

INCARCERATED PARENTS MANUAL: Chapter 5

LOVE WITHOUT BORDERS OR WALLS: An International & Interstate Family Law Manual

This manual (updated in 2023) is for incarcerated parents in California prisons and jails who are, or may become, separated from their minor children because they and/or their children are moved to another state within the United States, or to another country. A parent may be deported to another country. A child may be moved to another country or state. Special rules apply to these situations.

These situations can also arise when parents are living in the community. A parent facing possible arrest and deportation can do things pro-actively to plan for their child's well-being should their arrest occur. A child can be wrongfully brought to (or not returned from) another state or country. The remedies apply to any "left behind" parent, incarcerated or not. Similarly, custody and visiting rights issues may arise where a child has been moved to a different state (or county) from their original residence, even when the move itself is lawful. Determining the proper court to address such disputes can be challenging.

We offer this manual to California prisoners in particular because incarcerated people have less access to timely legal information and the issues we address can call for immediate action. Other similar LSPC manuals cover detailed information for incarcerated parents about custody and visiting rights and procedures in family court, juvenile dependency court and probate court (where guardianships can be created).

We hope that this manual will give you the information and tools you need to maintain a parenting relationship with your children.



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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.

INTRODUCTION

This manual contains information about international and interstate family law issues. Its purpose is to assist families, and advocates of families, who live in or are citizens of multiple countries or U.S. states.

The first section provides information for immigrant parents who face the possibility of being removed from the United States while their minor child remains here.

The second section is primarily intended to aid a parent who seeks to prevent the other parent from moving their child out of their county of residence, whether to another country, state or county.

The third section describes international civil remedies available to a parent whose child has been moved to another country by the other parent without consent or court approval.

The fourth section describes the option of criminal prosecution of a parent who has wrongly taken their child to another country.

The fifth section describes which state court to turn to for help with family law issues when a child and at least one of their parents (or guardians) live in separate states.

This resource was created with incarcerated parents and non-citizen parents in mind. Even so, much of the information will be helpful to families of all backgrounds and their advocates. Where the legal authority described in this manual is based on international or US federal law, it will be applicable anywhere in the United States. However, whenever we describe the law of a specific state, that information is based on California state law and may not be relevant to people in other US states. We have tried to clearly cite the legal authority in each section, but this information should not be considered as advice or take the place of a legal professional.

Section 1: ISSUES FOR PARENTS FACING POSSIBLE DEPORTATION

When facing a challenge or crisis, having a plan helps families stay together or, if separated, reunite. Parents or guardians who may be at risk of deportation, in particular, may find some peace of mind in knowing that their children will be cared for if they are detained or removed. Every family's plan will be unique to that family's situation. For all parents, the key is to identify a trusted potential caregiver and to communicate the plan with all concerned parties, including children.

In addition to carefully choosing a backup caregiver for their children, parents should also gather in advance any necessary legal documents, including passports, birth certificates, and custody orders. They should be stored in a safe place known to the caregiver and other trusted family members, including the children. It is also a good idea for parents to give a list of emergency contact information to the caregiver and give the caregiver's information to each child's school, doctor, and daycare provider.

There is no one-size-fits-all child care plan. Arrangements may range from an informal agreement between parents and their chosen caregiver to a legally binding court order that gives custody to the caregiver. Parents who face the possibility of removal from the US should consider factors such as:

- Each family member’s immigration or citizenship status
- Whether their plan is for their children to join them in their home country
- The amount of disruption that moving may cause for a child
- Any special circumstances (such as a child’s medical condition).

The most important thing is to have a plan and to make sure that everyone who needs to know about it does. To learn more about family unity planning for immigrants, see the Immigrant Legal Resource Center’s guide, *Family Preparedness Plan*, at www.ilrc.org/family-preparedness-plan

If parents are arrested by police or detained or deported by Immigration and Customs Enforcement (ICE) and there is no reliable caregiver identified for their children, the children may be placed in the custody of the Department of Social Services (sometimes called Child Protective Services or the Department of Child and Family Services).

Once a child is placed in protective custody by such an agency, a dependency court case may be opened. Under some circumstances, such a case can result in the termination of parental rights and the child’s adoption by someone else. However, the fact that one or more of a child’s parents are deported to another country will not, on its own, be sufficient for a court to terminate their parental rights. One California court found that reunification services could be provided to a father who had been deported to Mexico and his child who was located in Southern California. [*In re A.G.* (2017) 12 Cal.App.5th 994.]

