

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN DIEGO**

**DOMESTIC VIOLENCE –  
RESTRAINING ORDER  
WITH CHILDREN PACKET**



**FORMS INCLUDED IN THIS PACKET**

Family Law General Self-Help Information	SDSC Form #D-280
Request for Child Custody and Visitation Orders	Judicial Council Form #DV-105
City and State Where Children Lived	Judicial Council Form #DV-105(A)
Child Custody and Visitation Order	Judicial Council Form #DV-140
Request for Orders to Prevent Child Abduction	Judicial Council Form #DV-108
Order to Prevent Child Abduction	Judicial Council Form #DV-145
Family Court Services Screening Form	SDSC Form #FCS-046
Family Court Services (FCS) Data Sheet	SDSC Form #FCS-002
Family Court Services Child Custody Recommending Counseling Information Sheet	SDSC Form #FCS-022
Get Ready for the Restraining Order Court Hearing	Judicial Council Form #DV-520-INFO



# SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

## FAMILY LAW SELF-HELP GENERAL INFORMATION

The information contained in this form is intended to provide self-help guidance on family law cases. San Diego City and County Public Libraries, as well as the San Diego Law Library, have computers with free Internet access available.

**STATE SELF-HELP RESOURCES.** The California Courts website, maintained by the Judicial Council of California, contains information about resources for self-help. Go to the California Courts Home page (<http://www.courts.ca.gov/home.htm>) and click on the category that best matches your needs from the "Self-Help" drop down menu. The primary categories for family law are: (1) Divorce or Separation (<http://www.courts.ca.gov/selfhelp-divorce.htm>); (2) Families & Children (<http://www.courts.ca.gov/selfhelp-family.htm>); and (3) Abuse & Harassment (<http://www.courts.ca.gov/selfhelp-abuse.htm>). Each category includes basic information with links to subcategories that include FAQs, step-by-step instructions for filing and serving the necessary documents, and links to the required forms with video instructions on how to complete each form. Click on the blue links of each category and subcategories that match your needs and follow the instructions. Parentage cases, also known as paternity cases, can be found as a subcategory under "Families & Children" (<http://www.courts.ca.gov/selfhelp-parentage.htm>).

**LOCAL SELF-HELP RESOURCES.** Visit the San Diego Superior Court's website at [www.sdcourt.ca.gov](http://www.sdcourt.ca.gov). On the Home page, click on the "Family" category (drop down menu) for information about various case types and Self-Help Services within family law, including family law rules and forms.

**FAMILY LAW FACILITATORS (FLF).** Relying solely on information obtained from the Internet is not the only option. FLF provides hands-on help to any Self-Represented Litigant (SRL). FLF offices are located at every division of the court. They offer both one-on-one services and group workshops. The services are free but offered on a first-come, first-served basis. Click on the link to "Self-Help Services" in the "Family" drop down menu on the court's website for detailed information about FLF.

**REQUEST FOR ORDER (RFO).** An RFO is the process used to get most court orders both before and after a judgment has been entered in a case. The most common temporary orders requested are child custody and visitation, and child and spousal support. As in most family law matters, there are mandatory forms and procedures. Detailed information and instructions are on the California Courts website. Go to the Self-Help drop down menu and click on "Families & Children" (<http://www.courts.ca.gov/selfhelp-family.htm>). Follow the links to the subcategories that best match your needs.

**DOMESTIC VIOLENCE (DV).** Detailed information, forms, and step-by-step instructions can be found on the California Courts website. Click on the "Domestic Violence" subcategory under "Abuse & Harassment" (<http://www.courts.ca.gov/selfhelp-domesticviolence.htm>). Any person may also get free help at any Domestic Violence Restraining Order Clinic. Detailed information about the clinics can be found on the San Diego Superior Court's website at [www.sdcourt.ca.gov](http://www.sdcourt.ca.gov) by clicking on "Domestic Violence" in the "Family" drop down menu.

### Domestic Violence Hotline (800) 799-SAFE (7233) / Domestic Violence Restraining Order Clinics listed below:

Downtown San Diego	Downtown San Diego	East County	North County	South County
Central Courthouse 1100 Union St. San Diego, CA 92101	Family Justice Center 1122 Broadway, Suite 200 San Diego, CA 92101 (619) 533-6000	El Cajon Courthouse 250 E. Main Street El Cajon, CA 92020	Vista Courthouse 325 S. Melrose Drive Vista, CA 92081	South Bay Courthouse 500 Third Avenue Chula Vista, CA 91911
Operated by San Diego Volunteer Lawyer Program (SDVLP) <a href="http://www.sdvlp.org">www.sdvlp.org</a>	<a href="http://www.sandiegofjc.org">www.sandiegofjc.org</a>	Operated by San Diego Volunteer Lawyer Program (SDVLP) <a href="http://www.sdvlp.org">www.sdvlp.org</a> & Center for Community Solutions <a href="http://www.ccssd.org">www.ccssd.org</a>	Operated by San Diego Volunteer Lawyer Program (SDVLP) <a href="http://www.sdvlp.org">www.sdvlp.org</a>	Operated by Legal Aid Society of San Diego <a href="http://www.lassd.org">www.lassd.org</a>

**ALTERNATIVE DISPUTE RESOLUTION (ADR).** Mediation, arbitration, collaborative family law, and the use of a privately compensated temporary judge are methods of ADR available to litigants in most family law cases. ADR is offered through private businesses at the parties' own cost. The court does not provide a list of these outside resources, nor does it endorse any private business.

**OTHER INFORMATIONAL FORMS.** The court's website has other local court forms which provide detailed information on topics not included in this form. Click on "Forms" in the "Family" drop down menu and find the forms listed in alphabetical order.

- Family Centered Case Resolution Process General Information (SDSC Form #D-080)
- Mandatory Settlement Conference General Information (SDSC Form #D-047)

**NOTE:** This form is intended to provide only general information. It is not legal advice, and should not be used as a substitute for legal advice from an attorney licensed by the State Bar of California. If you have any questions about your legal rights, you should talk to an attorney. Also, the San Diego Superior Court does not control or maintain the websites on this form and cannot be responsible for the accuracy of the information or content they contain. In addition, the content of a website may change, and the court would not necessarily be aware of the change. When you access one of these websites, you are subject to the terms of use and privacy policies of that website.

This form is attached to form DV-100. (Use this form to request orders for children you have with the person in 2.)

1 Your Information

Name:
Relationship to children: Parent Legal Guardian Other (describe):

2 Person You Want Protection From

Name:
Relationship to children: Parent Legal Guardian Other (describe):

3 Children Under 18 Years Old (list from oldest to youngest)

a. Name: Date of birth:
b. Name: Date of birth:
c. Name: Date of birth:
d. Name: Date of birth:

(Check here if you need more space. Write "DV-105, Children" at the top and attach it to this form.)

4 City and State Where Children Lived

a. Have all the children listed in 3 lived together for the last five years?
Yes (Complete section 4b.)
No (If no, do not complete the section below. Instead, use form DV-105(A)).

b. List where the child or children have lived for the last five years. Start with their current location.

Table with columns: Dates (month/year), City, State, and Tribal Land, Children lived with (Me, Person in 2, Other\*). Includes rows for 'From: To present' and multiple 'From: Until:' entries.

Other\* (relationship to child):

This is not a Court Order.



**5 History of Court Cases Involving Your Children**

a. Do you know about any other case involving any child listed in ③?

- No
- Yes *(If yes, complete section below.)*

(Check all that apply. List where it was filed (city, state, or tribe), year it was filed, and case number, if known.)

