

INCARCERATED PARENTS MANUAL: Chapter 3

* * * * *

FAMILY COURT: Child Custody and Visiting Rights Manual for Incarcerated Parents

This manual (written in 2023) is for incarcerated parents in California prisons and jails who want visits with their minor children but are not getting them. This manual is limited to information about custody cases in family court. It describes the different kinds of family court cases that can be brought to decide child custody and visiting rights, whether parents are married or not. It describes how to file a new case in family court or, if a case has already been filed, how to request a visiting order in that case.

Other similar LSPC manuals address probate court guardianships and juvenile dependency court. Another manual is devoted to dissolution of marriage or domestic partnerships. We hope that our manuals will give you the information and tools you need to start having visits with your children. Most of the time, family visits are good for prisoners, good for the children, good for the community, and even good for the jails and prisons themselves. We would like to see all of these institutions and people work together to make more visits happen and for these visits to be as good as they can be.



Legal Services for Prisoners with Children (LSPC)

4400 Market Street, Oakland, CA 94608

Phone: (415) 255-7036 | Fax: (415) 552-3150

www.prisonerswithchildren.org

TABLE OF CONTENTS

<u>Section 1</u> : Three courts overview	3
<u>Section 2</u> : Getting started	3
<u>Section 3</u> : Getting an informal visiting schedule	4
<u>Section 4</u> : Getting a court order: an overview	5
<u>Section 5</u> : Filing a new case in family court to get a visiting order	7
<u>Section 6</u> : Filing motion papers in family court to get a visiting order	13
<u>Section 7</u> : Mediation	19
<u>Section 8</u> : Preparing for the court hearing	19
<u>Section 9</u> : The court hearing itself	21
<u>Section 10</u> : Enforcing your order cooperatively	23
<u>Section 11</u> : Going back to court	24
<u>Section 12</u> : Reunification after release: informal approach	24
<u>Section 13</u> : Reunification after release: going back to court	26
<u>Conclusion</u>	27
<u>Attachments</u>	28

ATTACHMENTS

- Attachment 1: Sample letter to Family Law Facilitator
- Attachment 2: California Family Law Facilitator addresses
- Attachment 3: Sample letter to Court Clerk
- Attachment 4: California Family Court addresses
- Attachment 5: Sample Pleading on Joinder: Child Visitation

Note on reproduction: You are welcome to copy and distribute this manual, but please do not charge for the copies.

Note to attorneys: Legal services providers and other attorneys may distribute this manual to incarcerated people, formerly incarcerated people, and/or their loved ones who contact them for legal assistance.

Disclaimer for non-attorneys: This manual is not intended to answer all of your legal questions or take the place of an attorney. Legal Services for Prisoners with Children (LSPC) does not provide direct legal representation. We have provided current information to the best of our ability. However, laws and procedures change frequently. It is your responsibility to check relevant legal cases, codes, court rules and forms when using this manual.

Section 1: THREE COURTS OVERVIEW

There are three different courts that might be involved with the custody of children of incarcerated parents. This manual provides information about how you can file or respond to a case filed in **family court**.

Family court is the court where divorce petitions (dissolutions of marriage) are heard, as well as dissolutions of domestic partnerships. It also hears custody cases between unmarried couples, called Petitions to Establish Parental Relationship and/or Petitions for Custody and Support of Minor Children.

The other two courts are the **juvenile dependency court** and the **probate court**.

The **juvenile dependency court** is the court where Child Protective Services (CPS) works. CPS may cause a “dependency petition” about your child to be filed if it believes that your child is abused or neglected.

The **probate court** hears guardianship petitions filed by private parties, such as relatives or friends, who want to be appointed guardian of your child.

If your child’s case was in either of those courts, please see LSPC’s custody and visiting rights manuals for those courts. If Child Protective Services or a guardianship is *not* involved, then a custody or visiting rights case will be heard in the family court.

Note for responding parties: This manual was written to assist an incarcerated parent who is seeking to obtain or expand their visiting rights. For this reason, it assumes that the incarcerated parent will be the “moving party” in a court case. The moving party is the person who files the case, or brings a motion in a case already filed. However, an incarcerated parent can also be the *responding* party in a case involving their parental rights – either to a lawsuit or to a motion filed by the other parent.

If you are the responding party to a divorce petition, LSPC’s manual on divorces will be helpful as it directly addresses a respondent’s options and it references this manual as appropriate. If you are the responding party to another type of family court petition about child custody and visiting, or are the responding party to a custody and visiting motion in any family court case, this manual will provide you with much useful information about court processes, how to fill out the forms you are served with, and how to prepare for a mediation session and court hearing.

Section 2: GETTING STARTED

If you are incarcerated and are trying to get visits with your child, the first steps are to:

- Locate your child and your child’s caregiver
- Find out if there is already a court order that gives someone authority over your child
- Get copies of relevant court orders and documents.

Locating your child: Not all parents know where their child is, or who is caring for them. Without this information, there is nothing you can do. You will need this information to reach out to the caregiver to make your request for visits. You will also need this information so you can serve legal papers on the caregiver.

Unfortunately, there are no official services that we know of that will help you to locate your child, unless there is an agency that is already involved (such as Child Protective Services or a Child Support agency). If this is the case, you can contact that agency for help, by writing or calling that office. If not, you will have to rely on your own resources, such as family and friends, to locate your child and the caregiver. Give your helpers all of the information you have (names, dates of birth, relatives' names, addresses and phone numbers, etc.) about people who might know where your child is. These days, the internet is a helpful tool. Another idea is to search courthouse records.

Current court orders: It is also important to get copies of any court order that may have been issued about your child. This will help you learn your current legal rights. It will also help you figure out what court you will have to file legal papers in. If a court case was filed involving your child, you should have been notified and given an opportunity to respond. However, sometimes a parent is not notified. If you know about, or even suspect, that a court case has been filed, try to get copies of the documents filed in the case. If you do not already have these documents, you can get copies by writing to the court. You may have to pay a fee for copying costs. At a minimum, you will need the most current court order.

Please note: Family court files that concern children of unmarried parents may be confidential. However, as a parent and a party to the case, you are entitled to copies.

Keep in mind that there are three courts that may have issued a court order about your child: the **family court**, the **juvenile dependency court** and the **probate court**.

Section 3: GETTING AN INFORMAL VISITING SCHEDULE

Before you try to get a court order for visiting, we suggest that you first try to work out an informal visiting arrangement by agreement with the caregiver. The caregiver of your child may be more receptive to your friendly letter than to being served with legal papers. Keep in mind that a court is going to place great weight on the caregiver's opinion about your child and you; you will likely be better off approaching the caregiver in a reasonable manner than by being angry or confrontational. Filing legal papers takes a lot of work; if you can get visits without it, you ought to try. If this effort is not successful, you will have learned something about the caregiver's position. You will also be able to inform the court that your informal efforts have failed.

If you are incarcerated, we suggest that you write to your child's caregiver and ask that they bring your child for a visit. Explain why this is important to you and how you would use that visiting time. Give the caregiver all the information you can find about visiting procedures at the facility where you are housed: days and hours, what the visiting room is like, the process to get into the prison (metal detectors, searches), the need to submit paperwork to get advance approval for visits, etc. If a visit involves a lot of travel, you can consider helping pay for travel expenses. Another idea is for you to find someone other than the caregiver who might be willing to transport your child to you. Keep in mind that caring for a child is a lot of work; bringing a child to a prison visit can be an added burden. In fact, this is

a good time to express your appreciation to the caregiver for their efforts in caring for your child while you are not available to do so yourself. If the caregiver is reluctant to expose your child to the jail or prison setting, you might suggest that the caregiver visit you first without the child, so they may become familiar with the process and environment. Be sure to let the caregiver know of the various services available to them, such as **Get on the Bus**, **TransMETRO**, Friends Outside, etc.

In addition to visits, you can make other requests of the caregiver, such as agreeing to accept regular phone calls from you, allowing you and your child to write to each other, sending you photos of your child, as well as report cards, school and art work, etc., keeping you informed about school progress, medical issues and other major concerns.

Once you have a successful visit, you can negotiate with the caregiver for a reasonable schedule for visits. This could be as frequent as weekly if you are in the same community, to once a year, if there is great distance and cost involved, to anything in between. Be sure to put your agreement in writing – it can be a simple letter from you stating what you have agreed to. Keep a copy. Then keep a record of how your arrangement is working: in a separate notebook or pad, write down the date and time of each call and visit, and keep copies of letters you write to your child and/or the caregiver. Make a note of the highpoints or any problems. This record will be useful if you need it later for court. However, we hope that you will be able to successfully arrange visits informally and will not have to seek assistance from the court.

Section 4: GETTING A COURT ORDER: AN OVERVIEW

Most of the parents we hear from have been unable to work out a satisfactory visiting schedule with the caregiver. If this is your situation, you will probably have to file a request for a court order for visits. For purposes of this manual, we assume that there is no open dependency court or probate court case concerning your child. This means that your child's case would be heard in family court.

Court case already filed

If a family law court has already issued a court order about custody and visitation of your child, then you will not need to file a new court case. Instead, you can make a written *motion* for visits in the case already on file, whether it is a dissolution of marriage or civil partnership, or a petition to establish parental relationship, or a petition for custody and support of minor children. You would use the same case name and case number, and file your motion papers in the same court as the previous court case. How to file a visiting motion in a pre-existing case is addressed in Section 6 of this manual.