The following provides a brief outline of the legal options available to California families to arrange for caregiving plans for their children.

Caregiver’s Authorization Affidavit

The California Family Code creates a form called the Caregiver’s Authorization Affidavit, in which someone officially identifies themselves as the caregiver of specific children. (Cal. Fam. Code §§ 6550-6552.) If the caregiver is the child’s relative, the Affidavit will authorize them to make decisions about the child’s education and medical care.¹ If the caregiver is *not* a relative, the Affidavit will only authorize them to make decisions about the child’s education.

The caregiver must be age 18 or over and the child must live in the caregiver’s home. The caregiver must swear under penalty of perjury to these facts and also that they have either informed the parents that they are signing the Affidavit or that they have been unable to contact the parents. The form does not need to be notarized. A copy of that form is attached as Attachment 1.

►Caregiver’s Authorization Affidavit – Attachment #1

This form can be useful for families who will only need a temporary caregiver for their children. It provides only limited authority to the caregiver. It does not change the legal custody of the child.

¹ For purposes of a Caregiver’s Affidavit, “relative” means “a spouse, parent, stepparent, brother, sister, stepbrother, stepsister, half brother, half sister, uncle, aunt, niece, nephew, first cousin, or any person denoted the prefix ‘grand’ or ‘great,’ or the spouse of any of the persons specified in this definition, even after the marriage has been terminated by death or dissolution.” [Cal. Fam. Code § 6550(h)(2).]

Since this affidavit does not need to be signed by the parents, it can be filled out by the caregiver even after the parents are arrested or detained. Please note: this Affidavit may not be a good option if parents do not agree on who the caregiver should be.

Power of Attorney

In general, a power of attorney is created by one person (called the “principal”) to grant to another person (called the “agent” or “attorney-in-fact”) the authority to make important decisions on their behalf concerning “property, personal care, or any other matter.” [Cal. Prob. Code § 4123(a).]² A power of attorney can be granted by a parent to another person to make important decisions about the parent’s children. It can be used as a supplement to a Caregiver’s Authorization Affidavit.

The biggest advantage to powers of attorney is the flexibility they provide to parents. For example, they may be used to grant the same extent of caregiving authority to both non-relatives as to relatives. Also, they may be used for caregivers with criminal convictions who might otherwise be rejected as guardians by a court. Further, parents may choose a power of attorney that will begin and/or end when triggered by a specific event (such as their arrest or release from ICE detention). However, powers of attorney for the care of a child will automatically expire when the child reaches age 18.

Neither a Power of Attorney or Caregiver's Authorization Affidavit is binding on a court if the child’s custody ultimately comes before a judge. However, these documents can be valuable evidence of a parent's wishes.

While powers of attorney may be created by being signed in the presence of a notary public, notarization is not absolutely necessary. Instead, it is sufficient to have the Power of Attorney signed by two neutral witnesses who are 18 or older, or be accompanied by a declaration, signed under penalty of perjury, stating that the signer is in fact the child’s parent. [Cal. Prob. Code §§ 4121(c), 4222; Cal. Civ. Proc. Code § 2015.5.] However, it is advisable to use a notary public, if possible, because this kind of power of attorney is somewhat unfamiliar.

Four versions of a power of attorney for child custody are attached here. The first two are samples that provide for the creation of the power of attorney based on the triggering of a future event, such as an arrest or deportation. The difference between them is that the first form is designed to be notarized; the second is designed to be signed by witnesses.

► **Power of Attorney for Minor Child - triggered by future event, with notary – Attachment #2**

► **Power of Attorney for Minor Child - triggered by future event, with witnesses – Attachment #3**

The second two are more common powers of attorney that go into effect immediately upon signing. Again, the difference between them is that the first form is designed to be notarized; the second is designed to be signed by witnesses.

► **Power of Attorney for Minor Child - with notary – Attachment #4**

► **Power of Attorney for Minor Child - with witnesses – Attachment #5**

² The website for the California court system explicitly states that a power of attorney may be used by a parent to give another adult the right to make important decisions about their child. See: selfhelp.courts.ca.gov/guardianship/other-options

Individuals are advised to be cautious not to hire fraudulent “notarios” who often charge exorbitant fees to provide unnecessary services or documents related to powers of attorney. In 2023, a California notary may only charge \$15 per signature to notarize a document at their ordinary place of business.