- Custody \_\_\_\_\_
- Divorce \_\_\_\_\_
- Juvenile Court *(child welfare, juvenile justice)* \_\_\_\_\_
- Guardianship \_\_\_\_\_
- Criminal \_\_\_\_\_
- Other *(example: child support case)* \_\_\_\_\_

b. Is there a current order for custody or visitation in effect?

- No
- Yes *(Complete the section below.)*

What did the judge order? *(Examples: who has custody of the children and what is the visitation schedule)*

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

*(Attach a copy of the order, if you have one.)*

Why do you want to change the order?

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

c. If there is another parent or legal guardian besides you and the person in ②, complete the section below.

Name: \_\_\_\_\_  Parent  Legal Guardian

**This is not a Court Order.**



## Orders a Judge Can Make to Protect Your Children

To ask for orders to protect your children, answer the questions below.

### 6 Do you want to limit where the person in 2 can travel with your children?

- No  
 Yes (*Complete the section below*):

I ask the judge to order that the person in 2 must have written permission from me, or a court order, to take the children outside:

- The county of (*list*): \_\_\_\_\_  
 California \_\_\_\_\_  
 Other places (*list*): \_\_\_\_\_

### 7 Do you want the person in 2 to have access to the children's records or information?

- Yes  
 No (*Complete the section below*):

a. I ask the judge to order that the person in 2 **not** access or have access to the records or information for:

- All the children listed in 3.  
 Only the children listed here (*names*): \_\_\_\_\_

b. For the following records or information (*check all that apply*):

- Medical, dental, and mental health  
 School and daycare  
 Extracurricular activity, including summer camps and sports teams  
 Child's employment (including volunteer and unpaid positions)  
 Other (*describe*): \_\_\_\_\_

(If the judge makes this order, providers will not be able to release the protected information to the person in 2.)

### 8 Do you believe the person in 2 might abduct (kidnap) your children?

- No  
 Yes (To ask for orders to help prevent abduction, you must complete [form DV-108, Request for Orders to Prevent Child Abduction](#), and attach it to this form.)

**This is not a Court Order.**



## Child Custody

You can ask a judge to make custody orders for your children. There are two types of custody in California: legal and physical custody.

- **Legal custody** means the person that makes decisions about the child's health, education, and welfare.
  - **Physical custody** means the person that the child regularly lives with.
- For both types of custody, parents can share custody (joint) or one parent can have full custody (sole).

### 9 Do you want the judge to make child custody orders?

- No
- Yes (Complete the section):

Legal Custody (check one):

- Sole to me
- Sole to person in ②
- Jointly (shared) by me and person in ②.
- Other (describe):  
\_\_\_\_\_

Physical Custody (check one):

- Sole to me
- Sole to person in ②
- Jointly (shared) by me and person in ②.
- Other (describe):  
\_\_\_\_\_

## Visitation (Parenting Time) with Children

You can ask a judge to make decisions about when your child spends time with the person in ②. This is called parenting time or visitation. It means the schedule and exact times each parent spends with the child. If a parent does not get custody, that parent can have parenting time with the child if a judge believes it is safe and in the child's best interest. Answer the questions below to tell the judge what parenting time you want right now for person in ②. Any orders the judge makes are temporary for now. They last until the court date (about three weeks away). On your court date, the judge can change or extend the orders.

### 10 Do you want the person in ② to have visits (parenting time) with the children?

- No, I ask the judge to order that person in ② have no visits. (Stop here. You have finished completing this form.)
- Yes (Go to ⑪.)

### 11 Do you want visits with the children to be supervised (monitored) by a third-party?

(To learn about supervised visitations, go to: <https://selfhelp.courts.ca.gov/guide-supervised-visitation>.)

- Yes (Go to ⑫.)
- No (Go to ⑬.)



**12 Details of Supervised (Monitored) Visits**

(Complete a and b):

a. Who do you want to supervise the visits?

(Check one):

Nonprofessional, like a trusted relative or friend (list name, if known): \_\_\_\_\_

Professional (list name, if known): \_\_\_\_\_

Professional fees paid by: Me \_\_\_\_\_ % Person in **(2)** \_\_\_\_\_ % Other: \_\_\_\_\_ %

b. How often and how long should the visits be?:

(Check one):

Once a week, for (number of hours): \_\_\_\_\_ each visit.

Twice a week, for (number of hours): \_\_\_\_\_ each visit.

Other (describe): \_\_\_\_\_

Check here if you want to use the chart listed below for a schedule. \_\_\_\_\_

**Schedule for Supervised Visits**

(List the days and times the person in **(2)** should visit with the children.)

	Time	Person to bring children to and from visit	Location of drop-off/pick-up
Monday	Start: End, if applies:		
Tuesday	Start: End, if applies:		
Wednesday	Start: End, if applies:		
Thursday	Start: End, if applies:		
Friday	Start: End, if applies:		
Saturday	Start: End, if applies:		
Sunday	Start: End, if applies:		

Follow the schedule listed above (check one):

Every week     Every other week     Other \_\_\_\_\_

Start date for visits (month, day, year) \_\_\_\_\_

**!** If you completed **(12)**, you are done completing this form. Do not complete **(13)**.)



**13 Details of Unsupervised Visits**

(Complete a and b):

a. If the judge allows the person in ② to have unsupervised visits with your children, you will have to tell the judge how you want to handle drop-off and pick-up of the children, also called child exchanges.

Do you want child exchanges to be supervised by a third-party?

No

Yes (Complete the section below):

Who do you want to supervise the exchanges? (Check one):

Nonprofessional, like a trusted relative or friend (list name, if known): \_\_\_\_\_

Professional (list name, if known): \_\_\_\_\_

Professional fees paid by: Me \_\_\_\_\_ % Person in ② \_\_\_\_\_ % Other: \_\_\_\_\_ %

b. Describe the parenting time you want the person in ② to have with the children.

(Use the lines or chart below to explain what days and times the person in ② should visit with the children. Give details including when visits will happen, how often the visits should be, and who will be responsible for transporting the children.)

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

Schedule for Unsupervised Visits			
	Time	Person to bring children to and from visit	Location of drop-off/pick-up
Monday	Start: ----- End, if applies:		
Tuesday	Start: ----- End, if applies:		
Wednesday	Start: ----- End, if applies:		
Thursday	Start: ----- End, if applies:		
Friday	Start: ----- End, if applies:		
Saturday	Start: ----- End, if applies:		
Sunday	Start: ----- End, if applies:		
<b>Follow the schedule listed above (check one):</b> <input type="checkbox"/> Every week <input type="checkbox"/> Every other week <input type="checkbox"/> Other _____			
<b>Start date for visits (month, day, year)</b> _____			



# DV-105(A) City and State Where Children Lived

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

This form is attached to (check one):

- DV-105 (For person in ①): Use this form if you have children that have not lived together for the last five years.)
- DV-125 (For person in ②): Use this form to list where your children have lived for the last five years.)

(Use the space below to list where the child or children have lived for the last five years. Start with their current location.)

Name of child or children: \_\_\_\_\_

Children lived with (check all that apply):

<u>Dates (month/year)</u>	<u>City, State, and Tribal Land</u>	<u>Me</u>	<u>Person in ②</u>	<u>Other*</u>
From: _____ To present	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/> Check here if you want to keep your current location private. List the state only.			
From: _____ Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
From: _____ Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
From: _____ Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
From: _____ Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
From: _____ Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
From: _____ Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other* (relationship to child): _____				

(Use the space below to list another child or children who have not lived with the child or children listed above. List where they have lived for the last five years. Start with their current location.)