Exit order from juvenile dependency court: If there was a custody order in the dependency court and the case was dismissed, the custody order (called an "exit order") would get filed in the family court. The form is called **JV-200** (Custody Order - Juvenile - Final Judgment). If there was already a family court case involving the same children, the exit order would be filed in that pre-existing case. Otherwise, the court would open a new case in family court and file the exit order in that case. If you want to change the terms of the exit order, you would file your motion in the family court using that case number.

Child support case: A child support case brought by the *county* does *not* determine custody – so you would *not* file a motion for visiting in that kind of case to seek visiting rights.

No court case already filed

If there is no court case involving the custody of your child already filed, then you will probably need to file a new lawsuit. As part of that lawsuit, you will ask for visiting rights. A description of the possible lawsuits is in section 5 of this manual and how to file a motion for visits is in section 6 of this manual.

Finding the right court forms

Our state courts use standard statewide forms. These forms each have a name and number. Most family court forms start with **FL**. All of the standard statewide forms are available on the internet at the website of the California Judicial Council. That address is: www.courts.ca.gov/forms.htm

It can be confusing to figure out which forms to use and how to fill them out. This manual tries to give accurate information about the forms you will need. However, there are 58 counties in California and they may have different requirements.

For specific information about your county (the county where your child is currently living), we suggest that you write to the Family Law Facilitator in that county. The Family Law Facilitator’s office is a part of the county court system that provides assistance to people who are not represented by an attorney. (Some counties refer to this office as a Self-Help Center.) They do not provide legal advice, but they can give you information about legal forms and procedures. Tell that office that you are incarcerated, that you are seeking visiting rights with your child, what kind of petition you want to file – or what kind of case is already in their court regarding your child’s custody, and ask them to send you blank copies of all the forms you will need.

If you don’t already have it, you can ask the Family Law Facilitator to send you a copy of the current custody orders regarding your children. This will provide you with the correct case number. Please note: some family court case files are **confidential**, such as cases where the parents are unmarried. You are entitled to receive copies of court documents in such a file if you are a party to that case.

A sample letter that describes the kinds of things you can ask for is attached to this manual.

► *Sample letter to Family Law Facilitator – Attachment #1*

A list of their addresses is also attached.

► *California Family Law Facilitator addresses – Attachment #2*

Another source of assistance is the Law Library at your institution. The library clerks may be able to give you the forms you need and help you learn how to fill them out.

If you have a friend or relative on the outside, that person may be able to help you. That person could call or go to your local Family Law Facilitator's office or download forms from the internet and mail them to you. That address is: www.courts.ca.gov/forms.htm

More information about these forms is in the sections which follow.

Section 5: FILING A NEW CASE TO GET A VISITING ORDER

If there is already a custody/visiting order in your child's case, you can skip this section because you do not need to file a new case. Go instead to Section 6 to find out how to file a motion in the court case already filed.

If neither you nor anyone else (including a child welfare agency) has filed a court case involving the custody of your child, and you want a court order for visiting rights, you will have to file a new case in family court. The kind of case you would file depends on whether you were married or in a domestic partnership with the other parent of your child, or were unmarried. You will need to figure out which of the three petitions is right for your situation.

Finding the petition that is right for you

Petition for dissolution, legal separation or nullity of marriage or domestic partnership (FL-100): If you were married and now want to be divorced from the other parent who has custody of your child, you will file for dissolution of marriage in family court. For more information on filing for a divorce, or responding to a divorce petition filed by your spouse, see LSPC's manual, "Manual on Divorce Issues for People in California Prisons and Jails."

If you do not want to end your marriage, you can file for legal separation instead. Both kinds of cases use the same petition form (FL-100). Alternatively, you can file a Petition for Custody and Support of Minor Children. See below.

Petition for Custody and Support of Minor Children (FL-260): If you were unmarried *and* the parentage of your child has already been officially established, then you can file a petition for custody and support of minor children in family court. Your child's parentage would have to have been established by one of these methods:

- Voluntary Declaration of Paternity signed by both parents;
- Adoption case;
- Juvenile dependency court case; or
- Government child support case.

Note: A married person can also file this petition. This kind of case cannot change a person's marital status or divide property.

Petition to Establish Parental Relationship (FL-200): If you were unmarried and the parentage of your child has *not* already been established in family court by one of the four methods listed above, then you will file a Petition to Establish Parental Relationship in family court.

This petition can be filed by the birth mother or the alleged father or other parent. An unmarried incarcerated mother could file it to obtain a court order for visiting rights for a child being cared for by the other parent (or someone else). An unmarried father or other parent could file it to establish parental rights and obtain a visiting order.

Establishing paternity/parenthood

Paternity can be established through DNA testing. The petitioner can request genetic (DNA) testing in line 7c of **FL-200**.

Even if DNA test results do not establish paternity, paternity or parenthood can be established in cases where the alleged father or parent received the child into their home and openly held out the child as their natural child. [Cal. Family Code §7611(d); *In re Spencer W.* (1997) 48 Cal.App.4th 1647.] This is called *presumed parent* status and is equivalent to the status of married parents or those who have a Voluntary Declaration of Parentage signed by both parents.

Someone who has not received the child into their home may still be declared a presumed parent if they have been prevented by the mother from physically receiving the child. [*Adoption of Kelsey S.* (1992) 1 Cal.4th 816, 849-850.] Someone seeking a declaration of parenthood would check the box at line 1b of **FL-200** and state what their claim is based on (biological/DNA, parenting relationship, or both).

Using the correct summons, response form and proof of service

You will be serving your petition, a summons and a blank response form on the other parent (the respondent). The person who delivers those (and other) papers to the respondent must sign a proof of service. The following is a chart which will help you find the correct forms for your petition:

PETITION	SUMMONS	BLANK RESPONSE	PROOF OF SERVICE
FL-100 Dissolution/Legal Separation of Marriage/Domestic Partnership	FL-110	FL-120	FL-115
FL-200 Petition to Establish Parental Relationship	FL-210	FL-220	FL-115
FL-260 Petition for Custody and Support of Minor Children	FL-210	FL-270	FL-115

Please note: Many of these forms are available in Spanish.

In *all* family court cases concerned with child custody, the petitioner (and respondent) must file a **FL-105/GC-120** form (Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act), also known as the UCCJEA form.

These are the basic forms you will need to file a new custody and visiting case. You will need additional forms to get a hearing in front of a judge to seek a visiting order. You may also need to get a fee waiver to avoid having to pay a filing fee. Generally, all of these forms are filed with the court at the same time. Section 6 of this manual describes these additional forms and how to fill them out.

Where to file

If you are filing for divorce, either you or your spouse must have resided in California for at least six months and in the county where you plan to file your divorce for at least three months.

A **FL-200** or **FL-260** petition generally must be filed in the county where your child lives. If you don't know your child's location, you can file in the county where you are incarcerated. However, a judge may later transfer the case to your child's county.

Filing a new lawsuit

Make three copies of all of the forms you are filing (including the motion forms described in the next chapter). They are:

- Request to Waive Court Fees: **FW-001** (optional)
- Order on Court Fee Waiver: **FW-003** (optional unless filing **FW-001**)
- Petition
- Summons
- UCCJEA Declaration: **FL-105/GC-120**
- Request for Order: **FL-300**
- Child Custody and Visitation Application: **FL-311** (optional attachment)
- Attachment: **MC-025** or plain paper (optional)
- Proof of Personal Service: **FL-330**.

Exception: you only need two copies of the fee waiver forms.

Mail the original and two copies to the court where you are filing your petition (send the original and only one copy of the fee waiver forms). Keep one set for your records. Enclose a self-addressed stamped envelope with the packet. The court will file the originals, file-stamp the copies and mail the copies back to you. Attachment #3 is a sample cover letter to the court clerk.

► ***Sample letter to Court Clerk – Attachment #3***

Addresses of California family courts are attached as Attachment #4.

► **California Family Court addresses – Attachment #4**

Alternatively, you could have a trusted person file them for you. In that case, that person should give the clerk a stamped envelope addressed to you, because some of the documents may take more than a day to process (such as your requests for orders).

Serving the documents

This is a very important step and must be done properly.

Service methods: First, choose a service method and identify who will do it. There are two basic methods to serve the other parent with the initial legal papers: handing the documents to them (called “personal service”) or mailing the documents to them (called “mail and acknowledgment service”). Either way, **you** cannot serve the other parent; rather, you must find **someone else** (at least age 18) to do it. Your process server must sign a document that they did the service and send it to you.

Service by mail and acknowledgment: This is the easiest form of service, but it requires that the other parent cooperate – by signing a **FL-117** (Notice and Acknowledgment of Receipt) form in a timely fashion and mailing it back to the sender. That form states that they received the documents, and when. The sender could be another prisoner, a staff person, or someone on the outside. The only requirements are that the sender is at least age 18 and lives in the same county as the mailing takes place.

Personal service: This requires someone to hand the documents to the other parent. (The **FL-115** itself explains the process further.) You can have a friend or relative do the service, hire a professional process server, or ask the Sheriff’s Department in the county where the other parent lives to do it. The Sheriff’s Department charges a fee, but you can ask the court to waive this fee when you first apply for a filing fee waiver.