Probate court guardianship

Probate court guardianships are the most formal legal option discussed here. They are the only option that requires filing documents with a court. A guardianship allows a potential caregiver to ask a court to give them legal custody of a child. A guardianship does not terminate parental rights; however, it does temporarily suspend them while granting to the guardian the authority to make legal decisions about the child’s care. A probate court guardianship may be appropriate where parents are likely to be separated from their children for an extended period of time. They may also be helpful for non-citizen children who wish to apply for Special Immigrant Juvenile Status (SIJS).

Special Immigrant Juvenile Status: If an undocumented child is made a dependent of the juvenile dependency court and the court has denied reunification services with the parents, a federal law may provide an immigration benefit to that child. The Special Immigrant Juvenile Status (SIJS) law is a way for a minor to apply to become a permanent resident of the United States (get a “green card”) and apply for US citizenship in five years. The juvenile dependency court must make written findings that reunification with parents is not viable and return to the prior country is not in the child’s best interest. (**JV-357.**) These findings are then submitted to immigration authorities. Your child’s attorney should assist with this; or you can ask the court to appoint an immigration attorney for your child or order the agency to provide immigration services. You can use this on-line directory to find legal assistance in your child’s county. www.immigrationadvocates.org/legaldirectory/

Starting a guardianship: A guardianship case is started with the filing of a Petition for Appointment of Guardian and other forms. A parent, minor age 12 or older, potential guardian or other adult can file the petition. However, it would be premature for parents facing possible arrest and deportation to start a guardianship case while they are still in the community. Instead, parents who decide that a guardianship would be the best plan for their family should the need arise, can simply fill out one form in advance, nominating their chosen guardian. That form (**GC-211: Nomination of Guardian**) can be given to the chosen guardian for safekeeping. If a guardianship becomes necessary, their **GC-211** form can be filed with the court when the Petition for Appointment of Guardian is filed.

►Probate court Nomination of Guardian form (GC-211) – Attachment #6

Termination of a guardianship: Once a guardianship is granted by a probate court, it will remain in place until one of the following occurs:

- A parent, guardian or the child (age 12 or older) petitions to terminate it and the court does
- The child reaches age 18
- The child is emancipated
- The child marries
- The child joins the military
- The child or the guardian dies.

Each county court has a Self-Help Center or Family Law Facilitator office. That office may be able to assist individuals with guardianship petitions. You can ask LSPC to send you our “Probate Court Guardianship Starting Packet” or our “Termination of Probate Court Information Packet.” For more information about probate court guardianships, you get directions and forms online: selfhelp.courts.ca.gov/guardianship/process

Section 2: PREVENTING A PARENT FROM MOVING A CHILD FROM THEIR COUNTY OF RESIDENCE

This section addresses the legal remedies available to parents or caregivers located in the United States who are concerned that the other parent or caregiver might take their child to another country, state, or county without permission. Such a situation may be more likely to occur when one parent is in prison, jail, or immigration detention in the US. These situations are especially stressful for incarcerated parents because these parents are less able to control where their children are taken. It is much easier to prevent such a move than to remedy an unwanted move after it happens.

A parent who wants to move a child out of their home county can, and should, seek the other parent’s permission. Alternatively, that parent can seek a court order allowing the move to occur. If a non-custodial parent is concerned about a possible move (for example, because the custodial parent has family or citizenship in another country), the non-custodial parent can request a restraining order in family court to prevent the move until the court can hear the case and decide the issue. For a fuller discussion of how to file a new case in family court or file a motion in an existing family court case, see LSPC’s manual “Family Court: Child Custody and Visiting Rights Manual for Incarcerated Parents.” The family court motion form is **FL-300** (Request for Order); the specific attachment that addresses this situation is **FL-312** (Request for Child Abduction Prevention Orders).

In general, California family courts are required to make orders regarding a child’s custody and visiting arrangements based on the child’s best interests. [Cal. Fam. Code § 3020.] This is also true when it comes to moving a child’s residence. California Family Code § 7501 allows a parent or legal guardian who has primary custody to move the child *unless* the court determines that it would interfere with the welfare of that child. The court will consider the child’s interest in maintaining the stability of the previous agreement and the possible harm the move might cause to the child’s relationship with the non-moving parent. If the proposed move is to another country, the court will likely also consider factors such as a potential culture shock, the distance of the move, and jurisdictional issues raised by the move.