Name of child or children: \_\_\_\_\_

Children lived with (check all that apply):

<u>Dates (month/year)</u>	<u>City, State, and Tribal Land</u>	<u>Me</u>	<u>Person in ②</u>	<u>Other*</u>
From: _____ To present	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/> Check here if you want to keep your current location private. List the state only.			
From: _____ Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
From: _____ Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
From: _____ Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
From: _____ Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
From: _____ Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
From: _____ Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other* (relationship to child): _____				

- Check here to list other children with a different residence history than the children you've already listed. Use another form DV-105(A) and attach it to this form.

**This is not a Court Order.**

This form is attached to (*check one*):  DV-110  DV-130

**1 Name of Protected Person:** \_\_\_\_\_  
 Relationship to children:  Parent  Legal Guardian  Other (*describe*): \_\_\_\_\_

**2 Name of Restrained Person:** \_\_\_\_\_  
 Relationship to children:  Parent  Legal Guardian  Other (*describe*): \_\_\_\_\_

**3  Children Under 18 Years Old**

a. Name: \_\_\_\_\_ Date of birth: \_\_\_\_\_  
 b. Name: \_\_\_\_\_ Date of birth: \_\_\_\_\_  
 c. Name: \_\_\_\_\_ Date of birth: \_\_\_\_\_  
 d. Name: \_\_\_\_\_ Date of birth: \_\_\_\_\_

(Check here if you have more children to list. On a separate piece of paper write "DV-140, Children" at the top and attach it to this form.)

**4  No Travel With Children Without Permission**

Person in **1**  Person in **2**  Other (*name*): \_\_\_\_\_

**must** have written permission from the other parent, or a court order, to take the children outside of:

a.  County of (*list*): \_\_\_\_\_  
 b.  State of California  
 c.  United States  
 d.  Other place(s) (*list*): \_\_\_\_\_

**5  Stop Access to Children's School, Health, and Other Information**

a. The person in **2** must not access or have access to the records or information for:

All the children listed in **3**.  
 Only the children listed here (*names*): \_\_\_\_\_

b. From the following (*check all that apply*):

Medical, dental, and mental health providers  
 School and daycare providers  
 Extracurricular activity providers, including summer camps and sports teams  
 Child's employers (including volunteer and unpaid positions)  
 Other (*describe*): \_\_\_\_\_

**!** If you are a provider listed above, you must not release information or records regarding the children listed in **5**a to the person in **2**.

**This is a Court Order.**



**6**  **Judge's Decision on Request for Orders to Prevent Child Abduction** (attach form DV-145)

**7**  **Child Custody**

a. Legal Custody (The person that makes decisions about the child's health, education, and welfare.)

- Sole to Person in **1**                       Jointly (shared) by persons in **1** and **2**.  
 Sole to Person in **2**                       Other (describe): \_\_\_\_\_

b. Physical Custody (The person that the child regularly lives with.)

- Sole to Person in **1**                       Jointly (shared) by persons in **1** and **2**.  
 Sole to Person in **2**                       Other (describe): \_\_\_\_\_

c. If the judge granted sole or joint custody to the person in **2**, the judge must explain why.

(For judge to complete. Check all that apply):

- Judge's reasons given at the hearing (See minute order or ask for the transcript.)  
 Judge's reasons listed here: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**8**  **Person in 2 must have no visitation with children until further order of the court.**

(If this form is attached to form DV-110, Temporary Restraining Order, this means that the judge has stopped your right to visit with your children temporarily. If you do not agree with this order, attend your court hearing.)

**9**  **Supervised (Monitored) Visitation with Children**

a. Person to be supervised:  Person in **1**     Person in **2** by:

Nonprofessional (name and relationship to child, if known): \_\_\_\_\_

Professional (name, if known): \_\_\_\_\_

(1) Fees paid by: Person in **1** \_\_\_\_\_ % Person in **2** \_\_\_\_\_ % Other: \_\_\_\_\_ %

(2) Person in **1** contact provider by (date): \_\_\_\_\_

Person in **2** contact provider by (date): \_\_\_\_\_

b. Provider's contact information, if known

Address: \_\_\_\_\_ Telephone: \_\_\_\_\_

c. Schedule of supervised visits

(1)  Once a week, for (number of hours): \_\_\_\_\_

(2)  Twice a week, for (number of hours): \_\_\_\_\_ each visit.

(3)  Follow the Visitation Schedule listed in **12**.

(4)  Other schedule (describe): \_\_\_\_\_

**This is a Court Order.**



**10**  **Supervised (Monitored) Child Exchanges** (Use item **11** to describe visitation schedule.)

- a. Person to be supervised:  Person in **1**  Person in **2** by:
- Nonprofessional (name and relationship to child): \_\_\_\_\_  
Safe location for exchanges: \_\_\_\_\_  
(For more information on safe locations, go to <https://selfhelp.courts.ca.gov/guide-supervised-visitation>.)
- Professional (list name, if known): \_\_\_\_\_
- (1) Fees paid by: Person in **1** \_\_\_\_\_ % Person in **2** \_\_\_\_\_ % Other: \_\_\_\_\_ %
- (2) Person in **1** contact provider by (date): \_\_\_\_\_  
Person in **2** contact provider by (date): \_\_\_\_\_
- (3) Location of exchanges to be decided by provider.
- b. Provider's contact information, if known:  
Address: \_\_\_\_\_ Telephone: \_\_\_\_\_

**11**  **Visits With No Supervision (Unmonitored)**

- a. If the judge granted unsupervised visits to the person in **2**, the judge must explain why.  
(For judge to complete. Check all that apply):
- Judge's reasons given at the hearing (See minute order or ask for the transcript.)
- Judge's reasons listed here: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- b.  Person in **1**  Person in **2** will visit with the children as follows:
- (1)  Visitation schedule described below:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- (2)  Follow the Visitation Schedule listed in **12**.

**This is a Court Order.**

**12**  **Visitation Schedule for Person in (2)**

	Time	Person to bring children to and from visit	Location of drop-off/pick-up
Monday	Start: ----- End, if applies:		
Tuesday	Start: ----- End, if applies:		
Wednesday	Start: ----- End, if applies:		
Thursday	Start: ----- End, if applies:		
Friday	Start: ----- End, if applies:		
Saturday	Start: ----- End, if applies:		
Sunday	Start: ----- End, if applies:		

**Follow the schedule listed above (check one):**

Every week       Every other week       Other \_\_\_\_\_

**Start date for visits (month, day, year)** \_\_\_\_\_

**13**  **Other Orders**

(Describe additional orders or refer to an attachment (e.g., [FL-341\(C\)](#), Children's Holiday Schedule Attachment)):

---



---

**14** **Country of Habitual Residence**

The country of habitual residence of the child or children in this case is  The United States  
or  Other (specify): \_\_\_\_\_.

**15** **Jurisdiction and Notice**

This court has jurisdiction to make child custody orders in this case under the Uniform Child Custody Jurisdiction and Enforcement Act (part 3 of the California Family Code starting with section 3400). The responding party was given notice consistent with the laws of the State of California.

**16** **Penalties for Violating This Order**

If you violate this order, you may be subject to civil or criminal penalties, or both.

**This is a Court Order.**

This form is attached to DV-105, *Request for Child Custody and Visitation Orders*.

(Use this form to ask for protection if you believe that the person in ② might take the children without your permission and hide them from you.)