Service packet: Once you know how you will serve the other parent, you can put the service packet together. The packet will include:

- File-stamped copy of all of the forms you filed (except the fee waiver forms)
- Blank Response that corresponds with your petition (see chart on page 3-8)
- Blank **FL-105/GC-120** (UCCJEA form)
- Blank **FL-320** (responding declaration to **FL-300**)

Additional paperwork and instructions for your process server

For both forms of service: Fill out the **FL-115** (Proof of Service of Summons), identifying the case, court, case number, etc., and checking the boxes to show which documents are being served. Make a copy for your records; give the original to your process server to complete after doing the service. Give your process server a self-addressed stamped envelope, if needed, to mail the completed **FL-115** back to you.

If service by mail and acknowledgement: You must *also* fill out (in part) the **FL-117** form (Notice and Acknowledgement of Receipt), showing the other parent's mailing address and the forms being mailed. Make two copies. Keep one for your records. Give the original and one copy to the sender. Also give the sender a stamped envelope addressed to the sender. Have the sender sign and date both **FL-117** forms on the date they mail the envelope to the other parent. Give or mail to your sender a large envelope addressed to the other parent and with sufficient postage.

The sender's job is to place inside that envelope:

- Service packet (described above)
- Two signed and dated **FL-117** forms
- Stamped envelope addressed to sender.

and place the envelope in the U.S. mail.

When the sender receives back the **FL-117** signed by the other parent and acknowledging service, the sender must give or mail it to you, along with the completed **FL-115** form. The date the other parent signed the **FL-117** form is considered to be the date they were served.

If the other parent does not sign and return the **FL-117** form within 20 days from mailing, you can arrange for personal service on them and request that they be ordered to pay for its cost.

If personal service: Give or send to your process server the service packet described above. Also, give your process server all of the information you have about where to locate the other parent: home and work addresses, other possible locations, likely times to find them there, vehicle description and license plate, contact information for other people who might know how to find them, etc. If you are using the Sheriff's Department, they may have a form for this. You also must provide your process server with a filled-out **FL-115** form (Proof of Service of Summons) and a self-addressed stamped envelope. After serving the other parent, the process server will fill out and sign this form and mail it back to you.

Keep copies of forms: Remember to keep one copy of each form you have filled out for your records.

You will not be able to obtain a visiting order until the other parent has been served, one way or the other, or has filed a Response.

What if someone other than your child's parent is caring for your child?

The petitions listed above are designed to determine child custody and visiting issues between two parents. However, sometimes a relative, friend or even a stranger has the physical custody of a child. If that caregiver *already has a court order* for custody or visiting, the most straightforward thing you can do is to file a motion for visiting in that court case. You would not need to file one of the petitions described above.

To establish your visiting rights when a non-parent has actual custody of your child but does *not have a court order* granting them custody, you will have to bring that person into court as a party to a

lawsuit. There is no special lawsuit designed for this situation. Instead, what you can do is file the appropriate lawsuit involving the other parent and then file a *motion to join* (or add) the custodian to that case.

Be aware that the judge who hears your request for a visiting order could issue an order granting the custodian physical and legal custody of your child, whether granting your visiting request or not.

Joinder motion forms: The joinder motion form is **FL-371** (Notice of Motion and Declaration for Joinder). You also have to staple to the **FL-371** “an appropriate pleading setting forth the claim as if it were asserted in a separate action or proceeding.” [Cal. Rules of Court, rule 5.24(d)(1).] This “pleading” could be called a “Pleading on Joinder: Child Visitation.” There is no standard form for this purpose, so you would have to write one up on your own. Attached to this manual is a sample.

► **Sample Pleading on Joinder: Child Visitation – Attachment #5**

You can also fill out a Summons (Joinder) (**FL-375**) form for the clerk to issue once the judge grants your joinder motion. On that form, you would name the custodian as the “claimant” in the box above “Summons” and in item 1. (If your lawsuit is not a dissolution, cross out the words “Marriage of” in the box for the names of the petitioner and respondent.)

Joinder motion procedure: You can file and serve this motion on the other parent at the same time that you file and serve your petition to start this lawsuit. Follow the instructions on filing and service in the section above. If you have already filed and served the lawsuit, you can file the motion later and serve it on the other parent by mail.

Note: Your child’s custodian is not served with these documents initially, only your child’s other parent. Only *after* the court hearing on your joinder motion will you personally serve the custodian.

The court should give you a court date on your joinder motion within 30 days of the filing of your motion. At that hearing, the court *must* order the joinder of any person who has “physical custody or claims custody or visitation rights with respect to any minor child of the marriage, domestic partnership, or to any minor child of the relationship.” [Cal. Rules of Court, rule 5.24(e)(1)(A).] If the court grants your motion, it should issue a written order. That order could be on form **FL-340** (Findings and Order After Hearing). All it needs to say is, “Good cause appearing, it is hereby ordered that [name of caregiver] is joined as a party to this proceeding.”

Your next step is to submit a Summons (Joinder) (**FL-375**) form to the court for the clerk to sign and issue it. Then you must have the following documents *personally served* on the person joined:

- Summons (Joinder)
- Notice of Motion and Declaration for Joinder and Pleading on Joinder
- Order on Joinder
- Original petition you filed
- Any other motion papers you are filing (such as a motion for visiting) and a blank response (**FL-320**)
- Your **FL-105/GC-120** (UCCJEA form) and a blank.

See the section above called “Serving the documents” on page 10-11 for information about personal service of these documents. The Proof of Service for the Summons (Joinder) is on the second page of the Summons itself. All of the documents served on the custodian can be listed on page two at item 1a.

For further discussion about motion papers in family court, see the next section of this manual (section 6).

Section 6: FILING MOTION PAPERS TO GET A VISITING ORDER

Fee waiver forms

Whether you are filing a new lawsuit or a motion in a lawsuit already on file, the court will require you to pay a filing fee. If you have limited resources, you can ask the court to waive (not charge) those fees. Here are the two forms you need:

- Request to Waive Court Fees: **FW-001**
- Order on Court Fee Waiver: **FW-003**.

If you know you will need to use the Sheriff’s Department to serve your legal papers on the other parent, include “service of process fee by sheriff” as a fee you are seeking a waiver for in your Fee Waiver forms. Attach a current copy of your Inmate Trust Account statement to your Request.

Forms to request a hearing to obtain a visiting order

You will need the following forms:

- **FL-105/GC-120**: Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA): A history of your child’s living arrangements
- **FL-300**: Request for Order: Your request, with reasons, and the court’s pre-hearing orders
- **FL-311**: Child Custody and Visitation Application Attachment: *Optional* attachment
- **MC-025**: *Optional* attachment for your declaration
- **FL-115**: Proof of Service of Summons [for petitioners filing a new lawsuit]
- **FL-335**: Proof of Mailing [for people filing for a hearing in a case already filed]
- **FL-300-INFO**: This is not a form but a useful line-by-line guide on how to fill out the **FL-300** form and serve it (and related forms) on your child’s other parent.

Please note: Many of these forms are available in Spanish.

Filling out the forms

Please refer to **FL-300-INFO** for detailed information on filling out the **FL-300** form.

Read each part of the forms carefully. Do your best to answer each question. If a question does not apply to you, you can write “not applicable” or “NA.” You can add extra words if it will help explain your answer.

Most of the forms are “fill in the blank.” However, in some places you will need to write your own statement of facts. Ideally, you would have a set of the forms to practice on and a second, “clean” set of forms to fill out once you are sure how to fill them out properly. You could use a pencil at first if you only have one set.

Definitely write out your “statement” (or declaration) on a blank piece of paper at first, because you may want to put it through a few drafts. Your final copy must be in ink.

What to ask for

Visiting request: On form **FL-300**, item 2 asks you to state the visiting order you want in terms of days, length and frequency of visits. You can either fill out form **FL-311** or write out your request on a separate piece of paper and attach it to your **FL-300** (label it “Attachment 2a”). Be sure to ask for “contact visits.” Otherwise, the prison could require you to visit behind glass. Ask for visits to occur consistent with your institution’s visiting hours. Ask for a reasonable visit length. Depending on your child’s age, distance from your current housing, and the strength of your current relationship, you could ask for visits every week or two, monthly, every 3 or 6 months, etc. You can suggest that someone other than your child’s caregiver bring your child to visit you. This will take a burden off of the caregiver and may remove an objection that the caregiver has.

If you haven’t seen your child in some time, you could ask for one or two visits to see how it goes, and then return to court to evaluate the experience with the hope of making a more frequent or permanent schedule. You could also suggest that the caregiver visit you first, without the child, so that the caregiver becomes familiar with the prison environment. Your child will be more comfortable if the caregiver is comfortable.

Other requests: Item 8 on page 4 of the **FL-300** form asks what “other relief” you are seeking. Here is the place to ask for everything else that you would like to help you maintain a relationship with your child. Examples are:

- Regular (collect) phone calls with your child
- Regular email with your child (if available and appropriate)
- That your letters to your child be read or given to them
- Photographs be mailed to you regularly
- That you be kept informed about school activities, grades, health issues, etc.
- That you be transported to court, or be allowed a telephone or video-conference appearance
- That the caregiver be ordered to appear in court
- Any request regarding the scheduling of the hearing, so you have enough time to serve the other parent.

The next two sections describe these orders.

If you ask for “other relief” (item 8), you must tell the court why in item 10, “Facts to Support.”

Order for transportation to court from prison or jail

It is generally a good idea to attend court in person when you are seeking visiting rights with your child. The judge will have a better idea of who you are and you will be able to speak about any concerns or questions the judge may have.