The non-custodial parent generally has the burden to show that the move would be detrimental to the child. Importantly, part of the court’s determination of the child’s best interests will be an attempt to ensure that the child can maintain “frequent and continuing contact” with a parent who does not have primary custody. [Cal. Fam. Code § 3040(a)(1).] This means that, even if the court approves the child’s move, the court will likely issue visiting (and related) orders to ensure that the child’s relationship with the non-custodial parent will be preserved.

Section 3: CIVIL REMEDIES FOR A PARENT WHOSE CHILD HAS BEEN MOVED TO ANOTHER COUNTRY BY THE OTHER PARENT

The Hague Convention on Civil Aspects of International Child Abduction (“Hague Convention”) is a treaty that may provide a legal method for the return of a child who has been improperly removed from the United States by a caregiver or parent. The goal of the Hague Convention is to restore the custody arrangement of a child to what it was before the child was improperly moved. It does not change who actually has custody rights to the child; instead, it is a way to *enforce existing custody rights*.

Though the law under the Hague Convention is fairly straightforward, the logistical and political challenges to litigating these kinds of cases can be significant. Therefore, parents or guardians considering filing under the Hague Convention are encouraged to do so with attorney assistance

Return of the child: For situations where a child was moved from the United States, the Hague Convention protocols to assist in the return of the child only applies if *all* of the following are met:

- The child was a habitual resident of the US
- The child is under 16 years of age
- The child was moved to (or retained in) a country that signed the Hague Convention treaty and that the US recognizes as a treaty partner
- The move was in violation of another parent or guardian’s custody rights.

See Attachment 7 for a full list of the parties to the Hague Convention who have signed the Hague Convention treaty, and those whom the US recognizes as treaty partners.

►Hague Convention signers who are US treaty partners – *Attachment #7*

The process

In general, a parent or guardian (or their legal representative) begins a Hague Convention case by filing a “Convention Application” along with certain supporting documents. This should be done as soon as possible after the “left-behind” parent discovers that the child has been improperly taken from the county. It may be more difficult to have your child returned after one year away.

If the child’s home country is the United States, the “Convention” must be filed with the Office of Children’s Issues in the US State Department’s Bureau of Consular Affairs.³ That office is designated as the US’ “Central Authority” to process cases under the Hague Convention. The job of the Central Authority in the child’s home country is to:

- Communicate with the Central Authority in the country to which the child was taken
- Help identify the whereabouts of the child
- Help facilitate the legal process.

³ The Office of Children’s Issues can be reached by calling 1.888.407.4747. Learn more about international abductions and government assistance by visiting:
travel.state.gov/content/travel/en/International-Parental-Child-Abduction/abductions.html

That office can provide information about legal aid to parents seeking the child to be returned to their home country.

Once an application has been accepted by the Office of Children's Issues, the case will be assigned to a "country officer" who is familiar with the particular Hague Convention procedures in the country where the child was taken. The country officer cannot provide legal advice, but they will send the Hague Convention application to the country where the child is located. That country's Central Authority may try to mediate between the parents or guardians for the voluntary return of the child. If needed, that Central Authority may file a case in court to secure an order for return.

If a Hague Convention case must be taken to court, it will be heard in a court in the country where the child is currently located (the country the child was taken to). The Hague Convention requires the court, in most cases, to make a final decision within six weeks from the date the application was filed. (The processing of an entire Hague Convention case will, in many cases, take longer.) As described above, the court will only decide whether the removal violated the left-behind parent's "rights of custody" or "rights of access"; it will not evaluate what the parents' custody rights *should be*.

"Right of custody" and "right of access"

The Hague Convention requires that "rights of custody or access" be interpreted broadly to help accomplish the goal of discouraging child abduction. The Hague Convention defines "right of custody" as including "rights relating to the care of the person of the child and, in particular, the right to determine the child's place of residence." It defines "rights of access" to include "the right to take a child for a limited period of time to a place other than the child's habitual residence." Having a formal custody order from a court in the child's country of "habitual residence" is helpful, but it is not always necessary.