① **Your Name:** \_\_\_\_\_

② **Name of Person You Want Protection From:** \_\_\_\_\_

③ **Reasons I Am Afraid of Child Abduction**

(In this section, explain to the judge why you believe there is a risk that the person in ② will take your children without your permission and hide them from you. The judge will use the information below to decide whether to grant any orders you request on page 2.)

**The person in ② (check all that apply):**

- a.  Has violated or threatened to violate a custody or visitation order.
- b.  Does not have strong ties to California.
- c.  Has done things recently that make it easy to take our children, like *(check all that apply)*:
  - Quit a job  Applied for a passport, birth certificate, or school or medical records
  - Closed a bank account  Hidden or destroyed documents
  - Sold or gotten rid of property  Other *(explain)*: \_\_\_\_\_
  - Sold a home or ended a lease
- d.  Has a history of:
  - Abusing me  Taking away or hiding our children from me
  - Child abuse  Threatening to take away or hide our children from me
  - Abusing other partners  Not cooperating with me in parenting
- e.  Has a criminal record
- f.  Has strong ties in:
  - Another county in California *(list county)*: \_\_\_\_\_
  - Another state *(list state)*: \_\_\_\_\_
  - Another country *(list country)*: \_\_\_\_\_
- g.  Is a citizen of another country *(list country or countries)*: \_\_\_\_\_  
 Does the person in ② have strong family, cultural, or emotional ties to that country?  Yes  No

Give examples or reasons for your answers above:

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

**The statements made above are made under penalty of perjury as declared on the request form (DV-100, ③②).**

**This is not a Court Order.**



## Orders a Judge Can Make to Prevent Abduction

In this section, you can ask for orders to prevent the person in ② from abducting (kidnapping) your children.

*Check all the orders that you want a judge to make (order).*

**4**  **Do Not Move With Children Without Permission**

I ask the judge to order that the person in ② not move with our children without my written permission or the judge's permission.

**5**  **Turn In and Do Not Apply for Passports or Other Important Documents**

I ask the judge to order the person in ② to not apply for passports or other documents that can be used for travel, like visas and birth certificates, and to turn in the following documents: \_\_\_\_\_

by (date): \_\_\_\_\_ to (name of person to give documents to): \_\_\_\_\_

**6**  **Provide Travel Plan and Documents**

If the person in ② is allowed to travel with our children, the person in ② should be ordered to give me:

*(Check all that apply.)*

- Children's travel schedule
- Copies of round-trip airline tickets
- Addresses and telephone numbers where the children can be reached
- An open airline ticket for me in case the children are not returned.
- Other (describe): \_\_\_\_\_

**7**  **Notify Other State of Travel Restrictions**

I ask the judge to order the person in ② to register this order with

(list county and state): \_\_\_\_\_ before the children can travel to that state for visits.

**8**  **Notify Foreign Embassy or Consulate of Passport Restrictions**

I ask the judge to order the person in ② to notify (name of embassy or consulate): \_\_\_\_\_

of this order and to file proof of the notification with the court by (date): \_\_\_\_\_

**9**  **Foreign Custody and Visitation Order**

I ask the judge to order the person in ② to get a custody and visitation order equal to the most recent U.S. order before the child can travel to (list country): \_\_\_\_\_ for visits.

(Note that foreign orders may be changed or enforced depending on the laws of the country.)

**10**  **Post a Bond**

I ask the judge to order the person in ② to post a bond for \$ \_\_\_\_\_.

If the person in ② takes the children without my permission, I can use this money to bring the children back.

**This is not a Court Order.**

This form is attached to DV-140, *Child Custody and Visitation Order*.

**1 Name of Protected Person:** \_\_\_\_\_  
 Relationship to children:  Parent  Legal Guardian  Other (*describe*): \_\_\_\_\_

**2 Name of Restrained Person:** \_\_\_\_\_  
 Relationship to children:  Parent  Legal Guardian  Other (*describe*): \_\_\_\_\_

**3 Court's Decision**

Based on the information given, the judge finds that:

a.  **There is not a risk** that the person in **2** might take the children without proper permission. The judge has not granted any of the orders in **4**–**12**.

b.  **There is a risk** that the person in **2** might take the children without permission because person in **2**:

(*Check all that apply*):

(1)  Has violated or threatened to violate a custody or visitation order.

(2)  Does not have strong ties to California.

(3)  Has done things recently that make it easy to take the children (*check all that apply*):

Quit a job

Sold a home or ended a lease

Closed a bank account

Hidden or destroyed documents

Sold or gotten rid of property

Applied for a passport, birth certificate, or school or medical records

(4)  Has a history of (*check all that apply*):

Abusing person in **1**

Taking the children without permission

Abusing other partners

Not cooperating with person **1** in parenting

Child abuse

(5)  Has a criminal record

(6)  Has strong ties in:

Another county in California (*list county*): \_\_\_\_\_

Another state (*list states*): \_\_\_\_\_

Another country (*list country*): \_\_\_\_\_

(7)  Is a citizen of another country (*list country*): \_\_\_\_\_

(8)  Other reasons: \_\_\_\_\_

**The Orders are Granted as Follows:**

**4**  **Do Not Move Without Written Permission of the Other Parent or Court Order**

The person in **2** must *not* move with the children outside

This county  California  The United States  Other (*specify*): \_\_\_\_\_

without written permission from the other parent or a court order.

**This is a Court Order.**





**5**  **Turn In and Do Not Apply for Passports or Other Important Documents**

Person in **(2)** must not apply for passports or other documents that can be used for travel, like visas and birth certificates, and must turn in the following documents:

by *(date)*: \_\_\_\_\_ to *(name)*: \_\_\_\_\_

**6**  **Provide Travel Plan and Documents**

Person in **(2)** must give the person in **(1)** the following before traveling with the children *(check all that apply)*:

- Children's travel schedule
- Copies of round-trip airline tickets
- Addresses and telephone numbers where children can be reached
- An open airline ticket for the person in **(1)** in case the children are not returned
- Other *(describe)*: \_\_\_\_\_

**7**  **Notify Other State of Travel Restrictions**

Person in **(2)** must register this order with *(list county and state)*: \_\_\_\_\_ before the children can travel to that state for visits.

**8**  **Notify Foreign Embassy or Consulate of Passport Restrictions**

Person in **(2)** must notify *(name of embassy or consulate)*: \_\_\_\_\_ of this order and provide the court with proof of the notice by *(date)*: \_\_\_\_\_

**9**  **Foreign Custody and Visitation Order**

Person in **(2)** must get a custody and visitation order equal to the most recent U.S. order before the children can travel to *(list country)*: \_\_\_\_\_ for visits.

The court recognizes that foreign orders may be changed or enforced depending on the laws of that country.

**10**  **Post a Bond**

The person in **(2)** must post a bond for \$ \_\_\_\_\_.

**11**  **Enforcing Order**

The court authorizes any law enforcement officer to enforce this order. In this county, contact the Child Abduction Unit of the Office of the District Attorney at: \_\_\_\_\_

**12**  **Other** *(list other orders or jurisdictional factors)*: \_\_\_\_\_

**Notice to Authorities in Other States and Countries:** This court has jurisdiction to make child custody orders under California's Uniform Child Custody Jurisdiction and Enforcement Act (California Family Code, part 3, section 3400 et seq.) and The Hague Convention on the Civil Aspects of International Child Abduction (22 U.S.C. section 9001 et seq.). If jurisdiction is based on other factors, they will be listed above in **(12)**.