Unfortunately, incarcerated parents do not have the *absolute right* to physically attend a family court hearing which is scheduled to hear their motion for visiting rights. Only when a family court is being asked to terminate parental rights (such as in an adoption case), do you have an absolute right to be transported to the court hearing. [Cal. Penal Code §2625(b).]

However, you have the *right to ask* for a court order that you be transported to court; the judge *may grant your request* and issue the order. This is true for any court hearing at which your parental rights are being ruled on, such as your right to visitation. [Cal. Penal Code §2625(e).] You can also ask to be transported to court for any mediation session that the court may order. Put these requests in item 8 on **FL-300**. If you need more room, you can write on a separate piece of paper, labeling this part "Attachment 8." Provide facts in support of this request in item 10.

Note on good time credit: State prisoners will not lose good time credit by going to hearings concerning their children. California Code of Regulations, Title 15, section 3045.3 says that prisoners "shall receive sentence-reducing credit" that would have been earned if they had been able to work. They will also keep their existing work group status "unless otherwise impacted by a classification committee or disciplinary action."

Order for telephone or video-conference appearance in court from prison or jail

An alternative to your physical appearance in court is appearing by telephone or video conference. We recommend that you ask for one of these options if transportation to court is not possible or feasible for you, and because many judges are reluctant to order prisoners to be transported (due to logistics and cost). You can also ask that you be allowed to participate in any required mediation session by phone or video-conferencing. Put these requests under items 8 and 10 on **FL-300**.

Since procedures vary from county to county, and institution to institution, this manual cannot provide more specific guidance. You can ask your counselor, other prisoners or the Litigation Office for information about your institution, and the Family Law Facilitator for information about your court.

DNA testing/presumed father determination

A petitioner seeking DNA testing should ask for it to be ordered on line 8 of form **FL-300**. If you are seeking to prove that you have a *presumed father* parenting relationship (see page 3-8), you can ask the court to schedule a hearing for it here also.

Writing your supporting declaration

Probably the most important part of the form is item 10, which is your supporting declaration. This is where you tell your story about who you are, what your relationship with your child is like, and why visiting with you is in your child's best interest. Plan to spend some time writing and rewriting it.

It can be no longer than 10 pages in length, but clarity is more important than length. Typically, each sentence or paragraph is numbered.

A logical order is to start with positive things about yourself – such as your education or employment before you were incarcerated. Then describe your relationship with your child before you were incarcerated. You'll have to tell the court about your conviction and sentence. Try and find the best way to describe the context of your criminal case. For example, if it came about because of a drug problem, or an abusive relationship, or if you were a minor participant, or it was your first conviction, you could provide that information.

Then you could describe the positive things that you are doing while incarcerated. Describe who is caring for your child now and what you are doing to maintain your relationship with your child. If your child wants to visit with you, let the judge know that. Describe why visiting with you will be good for your child. If you will be released while your child is still a minor, you can point out that you want to reunify with your child upon your release (this does not necessarily mean that you will seek full custody) and that keeping an on-going relationship will make the future go better for all involved. But even if you have a long sentence, it is generally good for a child's emotional wellbeing to know, and have a positive relationship with, their parent.

Finally, give the judge some idea of what the visiting environment is like – will you have contact visits and be able to touch and hold your child? Is there a play area for children in the prison's visiting room? How long can a visit last? What will you do during those visits?

It is also a good idea to address the issue of transportation. If your child's home is fairly near the prison, this is a point in your favor. If your child's home is far away, there will be significant time and cost involved in bringing your child to see you. Can you help lessen this burden for your child's caregiver? Perhaps there is another relative who would be willing to bring your child. Can you or someone else contribute towards travel expenses? If a program that provides free transportation to state prisons is available to you, such as **Get on the Bus** or **TransMETRO**, give that information to the court.

Exhibits

You can attach to your motion and declaration any exhibit that you think is helpful to your case. This could include certificates you have earned while incarcerated; letters to or from your child; support letters from family members or others; or any other document that supports your case. Mark each exhibit with a number or letter (Exhibit A, B, C, or 1, 2, 3, etc.), and describe each exhibit in your declaration so that the court knows what it is. Do not overwhelm the court with documents. Only attach those few exhibits, if any, that directly support your request.

Reviewing your documents

Once you have filled out the forms to your best ability, ask someone at your institution to review them. It could be someone in the Law Library, a jailhouse lawyer, or someone who has filled out these forms for themselves before. After you have done the best you can with the resources available to you, prepare a complete set of the forms. It is best if you can make your final copy on a computer. If not, use a black or blue ink pen and hand print them as neatly as possible. The easier your documents are to read, the easier it will be for the clerk and the judge to understand what you want and why.

If the caregiver is not the other parent

Sometimes, the person caring for a prisoner's child is not the child's other parent. It might be a grandparent or other relative, a friend of someone in the family, or even a stranger to you.

For purposes of this manual, we are assuming that you are *not* trying to stop this person from being the primary caregiver of your child; only that you are trying to get visiting rights with your child.¹

If this caregiver was not already a party to the child custody case already on file, you will have to add or "join" this caregiver. Otherwise, the judge will not have the authority to issue a court order directed to that person. If this is your situation, think carefully about the scheduling of the two hearings. The joinder hearing should be scheduled before the visiting motion is heard. You can find information about the joinder motion and procedure at the end of section 6 above, under the heading "**What if someone other than your child's parent is caring for your child?**"

Mailing forms to the court

Before you mail these initial forms to the court, be sure to make three copies of everything (except fee waiver forms – only two copies are needed because you do not need one for the other parent). Keep one set for yourself.

Mail the original and two sets to the court and enclose a self-addressed, stamped envelope. A sample cover letter to the clerk's office is attached.

► *Sample letter to Court Clerk – Attachment #3*

Addresses of California county family courts are attached.

► *California Family Court addresses – Attachment #4*

Alternatively, if your Family Law Facilitator has agreed to review your documents before filing, you can ask them to forward your forms to the court clerk for filing if they are complete, or to return them to you if you need to make any changes. The Family Law Facilitator will not give you legal advice, but can point out things that you may have missed or misunderstood.

Receiving forms back from the court

If the court accepts your forms, it will file them, file-stamp your copies, rule on your fee waiver request, and schedule a court hearing time and place. The court may order the parties to participate in mediation services before the hearing.

¹ If you *are* trying to change who the caregiver is, you would use the same forms but fill them out differently. As a practical matter, you need someone on the outside who is ready and willing to be the new caregiver. The court would have to view that person as a suitable substitute and the change in caregivers as being in the best interests of your child. You and that person would have to work closely together on filing that lawsuit. Alternatively, that person could file a Petition for Guardianship in the probate court. LSPC's manual on probate court guardianships provides more information about these guardianships.

The court may issue other orders, such as restraining orders, orders not to remove the child from the state or county, or any orders you may have requested be issued pending the hearing. The court clerk will mail file-stamped copies of these papers back to you.

Ways to serve forms on the caregiver

Personal service if new lawsuit: If you filed your visiting motion at the same time as you filed a new lawsuit involving the other parent of your children (such as a divorce petition or a petition to establish parental rights), then you must arrange for them to be personally served. See detailed instructions in Section 5, "Serving the Documents," pages 3-10 - 3-11.

Personal service on non-parent caregiver whom you are seeking to join: If you filed, and the court granted, a joinder motion, then you must *personally serve* the third party caregiver with the relevant documents. For detailed information on how to personally serve court papers, see Section 5, "Serving the Documents," pages 3-10 - 3-11. For information about the documents to be served, see Section 5, "What if someone other than your child's parent is caring for your child?", pages 3-11 - 3-12.

Service by mail on petitioner: If you are the respondent in a child custody case in family court, you can serve the petitioner with your motion papers by mail. However, you *personally* cannot be the sender. You have to find someone else who is at least age 18 and who lives or works in the county where the mailing takes place. The sender must also sign **FL-335** (Proof of Service by Mail) and return it to you for filing with the court.

Service by mail on respondent after service or entry into the case: After the respondent has been personally served with the petition, or has filed a response or other written document with the court in this case, they can now be served by mail. The sender must be at least age 18 and live or work in the county where the mailing takes place. The sender must also sign **FL-335** (Proof of Service by Mail) and return it to you for filing with the court.

Arranging service by mail

After you receive file-endorsed copies of your documents back from the court, fill out the **FL-335** (Proof of Service by Mail) form as best you can. It provides information about the case, the documents being served, the person being served and the person doing the mailing. The **FL-335 INFO** sheet provides detailed information about how to fill out the form.

Put together a packet of documents and forms to be mailed to the other parent. It will include one copy of each form that you filed (except fee waiver forms), the corresponding blank response form and a blank **FL-105/GC-120** (UCCJEA) form. Be sure to keep one set for yourself. Also, give your process server an envelope addressed to the other parent and with correct postage.

Send or give your process server the packet to be mailed to the other parent, plus the **FL-335** form and a self-addressed stamped envelope back to you. Pay attention to deadlines. Tell the sender that the envelope should be mailed to the other parent right away.

Filling out and filing the Proof of Service form

After the other parent is served, the Proof of Service must be filed with the court. Your process server must fill out the appropriate Proof of Service form and file it with the court directly or give it to you for filing. If the process server files it with the court directly, they should mail you a copy. If the process server sends it to you to file, be sure to make a copy of it for your records before mailing the original (and one copy) to the court with a stamped self-addressed envelope.