The question of "custody or access rights" under the Hague Convention is not all-or-nothing. Typically, an unauthorized move to another country can be found to have violated the left-behind's right to visits – because the left-behind parent can no longer realistically exercise that right in the same way. Note, however, that a possible defense to the left-behind parent's claim is that they were not exercising whatever "rights of custody or access" that they had at the time of the child's move.⁴

The following are some examples of what, under California state law, might be understood by a Hague Convention authority to be valid "rights of custody or access":

- When the parent's name is on the birth certificate, and there is no court order modifying that parent's inherent custody rights.
- If there is a court order in family or dependency court: the most recent court order will dictate who has custody rights and what kind. Unless exclusive custody rights have been granted to the taking parent, with *no* visiting rights for the left-behind parent or other party, most left-behind parents or caregivers will retain sufficient custody or visiting rights to satisfy the Hague Convention.

⁴ Other defenses include that the left-behind parent consented to the move, that the move happened more than a year before the case was started and the child has now settled into their new environment, or that the child would be placed in "grave risk" of physical or psychological harm if returned to their home country. [John Crouch, *International Child Custody Cases*, 16 GP, Solo & Small Firm Lawyer 24 (1999).] See also: travel.state.gov/content/travel/en/International-Parental-Child-Abduction/abductions/legain-info-for-parents/why-the-hague-convention-matters.html

- If there is a power of attorney or probate court guardianship: If a non-parent caregiver is a court-appointed guardian or was assigned custodial authority by a parent in a power of attorney, and the other parent takes the child to another country, then the guardian, the holder of the power of attorney and/or the left-behind parent may each have sufficient custody rights to satisfy the Hague Convention.

Hague Convention remedies

If the court determines that the removal of the child violated the left-behind parent or guardian's "*rights of custody*," then that court is required to issue an order for the return of the child to California (or to the state that was the child's "place of habitual residence" before the improper move). If that court finds that the move violated a "*right of access*," then that court *may* order the child to be returned.

Alternatively, that court may issue an order on behalf of the left-behind parent so that their access or visiting rights may be exercised. If appropriate, the court may order the parent who improperly moved the child to pay for expenses, such as travel costs, incurred by the other parent.

If a child is returned, then either parent can file a motion in an existing custody case to modify the existing custody/visiting order, or begin a family law case in the state where the child usually lives to determine custody and visiting arrangements. If the child usually lives in California, for example, then a California court would have jurisdiction over the merits of the custody dispute, and California law would apply.

Section 4: CRIMINAL PROSECUTION OF A PARENT WHO HAS WRONGLY TAKEN THEIR CHILD TO ANOTHER COUNTRY

The procedures under the Hague Convention and California law described above are civil proceedings. A parent can also consider seeking a criminal prosecution as a way to enforce their *existing* custody rights. The International Parental Kidnapping Act of 1993 makes it a crime to remove a child under age 16 from the US with the intent to obstruct parental rights, including visiting rights. [US Code § 1204.] The case would be filed by the US Attorney's Office in the child's home state. If there is no one state where the child has lived consecutively for the previous six months, the state where the child has the most "significant connection" will have original jurisdiction.

Seeking criminal prosecution of a parent or guardian who takes a child to another country can complicate the situation, but it may also be a helpful option when there is a significant risk that the taking parent will not cooperate with civil procedures under the Hague Convention. If a prosecutor chooses to pursue kidnapping charges, they are supposed to take actions to ensure the return of the child to the United States, including potentially hiring private counsel in the other country to assist with the case. Parental kidnapping is also an extraditable offense under some extradition treaties, including that between the US and Mexico.

Section 5: STATE JURISDICTION WHEN A CHILD AND A PARENT LIVE IN DIFFERENT STATES

This section provides information that may be helpful for families in which a parent lives in one US state and the child (and likely the other parent or a guardian) live in a different US state. This situation is increasingly common. For these “interstate” families, legal disputes over custody and visiting rights, and their enforcement, may initially seem complicated. Fortunately, a unified federal law – which has been adopted by 49 states, the District of Columbia, and the Virgin Islands – answers many of the questions raised by the unique nature of these disputes.

The Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) sets forth the basic rule that only one state can have jurisdiction (or authority) on a child custody case at a time. This means that each state must protect the parentage orders of another state, so long as the original state retains jurisdiction.