**This is a Court Order.**

**CONFIDENTIAL**

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):   TELEPHONE NO.: _____ FAX NO. (Optional): _____ EMAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	<i>FOR COURT USE ONLY</i>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO</b> <input type="checkbox"/> CENTRAL DIVISION, CENTRAL COURTHOUSE, 1100 UNION ST., SAN DIEGO, CA 92101 <input type="checkbox"/> EAST COUNTY DIVISION, 250 E. MAIN ST., EL CAJON, CA, 92020 <input type="checkbox"/> NORTH COUNTY DIVISION, 325 S. MELROSE DR., SUITE 340, VISTA, CA, 92081 <input type="checkbox"/> SOUTH COUNTY DIVISION, 500 3RD AVE., CHULA VISTA, CA 91910	
PETITIONER(S) _____	
RESPONDENT(S) _____	
<b>FAMILY COURT SERVICES SCREENING FORM (CONFIDENTIAL)</b>	CASE NUMBER _____

FATHER

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

Address: \_\_\_\_\_

Daytime Telephone Number (8:00 a.m. to 5:00 p.m.): \_\_\_\_\_

Attorney: \_\_\_\_\_ Telephone Number: \_\_\_\_\_

MOTHER

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

Address: \_\_\_\_\_

Daytime Telephone Number (8:00 a.m. to 5:00 p.m.): \_\_\_\_\_

Attorney: \_\_\_\_\_ Telephone Number: \_\_\_\_\_

**NOTE: THIS SCREENING FORM IS FOR FAMILY COURT SERVICES (FCS) USE ONLY. THIS INFORMATION WILL BE KEPT CONFIDENTIAL.**

**CHILDREN MAY NOT ACCOMPANY PARTIES TO THE FAMILY COURT SERVICES APPOINTMENT UNLESS ORDERED BY THE COURT OR SPECIFICALLY REQUESTED BY A FAMILY COURT SERVICES COUNSELOR.**

**FAILURE TO APPEAR OR FAILURE TO CANCEL THE FAMILY COURT SERVICES APPOINTMENT AT LEAST 24 HOURS PRIOR TO THE APPOINTMENT TIME MAY RESULT IN SANCTIONS IMPOSED BY THE COURT OF UP TO \$1500 TO ONE OR BOTH PARTIES PURSUANT TO CODE CIV. PROC. § 177.5 AND SAN DIEGO SUPERIOR COURT LOCAL RULES.**

- |                                                                                                        | YES                      | NO                       |
|--------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|
| 1. Do you or the other party allege domestic violence?                                                 | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Is there a domestic violence restraining order?                                                     | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. Do you or the other party require a Spanish-speaking counselor?                                     | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. Do you or the other party live outside of the County of San Diego and need a telephone FCS session? | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. Is a third party requesting custody or visitation?                                                  | <input type="checkbox"/> | <input type="checkbox"/> |

- Grandparent Joinder
- Other: \_\_\_\_\_

Name and relationship to child(ren) \_\_\_\_\_

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

\_\_\_\_\_  
Signature of Filing Party/Attorney



CONFIDENTIAL

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

FAMILY COURT SERVICES (FCS) DATA SHEET (CONFIDENTIAL)

COMPLETE ALL THREE PAGES

Have you previously been to Family Court Services? [ ] Yes [ ] No

Case Name \_\_\_\_\_

Case No. \_\_\_\_\_

FCS Date \_\_\_\_\_

Next Court Date \_\_\_\_\_

IF YOU ARE BEING PROTECTED BY A RESTRAINING ORDER OR IF YOU ALLEGE DOMESTIC VIOLENCE, YOU MAY BE SEEN SEPARATELY. Are you requesting a separate session? [ ] Yes [ ] No

If you want to be seen separately, advise the Family Court Services Clerk when you check in.

SUPPORT PERSON: If you are being protected by a restraining order, a support person may accompany you during your FCS session. The support person must first sign a Family Court Services Domestic Violence Support Person Agreement (SDSC Form #FCS-038). Advise the Family Court Services Clerk of your support person when you check in.

Are you requesting that your address and telephone number remain confidential? [ ] Yes [ ] No

CHECK ONE [ ] Father [ ] Mother [ ] Grandparent [ ] Other (specify relationship): \_\_\_\_\_

FULL LEGAL NAME \_\_\_\_\_ AKA OR MAIDEN NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_
Number and Street Apt. # City State Zip Code

HOME TEL. NO. \_\_\_\_\_ WORK TEL. NO. \_\_\_\_\_

WORK SCHEDULE \_\_\_\_\_

BIRTH DATE \_\_\_\_/\_\_\_\_/\_\_\_\_ PLACE OF BIRTH \_\_\_\_\_

LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER XXX-XX-\_\_\_\_-\_\_\_\_

DRIVER LICENSE NUMBER \_\_\_\_\_ STATE \_\_\_\_\_ CURRENTLY VALID [ ] Yes [ ] No

ATTORNEY \_\_\_\_\_ TEL. NO. \_\_\_\_\_

ADDRESS \_\_\_\_\_
Number and Street Apt. # City State Zip Code

CHILD(REN)'S ATTORNEY (if any) \_\_\_\_\_ TEL. NO. \_\_\_\_\_

ADDRESS \_\_\_\_\_
Number and Street Apt. # City State Zip Code

PARENTS

Date of Marriage \_\_\_\_\_ or Date Began Living Together \_\_\_\_\_

Date of Separation \_\_\_\_\_ If dissolution filed, when? \_\_\_\_\_

NAME OF MINOR CHILD(REN)

Table with 6 columns: First, Middle, Last, Date of Birth, Place of Birth, Parent with whom residing. Rows 1-4.

**CONFIDENTIAL**

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

MEDICAL AND DENTAL INFORMATION

Child(ren)'s Doctor's Name \_\_\_\_\_ Tel. No. \_\_\_\_\_

ADDRESS \_\_\_\_\_  
Number and Street                                      Apt. #                                      City                                      State                                      Zip Code

List medical/dental information to be discussed at FCS \_\_\_\_\_  
 \_\_\_\_\_

EDUCATION

	Child	Name of School	Teacher/Counselor	Grade
1.	_____	_____	_____	_____
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____

COUNSELING

Is  Child(ren)  Father  Mother in Counseling?     Yes     No

Counselor for _____	Counselor for _____
Counselor's Name _____	Counselor's Name _____
Address _____	Address _____
Tel. No. _____	Tel. No. _____
When did counseling begin? _____	When did counseling begin? _____

CHILD(REN)'S ACTIVITIES AND OTHER SPECIAL NEEDS

(e.g. special classes, team activities, and transportation to and from these activities) \_\_\_\_\_  
 \_\_\_\_\_

1. Are there allegations of verbal intimidation or threats?     Yes     No
2. Has there been physical violence between the parents?     Yes     No  
 If yes, how long ago?     0 – 6 mos.     6 mos. – 1 yr.     1 yr. or more
3. Has law enforcement been involved?     Yes     No    Provide details: \_\_\_\_\_  
 \_\_\_\_\_
4. Have there been allegations of verbal intimidation/threats, physical violence, and/or restraining orders between yourself and  your parent  current spouse or cohabitant  party in dating or engagement relationship  other?  
 Yes  No If yes, check all boxes that apply. Provide details: \_\_\_\_\_  
 \_\_\_\_\_
5. Have there been allegations of abuse against your child(ren) or child(ren) for whom you have provided care?  
 Yes  No If yes, when: \_\_\_\_\_  
 Who made the allegations? \_\_\_\_\_ Who was the alleged abuser? \_\_\_\_\_  
 Has Child Welfare Services (CWS) been involved?  Yes     No  
 CWS worker's name and telephone number \_\_\_\_\_