If you are unable to serve the caregiver in a timely fashion, the court will not hear your case or give you a visiting order, so this step is crucial. If you need more time to do so, you can ask the court for a later court date. For more information on how to reschedule a hearing in family court, see **FL-304-INFO**.

Section 7: COURT-ORDERED MEDIATION

Child custody and visiting cases in family court are usually scheduled for a mediation session with your child's caregiver. This could happen over the telephone on a date before, or maybe the same day as, the hearing. The mediator works for the court. A mediator is a trained counselor who will listen to both the caregiver and you and will try to help you come to an agreement. The mediator's primary concern, like the court's, will be the best interest of your child. Depending on the mediator and/or the county where the case is being heard, the mediator may be quite supportive of a child's visiting an incarcerated parent, or hostile to the idea, or neutral. If no agreement is possible, then the mediator will give a report to the court and probably make a recommendation. Courts tend to follow the recommendations of their mediators.

This is an important session. You must present yourself and your case as strongly as possible. One effective way to prepare for this meeting is by role-playing with your friends. Ask someone to pretend to be your child's caregiver and someone else to play the role of mediator. You be yourself. Have the "mediator" ask you to describe your request and then ask the "caregiver" for a response. Then, you give your response and have the mediator try to negotiate an agreement. After the exercise, have a discussion with your friends about what you did well and what you could have done better. You can learn a lot from this kind of exercise.

Section 8: PREPARING FOR THE COURT HEARING

Arrange for your appearance

If you received a court order to appear in court for your hearing, you may have to be proactive at your institution to make sure you are transported in time. Be polite but persistent! The judge has ordered that you be brought to court, but *you* will have to make it happen. Be sure to bring your paperwork with you.

Similarly, if you received an order to appear in court by telephone or video-conferencing, make sure that you understand what you need to do on your end to make this happen. It may take several steps, over several days, to arrange this, including getting a permission slip or ducat.

Marshal your witnesses and evidence

Most family law hearings are not lengthy. However, you may have an uphill battle so it is good to present as strong a case as you can. If you have family or friends who support your motion, they can help you tremendously by attending the court hearing. Their physical presence in the courtroom can give you strength and will let the judge know that you have support. Also, you may want them on hand as possible witnesses. If someone has firsthand knowledge that you are a good and loving parent, or that the caregiver has been unreasonable in some ways, they might make a good witness for you. Tell your witnesses what testimony you think they can offer and make sure they are comfortable with it. Consider carefully which witnesses you want.

Ask yourself whether your witnesses could somehow be used against you – for example, if they know negative things about you that might come out in court if they were cross-examined.

Consider also whether you have any additional exhibits to present that you have not already submitted to the court. If so, bring them to court with you, have your support person bring them to court that day, or mail them in before the hearing. Always have a copy to give to the other side and one for yourself.

Write down your main points

It is easy to get flustered and forget things during a court hearing. It will be helpful if you make a list of your main points – the strongest facts you have to support your requests. Also, try to anticipate what the caregiver might say to oppose your requests and write down in advance what your best response is to those arguments. You may have an opportunity to ask the caregiver questions. Think about this beforehand and write down a few questions to ask the caregiver that will either bring out favorable information about you or will reveal negative information about the caregiver's position. Finally, make a checklist of all the things that you have asked for in your papers (frequency and length of visits and phone calls, copies of report cards, photographs, etc.).

Do a mock court hearing

One effective way to prepare for this court hearing is by role-playing with your friends. Ask someone to pretend to be your child's caregiver and someone else to play the role of judge. You be yourself. Have the "judge" ask you to describe your request and then ask the "caregiver" for a response. The "judge" can ask you both questions and allow each of you to ask the other questions. Then, the judge can make a ruling. After the exercise, have a discussion with your friends about what you did well and what you could have done better.

Section 9: THE COURT HEARING ITSELF

Phone or video appearance considerations

If you will be appearing by telephone or video, try to arrive at the correct office a bit early, if possible, and bring your necessary paperwork with you. When you are connected to the courtroom, let them know right away if you are having difficulty hearing or seeing the judge and other people in the courtroom, and ask if they can hear and see you. Listen carefully to the proceedings. The judge should tell you when it is your turn to speak. If you are not getting a chance to speak, you can ask, politely, “Your Honor, may I say something?”

Your witnesses and supporters

Ask your witnesses and supporters to arrive a bit early to the courtroom. Before court goes into session, they can introduce themselves to the court clerk or bailiff as being in court for your case. This could be helpful for the judge, especially if there is any difficulty in getting you transported to court or connected over the phone. You can ask your witnesses or supporters to deliver new exhibits to the court. The original goes to the court and copies go to the opposing side and to you.

Being sworn as a witness

Unless you have an attorney, you will have two roles to play during the court hearing. You are your own attorney, and you are the party (or person) who is seeking a court order. You, and any other witnesses or parties, will be sworn to tell the truth.

Your presentation

Since you are the party whose motion is being heard, the judge may call on you first. Be prepared to state your case simply and briefly. Speak slowly and clearly. State what you want and why it is reasonable and in your child’s best interest. Hopefully, the judge has read everything you have filed. It is fine to repeat your main points, but you do not need to repeat every detail. Be conscious of the time. You may have only a few minutes to speak to the judge. Tell the judge if you have any witnesses to present.

If you have additional exhibits to present, do so now. Explain what they are. Give the original to the court and a copy to the other side. Keep a copy for yourself.

The judge, the opposing attorney or the opposing party (if without an attorney) may ask you questions. It is best to admit the truth, but provide a helpful context. For example, if the judge asks how often you have seen your child in the last five years, and the answer is “not at all,” you can answer (if true) “[Opposing party] has refused to let me see my child when I tried, so I have been unable to see her at all. I have written to my daughter every month.”

If you are presenting a witness, you would do so at this point. The general rule is that you have to ask open-ended questions of your witnesses. This means you have to ask a question like, “Please tell the judge what you know about me as a parent,” and *not* a leading (yes/no) question like, “You think that

I am a great parent, don't you?" Even if your witness does not testify, you can tell the judge that you have a witness present in court who could corroborate you on particular facts.

Other parent's presentation

When it is the other parent's turn to present their case, do not interrupt. If you disagree with what is being said, write yourself a note. The court should give you a chance to ask them questions. You may have some questions already prepared, and you may think of some during the presentation. The questions can bring out facts favorable to you, or unfavorable to the other side. You *can* ask leading questions of an opposing party or witness. For example, you can ask, "Didn't I bring my son to the doctor regularly when he was in my care?" Or, "Isn't it true that you were arrested for driving under the influence with my child in the car?"

Your rebuttal

When the other side finishes its presentation, you can ask the court if you can reply. Don't just repeat your original presentation. Instead, use this time to refute what the other party has said. You can tell the judge if certain unfavorable facts are untrue. Even if an unfavorable fact is true, you can put it in an understandable context.

The court's ruling

Listen carefully to the judge's decision. Take notes. If you don't understand some part of it, ask that the judge explain it. If the judge has forgotten to rule on something that you asked for, remind them. For example, the judge may have made a ruling about visits, but forgotten your request about phone calls. (This is why it is helpful to have a written list of your requests on hand.)

Next court date

If you think it will be helpful to your case, ask for a next court date. For example, if the judge orders a visit once every three months, but you are worried that the visit won't happen, you can ask for a "progress report" or "status hearing" in four or five months. This will put pressure on the other party to make the visit happen in the timeframe the judge ordered. You can even agree at the current hearing that, in the future, you will be willing to "continue" or "postpone" the next hearing for another few months if the visits are happening on schedule.

The advantage of having an automatic next court date is that you (or the other party) will not have to refile and re-serve court motion papers to get back on the court's calendar to address any problems that may occur. Remember to ask for an order that you be transported to court, or that you are given a telephone or video appearance, as appropriate.

Preparing the court order

The last step is to ask who will be responsible for preparing, filing and serving the written court order. In some courts, the order may be prepared by the clerk. Other times, one of the parties (particularly where there is an attorney) will do it. Where there are two attorneys, one usually writes the order and the other attorney "approves" the order (or points out corrections) before the judge signs it.

You can ask to review an order written by the other party's attorney. If so, read the proposed order carefully and make sure it accurately reflects what the judge said. You can make corrections. The court order is then given to the judge for signature. The court clerk will file-stamp copies of the court order and give or send copies to the parties.

Forms for court orders

Here is the standard form for family court orders for child custody and visitation:

- **FL-340:** Findings and Order After Hearing

Here are some optional attachments:

- **FL-341:** Child Custody and Visitation Order Attachment
- **FL-341(A):** Supervised Visitation Order
- **FL-341(B):** Child Abduction Prevention Order Attachment
- **FL-341(D):** Additional Provisions – Physical Custody Attachment
- **FL-341(E):** Joint Legal Custody Attachment.

Section 10: ENFORCING YOUR ORDER COOPERATIVELY

If you have obtained a court order for visitation, phone calls or anything else that will help you maintain a relationship with your child, *CONGRATULATIONS!* Hopefully, your child's caregiver will comply with the order. Here are some things you can do to help make this happen.

This is a good time to again express your appreciation to your child's caregiver for the important work they are doing to care for your child. Express your intention to do everything you can to make the visits or other contact as positive for your child as they can be.

Set up a communication system with the caregiver – through phone, letters, or through a third party. Make your requests clear. For example, suggest a reasonable date for the first visit to occur. Provide the caregiver with the information they need to get pre-screened, if necessary. Find out what other paperwork may be needed, such as your child's birth certificate, a copy of the court order, etc. Keep copies of any letters you send the caregiver and/or keep a diary of your contact with the caregiver about these arrangements. Be reasonable and flexible. If necessary, let the caregiver know that you will take the case back to court if the judge's order is not followed.

