requests for Accommodations**  
 Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the proceeding. Contact the clerk's office or go to [www.courtinfo.ca.gov/forms](http://www.courtinfo.ca.gov/forms) for *Request for Accommodations by Persons With Disabilities and Response* (Form MC-410). (Civil Code, § 54.8.)





PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT:	CASE NUMBER:
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10. My estimate of the other party's gross monthly income (*before taxes*) is ..... \$ \_\_\_\_\_
11. My current spouse's monthly income (*before taxes*) is ..... \$ \_\_\_\_\_
12. Other information I want the court to know concerning child support in my case (*attach extra sheet with the information*).
13.  I am attaching a copy of page 3 of form FL-150, *Income and Expense Declaration* showing my expenses.

I declare under penalty of perjury under the laws of the State of California that the information contained on all pages of this form and any attachments is true and correct.

Date:

_____ (TYPE OR PRINT NAME)		_____ (SIGNATURE OF DECLARANT)
		<input type="checkbox"/> PETITIONER/PLAINTIFF <input type="checkbox"/> RESPONDENT/DEFENDANT

### INSTRUCTIONS

**Step 1: Are you eligible to use this form?** *If your answer is YES to any of the following questions, you may NOT use this form:*

- Are you asking for spousal support (alimony) or a change in spousal support?
- Is your spouse or former spouse asking for spousal support (alimony) or a change in spousal support?
- Are you asking the other party to pay your attorney fees?
- Is the other party asking you to pay his or her attorney fees?
- Do you receive money (income) from any source other than the following?
  - Welfare (such as TANF, GR, or GA)
  - Interest
  - Salary or wages
  - Workers' compensation
  - Disability
  - Social security
  - Unemployment
  - Retirement
- Are you self-employed?

If you are eligible to use this form and choose to do so, you do not need to complete the *Income and Expense Declaration* (form FL-150). Even if you are eligible to use this form, you may choose instead to use the *Income and Expense Declaration* (form FL-150).

**Step 2: Make 2 copies of each of your pay stubs for the last two months.** If you received money from other than wages or salary, include copies of the pay stub received with that money.

Privacy notice: If you wish, you may cross out your social security number if it appears on the pay stub, other payment notice or your tax return

**Step 3: Make 2 copies of your most recent federal income tax form.**

**Step 4: Complete this form with the required information.** Type the form if possible or complete it neatly and clearly in black ink. If you need additional room, please use plain or lined paper, 8½-by-11", and staple to this form.

**Step 5: Make 2 copies of each side of this completed form and any attached pages.**

**Step 6: Serve a copy on the other party.** Have someone other than yourself mail to the attorney for the other party, the other party, and the local child support agency, if they are handling the case, 1 copy of this form, 1 copy of each of your stubs for the last two months, and 1 copy of your most recent federal income tax return.

**Step 7: File the original with the court.** Staple this form with 1 copy of each of your pay stubs for the last two months. Take this document and give it to the clerk of the court. Check with your local court about how to submit your return.

**Step 8: Keep the remaining copies of the documents for your file.**

**Step 9: Take the copy of your latest federal income tax return to the court hearing.**

**It is very important that you attend the hearings scheduled for this case. If you do not attend a hearing, the court may make an order without considering the information you want the court to consider.**