**CONFIDENTIAL**

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

**FAMILY COURT SERVICES (FCS) DATA SHEET**  
Complete the following questions.

1. Which parent filed the current court action? \_\_\_\_\_
2. What is the action regarding? \_\_\_\_\_  
\_\_\_\_\_
3. Is there a court order regarding custody and visitation now?  Yes  No
  - a. If yes, briefly summarize: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  - b. When was it issued? \_\_\_\_\_
4. If there is no court order or a different schedule is being practiced, summarize your current parenting schedule: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
5. What parenting schedule would you like to have? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
Signature of Party Filling Out This Form

**NO ATTACHMENTS**



## SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

- CENTRAL DIVISION, CENTRAL COURTHOUSE, 1100 UNION ST., SAN DIEGO, CA 92101, (619) 844-2888
- EAST COUNTY DIVISION, 250 E. MAIN ST., EL CAJON, CA 92020, (619) 456-4181
- NORTH COUNTY DIVISION, 325 S. MELROSE DR., VISTA, CA 92081, (760) 201-8300
- SOUTH COUNTY DIVISION, 500 3RD AVE., CHULA VISTA, CA 91910, (619) 746-6097

### FAMILY COURT SERVICES CHILD CUSTODY RECOMMENDING COUNSELING INFORMATION SHEET

**IMPORTANT:** This information sheet is not and should not be considered or construed as legal advice. Child custody recommending counselors do not give legal advice. If you need legal advice, you should consult an attorney.

#### What is Child Custody Recommending Counseling?

Child custody recommending counseling (formerly called “mediation”) is a process in which parties are given the opportunity to work together, with the assistance of an experienced Family Court Services (FCS) counselor, towards a goal of reaching an agreement regarding a parenting plan for the child(ren). The child custody recommending counseling conference is an opportunity for parties to discuss custody and visitation and make their own decisions about what is in the best interest of the child(ren). The parenting plan that is developed details when children are to be with each party and specifies other parental responsibilities. Information shared by parties during the child custody recommending counseling session is not confidential to the court. The counselor will notify the court of areas of agreement. If no agreement is reached, the counselor will make a written recommendation to the court as to what is believed to be in the best interest of the child(ren). The recommendation will be provided to the parties prior to the court hearing. If you disagree with the counselor’s recommendation, you or your attorney will have the opportunity during your court hearing to tell the judicial officer your position regarding a child sharing plan. Only a judicial officer can make a court order for child custody or visitation.

Telephone calls to a counselor after the FCS session will not be accepted unless the counselor has requested specific information. All information that you want the counselor to know should be discussed during the FCS session.

#### What will happen at your Family Court Services appointment?

You will view an orientation video before seeing a counselor. The video can also be viewed on the court’s website at [www.sdcourt.ca.gov](http://www.sdcourt.ca.gov). Under the Divisions heading, select Family, then select Custody and Visitation.

In advance of your appointment, complete and submit the Family Court Services Data Sheet (SDSC Form #FCS-002). The form is located on the court’s website: [www.sdcourt.ca.gov](http://www.sdcourt.ca.gov). Under the Divisions heading, select Family, select Custody and Visitation, then select Forms. Mail the completed form to the address on the top of this form where your FCS appointment is located **OR** email it to Family Court Services at the court division where your FCS appointment is located:

- Central Division: [FCSCentral@sdcourt.ca.gov](mailto:FCSCentral@sdcourt.ca.gov)
- East County Division: [FCSEast@sdcourt.ca.gov](mailto:FCSEast@sdcourt.ca.gov)
- North County Division: [FCSNorth@sdcourt.ca.gov](mailto:FCSNorth@sdcourt.ca.gov)
- South County Division: [FCSSouth@sdcourt.ca.gov](mailto:FCSSouth@sdcourt.ca.gov)

This form must be submitted in advance for the counselor to review prior to conducting the session.

During the FCS session, you will be asked about your home, relationships, and other aspects of your life related to parenting. Your proposal for a child sharing schedule and any parenting concerns will also be discussed. The FCS conference will last 1½ to 2 hours.

**Are the parties always seen together in the child custody recommending counseling session?**

Parties are seen together unless there is a restraining order or allegations of domestic violence.

If you are being protected by a restraining order against the other party, or if you allege domestic violence has occurred, you may be interviewed separately from the other parent. Also, if a restraining order for your protection is in effect at the time of the appointment, you may have a support person with you during your FCS session. To arrange for either of these requests, please submit the appropriate forms as explained below prior to your appointment and advise the FCS clerk of these requests when you check in for your appointment.

If you do not have a restraining order against the other party, you may request a separate session by completing a Declaration Alleging Domestic Violence for Separate Family Court Services Session (SDSC Form #FCS-017) prior to your session. Mail or email the form with your Family Court Services Data Sheet (SDSC Form #FCS-002) as indicated above. The form is located on the court's website: [www.sdcourt.ca.gov](http://www.sdcourt.ca.gov). Under the Divisions heading, select Family, select Custody and Visitation, then select Forms.

You may request the presence of a support person by completing the Family Court Services Domestic Violence Support Person Agreement (SDSC Form #FCS-038) prior to your session. Mail or email the form with your Family Court Services Data Sheet (SDSC Form #FCS-002). The form is located on the court's website: [www.sdcourt.ca.gov](http://www.sdcourt.ca.gov). Under the Divisions heading, select Family, select Custody and Visitation, then select Forms.

Arrangements can also be made for a telephone conference for a party out of the county. Please call the FCS office where your session will take place to arrange for participation by telephone.

**Should I bring the child(ren) to the Family Court Services appointment?**

Do NOT bring the child(ren) with you for the FCS appointment unless ordered to do so by the court. If an interview with the child(ren) is needed, the FCS counselor will make arrangements for another time.

**What are the limitations of child custody recommending counseling?**

Child custody recommending counseling does NOT deal with issues related to money, child or spousal support, or property. Family Court Services cannot monitor or enforce court orders.

**IMPORTANT**

**If you do not need the Family Court Services child custody recommending counseling session, you must cancel it at least one court day prior to the scheduled date, per San Diego Superior Court Local Rules, Division V, Chapter 11, Child and Custody Visitation. If you do not cancel the session and/or fail to appear for the session, you may be ordered by the court to pay a monetary sanction of up to \$1,500 pursuant to Code Civ. Proc. § 177.5.**

Additional information about child custody recommending counseling can be found at [www.sdcourt.ca.gov](http://www.sdcourt.ca.gov) and [www.courts.ca.gov](http://www.courts.ca.gov).

# Domestic Violence and Child Custody

If there has been domestic violence in your family, here is important information about a law that may affect you.

## What is “domestic violence”?

It means to hit, kick, scare, throw things, pull hair, push, follow, harass, sexually assault, or threaten to do any of these things. It also includes other actions that make someone afraid of being hurt. Domestic violence can be spoken, written, or physical.

## What is “child custody”?

There are two types:

- **Physical custody:** The person that the child lives with on a regular basis.
- **Legal custody:** The right for a person to make important decisions about the child’s health care, education, and welfare.

## When does domestic violence affect who gets custody of my child?

In the last 5 years, has a parent in this case had a:

- (1) **conviction** in criminal court for domestic violence against one of the following people:
  - the other parent in the custody case,
  - any of your children or your children’s siblings,
  - current spouse, someone they are currently dating, engaged to or currently lives with or
  - their parent?