If difficulties develop, look for assistance from third parties. For example, the family court mediator, your counselor, a prison chaplain, or other family members may be helpful intermediaries.

Section 11: GOING BACK TO COURT

If the caregiver does not comply with the order, you may be forced to go back to court for relief. If a next court date was already scheduled in the case, then you may be able to raise the issues at that hearing. Before the hearing, you can file a written declaration telling the court what has happened since the last hearing. You can use form **MC-030** for this purpose. If you file a declaration, you will have to serve it on the opposing party. It can be mailed. Fill out and file Form **FL-335** to prove that it was served by mail.

If there is no new court date scheduled, you will either have to file a new **FL-300** (Request for Order) and supporting forms for modification (like you did already) or a contempt of court motion.

Either motion will get the attention of the court and show the caregiver that you are serious. A new motion for modification seeks a change in the previous court order based on a change of circumstances from the last court hearing. If nothing external has particularly changed, it can be challenging to find a way to bring a modification motion. Perhaps what has changed is the caregiver's willingness or ability to comply with the court order, and you seek a change in the prior order to require a more willing person to transport your child to you.

A contempt of court proceeding does not seek a change in the court order, but punishment for the party who *intentionally* disobeyed the previous court order when they had the ability to comply. Since it is in the best interest of your child that you and your child's caregiver work cooperatively together, a contempt proceeding should only be used as a last resort. For those parents who have no other choice, the following are the forms you will need to file a contempt motion:

- **FL-410:** Order to Show Cause and Affidavit for Contempt
- **FL-412:** Affidavit of Facts Constituting Contempt
- **MC-025:** Attachment (optional)
- **FL-330:** Proof of Personal Service.

Being accused of contempt of court sometimes motivates people to comply with court orders.

Section 12: REUNIFICATION AFTER RELEASE: INFORMAL APPROACH

Incarcerated parents who have been able to maintain contact with their children, through visits, phone calls and/or letters, will have a smoother time reuniting with their children after release. If you have been able to maintain or establish a positive relationship with your child's caregiver, this too will serve you well. But even if your contact has been limited, or dissatisfactory, you will have an opportunity to reconnect once you return home.

It is important to remember that everyone's greatest concern should be the "best interests of the child." We believe that, in most cases, a child's best interest includes being able to maintain a lifelong relationship with their parents, incarcerated or not.

However, this does not mean that it is in a child's best interest to be moved from one home to another immediately upon a parent's release from prison or jail.

Children may have school or daycare routines that ought not be disrupted. At the same time, formerly incarcerated parents may have a lot of work to do to reestablish themselves with a home, job, etc. It is not uncommon for a returning parent to want immediate custody of their child, while a caregiver has a different opinion.

Before you turn to the court system for a new or modified visiting order, we recommend that you first try to work out an informal visiting arrangement by agreement with the caregiver. Keep in mind that a court is going to place great weight on the caregiver's opinion about your child and you.

Everyone's situation is different. If you had been the primary caregiver before your incarceration, if you maintained a relationship with your child while you were away, and if you have a stable home to return to, the caregiver may be quite willing to transfer custody back to you in a relatively short period of time. At the other end of the spectrum, if you had little contact with your child before and during your incarceration, it may be more difficult to develop a strong connection upon your release. In all cases, respect for the caregiver and your child's current life will help you show that you are sensitive to their feelings and needs.

We suggest that you start slowly, with shorter visits in the caregiver's home or a familiar place nearby. Over time, the length and frequency of your visits can increase, as your child and the caregiver become more comfortable with your presence in their lives. A reasonable schedule could be more than once a week if you are in the same community, every other weekend, or less often if there is great distance involved. A child should not be the subject of a legal tug-of-war. Instead, loving parents can cooperate with each other to make sure that the child's needs are met.

Joint custody may be a reasonable long-term goal. It does not necessarily mean equal time. Rather, it recognizes that the parents have a more equal parenting role. It is most appropriate where both parents can work well together in their child's best interests.

In addition to visits, you can request other things from the caregiver. You can ask to be allowed to phone and/or write to your child. You can ask to attend school, sports or other events. You can ask for photos, copies of report cards, and to view school and artwork. You can ask the caregiver to keep you informed about school progress, medical issues and other major concerns, and to consult with you about important decisions.

Be sure to put your agreement in writing. It can be a simple letter or email from you, stating what you both have agreed on. Keep a copy. Keep written records of how your arrangement is working, such as on a calendar. We hope that your effort to arrange informal visits will be successful. At some point, you, the caregiver or both of you may find it helpful to have a court order setting forth the parties' respective rights. Your informal arrangement will be taken into account by the court.

Section 13: REUNIFICATION AFTER RELEASE: GOING TO COURT

If you are unable to work things out with your child's caregiver upon your release, you may have to go to court.

If the custody and visitation of your child has already been determined by a family court judge, then you would file a motion to modify those orders in the same court. Sections 7 - 11 of this manual provide information on how to do this.

Your release from prison or jail may be a change of circumstance that would justify a court taking a fresh look at the present court order. You will fare better in court if you can show that you have transitioned well back into the community and that your efforts to visit with your child have been reasonable. A judge may be reluctant to expand your visiting and custody rights at first. Instead, a judge might order an initial period of "supervised" visitation. However, the courts should not require every parent returning to the community to have visits supervised. You can give the judge reasons why supervised visits are not necessary in your case.

If no court has issued custody and visitation orders about your child, then you would have to file a new lawsuit to obtain a visiting or custody order. Turn to sections 5-11 of this manual on how to proceed.

In any case, the Family Law Facilitator at your local county courthouse is a valuable resource. They can provide you with the necessary forms and help you understand how to fill them out, file them and serve them. Your local county law library is another good resource. The librarians can help you find legal how-to and research materials, as well as refer you to other legal resources in your community. Court forms are available on the Judicial Council website at www.courts.ca.gov/forms.htm Many forms come with instruction sheets.

Following court orders

It will be important for you to take advantage of every opportunity you are given to visit with your child. Keep records of your visits, phone calls and letters, so you can show the effort you are making. Over time, your consistent efforts will be noted. A child custody and visitation order can be modified as circumstances change. After a reasonable period of steady visits, the reestablishment of your relationship with your child, and other markers of your successful reentry (employment, stable housing, a drug/alcohol-free life), you can petition the court again to expand your visiting rights or even request joint or full custody.

All parties must abide by court orders. If you take your child without the permission of the legal custodian or the court, or fail to return your child as ordered, you could be prosecuted for a criminal offense and your probation, parole or supervised release could be revoked. Similarly, the caregiver must also follow the orders that you've obtained to visit with your child. Please review Section 10 (Enforcing Your Order Cooperatively) for the kinds of things that you can do to build a positive relationship with your child's caregiver.

Section 11 (Going Back to Court) addresses how you can go back to court if the caregiver does not comply with the orders.

CONCLUSION

We hope that this information is helpful to you. The court system can be overwhelming. We believe that the courts should make it easier, and not harder, for incarcerated parents, and parents returning to the community from prisons and jails, to develop and maintain relationships with their children. Being incarcerated does not make someone a bad parent. Nor should parents who are released from prison or jail be stigmatized for that reason. In most cases, children want to know their parents and want their parents to be a part of their lives. Even if you do not regain primary custody, your continued positive presence in your child's life is priceless to both of you.

As more and more incarcerated and released parents petition the courts for visiting rights, we believe the courts will become more understanding of your perspective. In this way, you are helping pave the way for a better tomorrow, not only for your family but also for others. We wish you success in your efforts to remain in your children's lives.

ATTACHMENTS

Attachment 1: Sample Letter to the Family Law Facilitator

Attachment 2: California Family Law Facilitator Addresses

Attachment 3: Sample Letter to the Court Clerk

Attachment 4: California Family Court Addresses

Attachment 5: Sample Pleading on Joinder: Child Visitation

SAMPLE LETTER TO THE FAMILY LAW FACILITATOR

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

Office of the Family Law Facilitator
County of _____
(Address)
(City, CA zip code)

Re: Case name/number _____ or type of
case (dissolution, petition to establish parental
relationship)

Dear Family Law Facilitator office:

I am incarcerated and need help in a family court case. I do not have an attorney to assist me.

[Select requests relevant to your situation]:

I need a copy of the current court order for custody and visitation in my case.¹

I need a copy of the following documents filed in that case²: _____ [list
documents, such as: petition, response, request for order, UCCJEA declaration, etc.]

I need the following blank court forms: _____ [list form numbers,
such as **FL-105**, **FL-300**, **FL-330**, **FW-001**, **FW-003**, etc.]

I intend to file a _____ case [state the type of case, such as
dissolution, petition for custody and support of minor children, etc.] Please send me the forms I will need
to file this case, including fee waiver forms.

Please send me information about how I can appear in court while I am incarcerated.

Please send me any other information you think might be helpful for me.

If I mail you a copy of my forms filled out, would you be able to review them and let me know if I
have filled them out properly?

Once I have finished my forms and have made copies, should I send them to your office for filing,
or should I send them directly to the court clerk's office?

Thank you for your attention and assistance.

Sincerely,

(Your signature)
Your printed name

¹ If your case may be sealed (because it involves unmarried parents), state that you are entitled to the
documents because you are the mother/father.