OR

- (2) **“finding”** of domestic violence by a judge against any of the people listed above (*example: a judge granted a restraining order for 3 or more years*)?

If you answered “yes” to (1) or (2), a special law applies to your case. Judges, attorneys, and court professionals refer to this special law as “3044”—the exact law that applies to your case (see page 2). Even if this law does not apply to your case, you should give the judge any information about domestic violence or abuse that you want the judge to consider when making a decision about child custody.

If someone that is not your child’s parent is asking the court for custody, this law applies to them as well.

## What happens when the special law (3044) applies to my case?

Under the special law, the judge can only give custody to the person who has a domestic violence conviction/finding if the judge believes that it is in the child’s best interest to do so. The judge must look at 7 factors, including the child’s best interest, in making this decision. The 7 factors that the judge must look at are:

1. What is in the child’s best interest?
2. Has the person committed any other domestic violence?
3. Has the person followed all the terms and conditions of any restraining order?
4. Has the person finished a 1 year batterer intervention program, if required by the court?
5. Has the person finished an alcohol/drug program, if required by the court?
6. Has the person finished a parenting class, if required by the court?
7. If on probation or parole, has the person followed all terms of probation or parole?

The judge must go through this 7-factor test in every case that it applies to, even if a court professional or evaluator makes a recommendation in your case. To learn more about the custody process in family court, visit <http://www.courts.ca.gov/selfhelp-custody.htm/>.



JUDICIAL COUNCIL  
OF CALIFORNIA  
OPERATIONS AND PROGRAMS DIVISION  
CENTER FOR FAMILIES, CHILDREN & THE COURTS



## Family Code 3044

(a) Upon a finding by the court that a party seeking custody of a child has perpetrated domestic violence within the previous five years against the other party seeking custody of the child, or against the child or the child's siblings, or against any person in subparagraph (C) of paragraph (1) of subdivision (b) of Section 3011 with whom the party has a relationship, there is a rebuttable presumption that an award of sole or joint physical or legal custody of a child to a person who has perpetrated domestic violence is detrimental to the best interests of the child, pursuant to Sections 3011 and 3020. This presumption may only be rebutted by a preponderance of the evidence.

(b) To overcome the presumption set forth in subdivision (a), the court shall find that paragraph (1) is satisfied and shall find that the factors in paragraph (2), on balance, support the legislative findings in Section 3020.

(1) The perpetrator of domestic violence has demonstrated that giving sole or joint physical or legal custody of a child to the perpetrator is in the best interests of the child pursuant to Sections 3011 and 3020. In determining the best interests of the child, the preference for frequent and continuing contact with both parents, as set forth in subdivision (b) of Section 3020, or with the noncustodial parent, as set forth in paragraph (1) of subdivision (a) of Section 3040, may not be used to rebut the presumption, in whole or in part.

(2) Additional factors:

(A) The perpetrator has successfully completed a batterer's treatment program that meets the criteria outlined in subdivision (c) of Section 1203.097 of the Penal Code.

(B) The perpetrator has successfully completed a program of alcohol or drug abuse counseling, if the court determines that counseling is appropriate.

(C) The perpetrator has successfully completed a parenting class, if the court determines the class to be appropriate.

(D) The perpetrator is on probation or parole, and he or she has or has not complied with the terms and conditions of probation or parole.

(E) The perpetrator is restrained by a protective order or restraining order, and he or she has or has not complied with its terms and conditions.

(F) The perpetrator of domestic violence has committed any further acts of domestic violence.

(c) For purposes of this section, a person has "perpetrated domestic violence" when he or she is found by the court to have intentionally or recklessly caused or attempted to cause bodily injury, or sexual assault, or to have placed a person in reasonable apprehension of imminent serious bodily injury to that person or to another, or to have engaged in behavior involving, but not limited to, threatening, striking, harassing, destroying personal property, or disturbing the peace of another, for which a

court may issue an ex parte order pursuant to Section 6320 to protect the other party seeking custody of the child or to protect the child and the child's siblings.

(d) (1) For purposes of this section, the requirement of a finding by the court shall be satisfied by, among other things, and not limited to, evidence that a party seeking custody has been convicted within the previous five years, after a trial or a plea of guilty or no contest, of a crime against the other party that comes within the definition of domestic violence contained in Section 6211 and of abuse contained in Section 6203, including, but not limited to, a crime described in subdivision (e) of Section 243 of, or Section 261, 262, 273.5, 422, or 646.9 of, the Penal Code.

(2) The requirement of a finding by the court shall also be satisfied if a court, whether that court hears or has heard the child custody proceedings or not, has made a finding pursuant to subdivision (a) based on conduct occurring within the previous five years.

(e) When a court makes a finding that a party has perpetrated domestic violence, the court may not base its findings solely on conclusions reached by a child custody evaluator or on the recommendation of the Family Court Services staff, but shall consider any relevant, admissible evidence submitted by the parties.

(f) (1) It is the intent of the Legislature that this subdivision be interpreted consistently with the decision in *Jaime G. v. H.L.* (2018) 25 Cal.App.5th 794, which requires that the court, in determining that the presumption in subdivision (a) has been overcome, make specific findings on each of the factors in subdivision (b).

(2) If the court determines that the presumption in subdivision (a) has been overcome, the court shall state its reasons in writing or on the record as to why paragraph (1) of subdivision (b) is satisfied and why the factors in paragraph (2) of subdivision (b), on balance, support the legislative findings in Section 3020.

(g) In an evidentiary hearing or trial in which custody orders are sought and where there has been an allegation of domestic violence, the court shall make a determination as to whether this section applies prior to issuing a custody order, unless the court finds that a continuance is necessary to determine whether this section applies, in which case the court may issue a temporary custody order for a reasonable period of time, provided the order complies with Section 3011, including, but not limited to, subdivision (e), and Section 3020.

(h) In a custody or restraining order proceeding in which a party has alleged that the other party has perpetrated domestic violence in accordance with the terms of this section, the court shall inform the parties of the existence of this section and shall give them a copy of this section prior to any custody mediation in the case.

## Make arrangements before your court hearing

- **If you or a witness wants to attend court remotely (by phone or videoconference)**

Check the court's website as soon as possible to see what you need to do to attend remotely. You can use [www.courts.ca.gov/find-my-court.htm](http://www.courts.ca.gov/find-my-court.htm) to find your court's website.

- **Court interpreter:** If you need an interpreter, use [form INT-300](#) to request an interpreter or ask the court clerk how you can request one. You can also use this form to ask for an interpreter for a witness.

- **Childcare:** Find childcare because court may take all morning or afternoon, even all day. Some courts have a Children's Waiting Room, a safe place for children to wait while parents are in court. You can check with your court in advance to see if this is available.

- **Support person:** You can have someone attend court with you. The person you bring cannot speak for you but can sit next to you when your case is called (if you attend in person). If you attend by videoconference, your support person can also attend with you.

- **Disability accommodation:** You may use [form MC-410](#) to request assistance. Contact the disability/ADA coordinator at your local court for more information.

## Request 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 hearing. Contact the clerk's office or go to [www.courts.ca.gov/forms.htm](http://www.courts.ca.gov/forms.htm) for *Disability Accommodation Request* ([form MC-410](#)). (Civil Code section 54.8.)

## Bring evidence or witnesses to your court hearing

If you have evidence or witnesses, read the information below. Bringing evidence or witnesses is optional and not required. Your statements alone can be proof for your case. If you are the person asking for the restraining order you will have to convince the judge that abuse occurred. The judge will make a decision based on all evidence and statements made by both sides.

- **Evidence:** Evidence can include pictures, emails, medical records showing injuries, police reports, etc. If you have evidence, you will need to make it available to the judge and other side to see. Sometimes the judge cannot look at or consider certain documents. The judge will decide which documents can be included in your case. If you are attending court in person, bring three copies of your written evidence, if you have not already filed and served it on the other side. If you have evidence and want to attend your court date by phone or videoconference, contact your local self-help center for information on how to share your evidence with the judge and other side.
- **Witnesses:** You can ask the judge to allow witnesses to speak at your court hearing. If you have a lot of witnesses, you may need to complete paperwork before your court hearing. Ask your local self-help center for more information.



**Tips for your court hearing****Plan what you want to say to the judge**

It may help to plan out and make notes about what you want to say to the judge. If needed, you can use your notes for your court hearing. Read over the court papers in your case and write out anything else you want the judge to know. Focus on the facts and details that support your side of the story. Go over any papers you received from the other side. Try to understand what they are asking for and arguing in the case (their allegations). If you do not agree, tell the judge. Think about and write down how you want to defend against their arguments

**Attend early and safely**

Show up or call in to your hearing early. If you are attending online, practice using the technology, like Zoom, before your court date. If you are late, you may miss your case being called. If you might be late, try to call the court right away to let courtroom staff know that you will be late.

- ▶ If you attend in person, do not sit near or talk to the other person. If you are afraid of the other person, tell the officer who is in the courtroom.
- ▶ If you attend by videoconference, and you don't want the other side to see where you are or your phone number (if you call in), talk with an advocate about how to safely attend using videoconference. This may include using a virtual background or using another phone number to call in. You can contact the National Domestic Violence Hotline for free help. See page 4 for information.

**Follow courtroom rules**

Here are some common rules:

- Put your cellphone on silent mode, if you're attending in person.
- Do not eat or drink during your hearing, except for water.
- Do not wear a hat or sunglasses on your head.
- When speaking to the judge, call the judge "Your honor" or "judge."
- Don't interrupt anyone who is speaking.
- Wait until it's your turn to speak and let the judge know you want a chance to speak.

**What will happen during my case?****The judge will give both sides time to speak**

Usually, the judge asks the person who wants the restraining order to talk first. No matter who talks first, you will both get a chance to speak. Attending court can be difficult and stressful but it is important not to talk over anyone. If you have something to say and it is not your turn, let the person finish talking and then ask the judge for permission to speak.

**The judge will reschedule your court hearing or make a decision**

- ▶ There are a few reasons why the judge may have rescheduled your court date. This is called a continuance. Here are some examples:
  - Person asking for the restraining order did not serve the other side in time (by the deadline).
  - The judge needs to set aside more time to hear your case.
  - If the restrained person has not filed a response (form DV-120) and asks for more time to prepare for the case, the judge must grant their request if they ask for one at the first court date.

If the judge reschedules your court date, the judge will usually extend the temporary restraining order, if one was granted. If the judge reschedules your court date, make sure you get a new order (form [DV-116](#), *Order on Request to Continue Hearing*).

- ▶ If the restraining order is denied, this means that the judge has decided that there was not enough evidence to prove that abuse happened. This means that your restraining order case is finished and any temporary protection expires.
- ▶ If the restraining order is granted, this means that the judge has decided that there is enough evidence to prove that abuse happened. You should go over the restraining order to make sure you understand all the orders. See the next page for information on next steps.



**What do I do after a restraining order is granted?**

If you've had your day in court and the judge granted you a long-term restraining order, you may have a couple more steps to take. Make sure all steps are completed as soon as possible. If you do not, the police may not be able to enforce your restraining order.

**Protected person:**

- ① Your restraining order will be on form DV-130, *Restraining Order After Hearing*. If you don't have a form DV-130 that is signed by the judge, check with the clerk to see if one was filed. If it has, ask for a copy. If one has not been filed, you will need to fill out:
  - [Form DV-130](#) (required).
  - [Form DV-140, Child Custody and Visitation Order](#) (required if court made orders for your children).
  - [Form FL-342, Child Support Information and Order Attachment](#), or [form FL-343, Spousal, Domestic Partner, or Family Support Order Attachment](#), if the judge orders child support or spousal support.
- ② Turn in your completed form(s) to the court clerk. The clerk will then give it to the judge to review and sign. You will need to pick it up once it is signed. Ask the court clerk when your forms will be ready. There is no fee for turning in this form, and you should receive some free copies.
- ③ Look at form DV-130 to see if the judge ordered you to serve the form by mail or in person. If you are ordered to serve the form by mail, this means your server only has to mail a copy of the restraining order. But, serving someone in person is always best. When you mail court papers, it may be hard to prove that the person actually received a copy especially if the person moves a lot. Learn more about service at: <https://selfhelp.courts.ca.gov/DV-restraining-order/serve-longterm-order>.

**Restrained person:**

- ① You must obey orders the judge makes. The orders will be on form [DV-130, Restraining Order After Hearing](#). If you do not obey them, you could be arrested, or convicted of a crime.
- ② If you have any prohibited items (firearms (guns), firearm parts, ammunition), you must bring all items to a licensed gun dealer or police. For more information, read [form DV-800-INFO/JV-270-INFO, How Do I Turn In, Sell, or Store My Firearms, Firearm Parts, and Ammunition?](#) The information is also available online at: [www.selfhelp.courts.ca.gov/respond-to-DV-restraining-order/obey-firearms-orders](http://www.selfhelp.courts.ca.gov/respond-to-DV-restraining-order/obey-firearms-orders). Free help is also available at your local self-help center. Find your local court's self-help center at [www.courts.ca.gov/selfhelp](http://www.courts.ca.gov/selfhelp).



**What if I have a child with the other side?**

If you ask for child custody or visitation (parenting time) orders, the judge may have you meet with a court professional to see if you and the other parent can agree on parenting time. This process is called "mediation." You can ask to meet separately and not with the other side in your case. Ask the court staff how you can make this request. For more information on mediation, go to: [www.selfhelp.courts.ca.gov/child-custody/what-to-expect-mediation](http://www.selfhelp.courts.ca.gov/child-custody/what-to-expect-mediation).

**What happens if I don't attend the court hearing?**

- ▶ If you asked for a restraining order and you do not attend the hearing, any protection you have in this case will expire. If the other side attends the hearing and you don't, the judge could make some orders against you, like lawyer's fees. To get another restraining order, you would have to fill out and file a new set of forms. If you've changed your mind and no longer want a restraining order, talk with self-help center staff or a lawyer.
- ▶ If someone asked for a restraining order against you, and you do not attend the hearing, a judge may grant a restraining order against you without hearing your side. The order can last for up to five years, and can include orders regarding children or property that you have with the person asking for protection.

**Information about the court process is also available online**

<https://selfhelp.courts.ca.gov/DV-restraining-order/process>.

**Where can I find a self-help center?**

Find your local court's self-help center at [www.courts.ca.gov/selfhelp](http://www.courts.ca.gov/selfhelp). Self-help center staff will not act as your lawyer but may be able to give you information to help you decide what to do in your case.

**Where can I find other help?**

The National Domestic Violence Hotline provides free and private safety tips. Help is available every day, 24 hours a day, and in over 100 languages. Visit online at [www.thehotline.org](http://www.thehotline.org) or call 1-800-799-7233; 1-800-787-3224 (TTY).