² See footnote above.

California Family Law Facilitator Addresses (Updated June 2023)

Alameda

24405 Amador St.
Hayward, CA 94544
510-690-2700

Alpine

495 Main St.
Placerville, CA 95667
530-621-5098

Amador

500 Argonaut Ln.
Jackson, CA 95642
209-257-2627

Butte

1) One Court St.
Oroville, CA 95965
530-532-7002

2) 1775 Concord St.
Chico, CA 95928
530-532-7002

Calaveras

400 Government Center Dr.
San Andreas, CA 95249
209-754-1443

Colusa

Mailing

532 Oak St.
Colusa, CA 95932
530-458-0598

Office

547 Market St.
Courthouse Annex
Colusa, CA 95932
530-458-0598

Contra Costa

751 Pine St.
Martinez, CA 94553
925-608-1000

Del Norte

450 H St., Rm. 209
Crescent City, CA 95531
707-465-8634

El Dorado

1) 2850 Fairlane Ct., Ste. 120
Placerville, CA 95667
530-621-6426

2) 1354 Johnson Blvd.

South Lake Tahoe, CA 96150
530-573-3044

Fresno

1130 O St.
Fresno, CA 93721-2220
559-457-2143

Glenn

119 N. Butte St.
Willows, CA 95988
530-934-7304

Humboldt

825 5th St., Rm. 310
Eureka, CA 95501
707-445-7256

Imperial

939 W. Main St.
El Centro, CA 92243
760-482-2233

Inyo

301 W. Line St.
Bishop, CA 93514
760-872-6240

Kern

1) 1122 Jefferson St.
Delano, CA 93215
661-720-5800

2) 325 Central Valley Hwy.
Shafter, CA 93263
661-746-7500

Kings

1640 Kings County Dr.
Hanford, CA 93230
559-582-1010

Lake

7000-A S. Center Dr.
Clearlake, CA 95422
707-994-4612

Lassen

2610 Riverside Dr.
Susanville, CA 96130
530-251-3935

California Family Law Facilitator Addresses (Updated June 2023)

Los Angeles

1) 111 N. Hill St.
Fl. 4, Rm. 426F
Los Angeles, CA 90012

2) 9425 Penfield Ave.
Fl. 3, Rm. 3700
Chatsworth, CA 91311

3) 200 W. Compton Blvd.
Fl. 2 Rm. 200F
Compton, CA 90220

4) One Regent St.
Fl. 1, Rm. 107
Inglewood, CA 90301

5) 42011 4th St. W.
Fl. 3, Rm. 3700
Lancaster, CA 93534

6) 275 Magnolia Ave.
Fl. 3, Rm. 3101
Long Beach, CA 90802

7) 300 E. Walnut St.
Fl. 3, Rm. 300
Pasadena, CA 91101

8) 400 Civic Center Plz.
Fl. 7, Rm. 730
Pomona, CA 91766

9) 1725 Main St.
Fl. 2, Rm. 210
Santa Monica, CA 90401

10) 825 Maple Ave.
Fl. 1, Rm. 160
Torrance, CA 90503

11) 6230 Sylmar Ave.
Fl. 3, Rm. 350
Van Nuys, CA 91401

12) 7339 S. Painter Ave.
Fl. 3, Rm. 300
Whittier, CA 90603

Madera

200 S. G St.
Madera, CA 93637
559-416-5520

Marin

3501 Civic Center Dr., Rm. C-44
San Rafael, CA 94903
415-444-7130

Mariposa

5088 Bullion St.
Mariposa, CA 95338
209-742-5322

Mendocino

1) 100 N. State St., Rm. 304
Ukiah, CA 95482
707-468-2020

2) 700 S. Franklin St.
Fort Bragg, CA 95437
707-468-2020

Merced

2260 N St., Rm. 1400
Merced, CA 95340
209-725-4168

Modoc

205 S. East St.
Alturas, CA 96101
530-233-6516

Mono

100 Thompsons Wy.
Mammoth Lakes, CA 93546
760-923-2314

Monterey

1) 1200 Aguajito Rd., Fl. 1
Monterey, CA 93940
831-647-5800, ext. 3005

2) 118 W. Gabilan St.
Salinas, CA 93901
831-647-5800, ext. 3005

3) 250 Franciscan Wy.
King City, CA 93930
831-647-5800, ext. 3005

Napa

825 Brown St., Fl. 2
Napa, CA 94559
707-299-1137

Nevada

201 Church St., Fl. 1, Ste. 9
Nevada City, CA 95959
530-362-5328

Orange

341 The City Dr. S. Thompsons
Fl. 1, Rm. 101
Orange, CA 92868
657-622-5077

Placer

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

Plumas

89 Court St.
Quincy, CA 95971
530-283-4792

California Family Law Facilitator Addresses (Updated June 2023)

Riverside

1) 265 N. Broadway
Blythe, CA 92225
760-775-8500

2) 880 N. State St.
Hemet, CA 92543
951-766-2525

3) 46200 Oasis St.
Indio, CA 92201
760-393-2617

4) 3535 10th St., Fl. 2
Riverside, CA 92501
951-274-4499

Sacramento

3341 Power Inn Dr.
Sacramento, CA 95826
916-875-3400

San Benito

450 4th St.
Hollister, CA 95023
831-636-4057

San Bernardino

351 N. Arrowhead Ave.
San Bernardino, CA 92415
909-269-8789

San Diego

1) 1100 Union St.
San Diego, CA 92101
619-844-2200

2) 325 S. Melrose Dr.
Vista, CA 92081
760-201-8200

3) 250 E. Main St.
El Cajon, CA 92020
619-844-2200

4) 500 3rd Ave.
Chula Vista, CA 91910
619-844-2200

San Francisco

400 McAllister St.
San Francisco, CA 94102
415-551-0605

San Joaquin

180 E. Weber Ave., Ste. 105
Stockton, CA 95202
209-992-5283

San Luis Obispo

1050 Monterey St.
San Luis Obispo, CA 93408
805-706-3617

San Mateo

400 County Center, Fl. 6
Redwood City, CA 94063
650-261-5100

Santa Barbara

1) 1100 Anacapa St.
Santa Barbara, CA 93101
805-882-4660

2) 312 E. Cook St.
Santa Maria, CA 93454
805-614-6442

Santa Clara

201 N. First St.
San Jose, CA 95113
408-882-2826

Santa Cruz

1 2nd St., Rm. 301
Watsonville, CA 95076
831-786-7200

Shasta

1655 Court St., Rm. 115
Redding, CA 96001
530-245-6900

Sierra

100 Courthouse Square
Downieville, CA 95936
530-289-3698

Siskiyou

311 4th St.
Yreka, CA 96097
530-842-8182

Solano

600 Union St.
Fairfield, CA 94533
707-207-7300

Sonoma

3055 Cleveland Ave.
Santa Rosa, CA 95403
707-521-6500

California Family Law Facilitator Addresses (Updated June 2023)

Stanislaus

800 11th St.
Modesto, CA 95354
209-530-3100

Sutter

1175 Civic Center Blvd.
Yuba City, CA 95993
530-822-3300

Tehama

1740 Walnut St.
Red Bluff, CA 96080
530-527-3563

Trinity

11 Court St.
Weaverville, CA 96093
530-623-5641

Tulare

1) 221 S. Mooney Blvd., Rm. 203
Visalia, CA 93291
559-737-5500

2) 300 E. Olive Ave.
Porterville, CA 93257

Tuolumne

12855 Justice Center Dr.
Sonora, CA 95370
209-533-6565

Ventura

1) 4353 E. Vineyard
Fl. 3, Rm. 30
Oxnard, CA 93036
805-289-8864

2) 800 S. Victoria Ave., Rm. 206
Ventura, CA 93009
805-289-8732

Yolo

1000 Main St., Fl. 2
Woodland, CA 95695
530-406-6794

Yuba

215 5th St.
Marysville, CA 95901
530-740-1850

SAMPLE LETTER TO THE COURT CLERK

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

Superior Court Clerk's Office
County of _____
(Address)
(City, CA zip code)

Re: Case name/number _____ or
type of case (divorce, request for hearing, etc.)

Dear Superior Court Clerk:

I am incarcerated and do not have an attorney to assist me with these documents which I have prepared for filing.

Enclosed please find:

1. One original and two copies of the following:
List the documents you are sending [for example: Petition, Summons, Response, Request for Hearing, UCCJEA declaration, etc. or use their form numbers]
2. One original and one copy of the following:
List the documents you are sending [for example: Request to Waive Court Fees, Order on Court Fee Waiver, or use their form numbers]
3. A self-addressed stamped envelope.

Please file the originals, stamp the copies, and return the copies 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 weeks after the date of this letter – **only include this type of request if your documents are requesting a hearing date.**]

Thank you for your attention and assistance.

Sincerely,

(Your signature)
Your printed name

[Note: Keep a copy of this letter until you receive the stamped copies back.]

California Family Court Addresses (Updated June 2023)

Alameda

24405 Amador St.
Hayward, CA 94544
510-690-2700

Alpine

14777 State Rte. 89
Markleeville, CA 96120
530-694-2113

Amador

500 Argonaut Ln.
Jackson, CA 95642
209-257-2600

Butte

1775 Concord Ave.
Chico, CA 95928
530-532-7002

Calaveras

400 Government Center Dr.
San Andreas, CA 95249
209-754-9800

Colusa

547 Market St.
Colusa, CA 95932
530-458-5149

Contra Costa

751 Pine St.
Martinez, CA 94553
925-608-1000

Del Norte

450 H St., Rm. 209
Crescent City, CA 95531
707-464-8115

El Dorado

1) 495 Main St.
Placerville, CA 95667
530-621-6426

2) 1354 Johnson Blvd.
South Lake Tahoe, CA 96150
530-573-3044

Fresno

1130 O St.
Fresno, CA 93721
559-457-2000

Glenn

821 E. South St.
Orland, CA 95963
530-865-1101

Humboldt

825 5th St.
Eureka, CA 95501
707-445-7256

Imperial

939 W. Main St.
El Centro, CA 92243
760-482-2200

Inyo

1) 301 W. Line St.
Bishop, CA 93514
760-872-3038

2) 168 N. Edwards St.
Independence, CA 93526
760-872-3038

Kern

1) 1122 Jefferson St.
Delano, CA 93215
661-720-5800

2) 325 Central Valley Hwy.
Shafter, CA 93263
661-746-7500

3) 1215 Truxtun Ave.
Bakersfield, CA 93301
661-868-5393

4) 1773 State Hwy. 58
Mojave, CA 93501
661-824-7100

5) 132 E. Coso Ave.
Ridgecrest, CA 93555
760-384-5900

Kings

1640 Kings County Dr.
Hanford, CA 93230
559-582-1010

Lake

1) 255 N. Forbes St.
Lakeport, CA 95453
707-263-2374

2) 7000-A S. Center Dr.
Clearlake, CA 95422
707-994-6598

Lassen

2610 Riverside Dr.
Susanville, CA 96130
530-251-8205

California Family Court Addresses (Updated June 2023)

Los Angeles

1) 111 North Hill St.
Los Angeles, CA 90012
213-830-0803

2) 600 S. Commonwealth Ave.
Los Angeles, CA 90005
213-351-7598

3) 9425 Penfield Ave.
Chatsworth, CA 91311
818-407-2200

4) 200 W. Compton Blvd.
Compton, CA 90220
310-761-4300

5) 42011 4th St. W.
Lancaster, CA 93534
661-483-5500

6) 275 Magnolia Ave.
Long Beach, CA 90802
562-256-3100

7) 300 E. Walnut St.
Pasadena, CA 91101
626-396-3300

8) 400 Civic Center Plaza
Pomona, CA 91766
909-802-1100

9) 1725 Main St.
Santa Monica, CA 90401
310-255-1840

10) 825 Maple Ave.
Torrance, CA 90503
310-787-3700

11) 6230 Sylmar Ave.
Van Nuys, CA 91401
818-901-4600

12) 7339 South Painter Ave.
Whittier, CA 90602
562-968-2699

Madera

200 S. G St.
Madera, CA 93637
559-416-5599

Marin

3501 Civic Center Dr.
San Rafael, CA 94903
415-444-7000

Mariposa

5088 Bullion St.
Mariposa, CA 95338
209-966-2005

Mendocino

1) 100 N. State St.
Ukiah, CA 95482-4416
707-468-2000

2) 700 S. Franklin St.
Fort Bragg, CA 95637
707-964-3192

Merced

2260 North St.
Merced, CA 95340
209-725-4100

Modoc

205 S. East St.
Alturas, CA 96101
530-233-6516

Mono

1) 100 Thompsons Wy.
Mammoth Lakes, CA 93546
760-924-5444

2) 278 Main St.
Bridgeport, CA 93517
760-932-5239

Monterey

1) 1200 Aguajito Rd.
Monterey, CA 93940
831-647-5800

2) 3180 Del Monte Blvd.
Marina, CA 93933
831-883-5300

Napa

825 Brown St.
Napa, CA 94559
707-299-1100

Nevada

1) 201 Church St.
Nevada City, CA 95959
530-362-4309

2) 10075 Levon Ave.
Truckee, CA 96161
530-362-4309

Orange

341 The City Dr. S.
Orange, CA 92868
657-622-6878

California Family Court Addresses (Updated June 2023)

Placer

1) 10820 Justice Center Dr.
Roseville, CA 95678
916-408-6000

2) 101 Maple St.
Auburn, CA 95603
916-408-6000

3) 2501 N. Lake Blvd.
Tahoe City, CA 96145
530-584-3460

Plumas

520 Main St., Rm. 104
Quincy, CA 95971
530-283-6305

Riverside

1) 265 N. Broadway
Blythe, CA 92225
760-775-8500

2) 880 N. State St.
Hemet, CA 92543
951-306-3561

3) 46200 Oasis St.
Indio, CA 92201
760-393-2617

4) 4175 Main St.
Riverside, CA 92501
951-777-3147

Sacramento

1) 3341 Power Inn Rd.
Sacramento, CA 95826
916-875-3400

2) 720 9th St.
Sacramento, CA 95814
916-874-5522

San Benito

450 4th St.
Hollister, CA 95023
831-636-4057

San Bernardino

1) 6527 White Feather Rd.
Joshua Tree, CA 92252
760-974-3047

2) 14455 Civic Dr.
Victorville, CA 92392
760-245-6215

3) 655 W. Second St.
San Bernardino, CA 92415
909-269-8789

4) 351 N. Arrowhead Ave.
San Bernardino, CA 92415
619-844-2700

San Diego

1) 1100 Union St.
San Diego, CA 92101
909-521-3136

2) 250 E. Main St.
El Cajon, CA 92020
619-456-4100

3) 325 S. Melrose Dr.
Vista, CA 92081
760-201-8600

4) 500 3rd Ave.
Chula Vista, CA 91910
619-746-6200

San Francisco

400 McAllister St.
San Francisco, CA 94102
415-551-4000

San Joaquin

180 E. Weber Ave., #413
Stockton, CA 95202
209-992-5555

San Luis Obispo

1) 1050 Monterey St.
San Luis Obispo, CA 93408
805-706-3600

3) 801 Grand Ave.
San Luis Obispo, CA 93401
805-706-3600

4) 901 Park St.
Paso Robles, CA 93446
805-706-3600

California Family Court Addresses (Updated June 2023)

San Mateo

1) 400 County Center
Redwood City, CA 94063
650-261-5100

2) 901 Park St.
Paso Robles, CA 93446
805-706-3600

Santa Barbara

1) 1100 Anacapa St.
Santa Barbara, CA 93101
805-882-4520

2) 312 E. Cook St.
Santa Maria, CA 93454
805-614-6414

Santa Clara

201 N. First St.
San Jose, CA 95113
408-792-4200

Santa Cruz

1 Second St.
Watsonville, CA 95076
831-786-7200

Shasta

1500 Court St.
Redding, CA 96001
530-245-6789

Sierra

100 Courthouse Sq.
Downieville, CA 95936
530-289-3698

Siskiyou

411 Fourth St.
Yreka, CA 96097
530-842-8182

Solano

600 Union St.
Fairfield, CA 94533
707-207-7355

Sonoma

1) 3055 Cleveland Ave.
Santa Rosa, CA 95403
707-521-6500

2) 600 Administration Dr.
Santa Rosa, CA 95403
707-521-6500

Stanislaus

800 11th St.
Modesto, CA 95354
209-530-3100

Sutter

1) 1175 Civic Center Blvd.
Yuba City, CA 95953
530-822-3300

2) 500 Argonaut Ln.
Jackson, CA 95642
209-257-2600

Tehama

1740 Walnut St.
Red Bluff, CA 96080
530-527-3563

Trinity

1) 11 Court St.
Weaverville, CA 96093
530-623-5641

2) 411 Fourth St.
Yreka, CA 96097
530-842-8182

Tulare

1) 300 E. Olive Ave.
Porterville, CA 93257
559-782-3700

2) 640 S. Alta Ave.
Dinuba, CA 93618
559-595-6400

3) 221 S. Mooney Blvd.
Visalia, CA 93291
559-730-5000

Tuolumne

12855 Justice Center Dr.
Sonora, CA 95370
209-533-5555

Ventura

800 S. Victoria Ave.
Ventura, CA 93009
805-289-8900

Yolo

1000 Main St.
Woodland, CA 95695
530-406-6700

Yuba

215 5th St., Ste. 200
Marysville, CA 95901
530-740-1800

Your name

Your address

Your phone number

Petitioner (or Respondent) in pro per

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF _____

_____)
)
 Petitioner,)
)
 v.)
)
 _____)
)
 Respondent.)
 _____)

Case No. _____

PLEADING ON JOINDER:
CHILD VISITATION

To the Superior Court of the State of California:

Petitioner/Respondent _____ (your name) is
the mother/father of _____
(name of child/children).

My child/children _____ (name of
child/children) is/are currently living with _____ (name
of person to be joined). _____ (name of person to be
joined) is currently my child's/children's primary caregiver.

_____ (name of person to be joined) is
related to my child/children as follows: _____

(Describe the relationship between your child/children and the caregiver:
grandparent, aunt, older sister, family friend, etc.).

I am seeking to join _____ (name of person to be joined) to this lawsuit because this person has physical custody or control of my child/children and I am seeking to establish or enforce my right to have visits with my child/children.

Prayer for Relief

For the foregoing reasons, I am seeking this Court to:

1. Issue its Order on Joinder, joining _____ as a party in this proceeding.
2. Issue any other orders as necessary in the interests of justice in this matter.

Dated: _____

Respectfully submitted,

Your name
Petitioner/Respondent