The UCCJEA recognizes three different jurisdictional contexts when more than one state is involved:

- If **no case yet exists**, any initial child custody and visitation petition should be filed in the child’s “home state.” The home state, with “original jurisdiction,” is the state where the child has lived for at least six consecutive months before the case is started. If there is no one state where the child has lived consecutively for the last six months, the state where the child has the most “significant connection” will have original jurisdiction.
- When a parent or guardian is seeking to **modify an existing order** in a custody and visiting case, the same court will usually maintain “modification jurisdiction” over the case, except where the parents and child move out of that state, or the home state loses jurisdiction for another specified reason. A party can make a motion in the original court to transfer jurisdiction to a new state.
- Finally, any state has “enforcement jurisdiction” to compel parents and legal guardians within that state to **comply with current custody and visiting orders** of other states.

It can be difficult to navigate cases in which more than one state is involved. However, every state provides information on their court websites. Legal aid offices and other legal services organizations may be helpful also.

CONCLUSION

All families face challenges. For many, those challenges include being physically separated by state or country borders. But even with the challenges created by physical distance, everyone – regardless of incarceration or immigration status – has the right to family unity. Whether you are a legal advocate assisting individual clients or a directly impacted person seeking to resolve a custody or visiting issue facing your family, we hope that you find this manual informative and empowering.

Other California resources are provided in Attachment 8.

►Immigration resources – *Attachment #8*

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Attachment 1: Caregiver Authorization Affidavit

Attachment 2: Sample Power of Attorney for Minor Child – triggered by future event, with notary

Attachment 3: Sample Power of Attorney for Minor Child – triggered by future event, with witnesses

Attachment 4: Sample Power of Attorney for Minor Child – while incarcerated, with notary

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Attachment 6: Probate Court Nomination of Guardian form (**GC-211**)

Attachment 7: Hague Convention signers who are US treaty partners

Attachment 8: Immigration resources

Caregiver's Authorization Affidavit

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

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

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

1. Name of minor: _____.
2. Minor's birth date: _____.
3. My name (adult giving authorization): _____.
4. My home address (street, apartment number, city, state, zip code):

_____.
5. I am a grandparent, aunt, uncle, or other qualified relative of the minor (see page 2 of this form for a definition of "qualified relative").
6. Check one or both (for example, if one parent was advised and the other cannot be located):
 - I have advised the parent(s) or other person(s) having legal custody of the minor of my intent to authorize medical care, and have received no objection.
 - I am unable to contact the parent(s) or other person(s) having legal custody of the minor at this time, to notify them of my intended authorization.
7. My date of birth: _____.
8. My California's driver's license or identification card number: _____.

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

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

Dated: _____ Signed: _____

Notices:

1. This declaration does not affect the rights of the minor's parents or legal guardian regarding the care, custody, and control of the minor, and does not mean that the caregiver has legal custody of the minor.
2. A person who relies on this affidavit has no obligation to make any further inquiry or investigation.
3. This affidavit is not valid for more than one year after the date on which it is executed.

Additional Information:**TO CAREGIVERS:**

1. "Qualified relative," for purposes of item 5, means a spouse, parent, stepparent, brother, sister, stepbrother, stepsister, half-brother, half-sister, uncle, aunt, niece, nephew, first cousin, or any person denoted by the prefix "grand" or "great," or the spouse of any of the persons specified in this definition, even after the marriage has been terminated by death or dissolution.
2. The law may require you, if you are not a relative or a currently licensed foster parent, to obtain a foster home license in order to care for a minor. If you have any questions, please contact your local department of social services.
3. If the minor stops living with you, you are required to notify any school, health care provider, or health care service plan to which you have given this affidavit.
4. If you do not have the information requested in item 8 (California driver's license or I.D.), provide another form of identification such as your social security number or Medi-Cal number.

TO SCHOOL OFFICIALS:

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

TO HEALTH CARE PROVIDERS AND HEALTH CARE SERVICE PLANS:

1. No person who acts in good faith reliance upon a caregiver's authorization affidavit to provide medical or dental care, without actual knowledge of facts contrary to those stated on the affidavit, is subject to criminal liability or to civil liability to any person, or is subject to professional disciplinary action, for such reliance if the applicable portions of the form are completed.
2. This affidavit does not confer dependency for health care coverage purposes.

POWER OF ATTORNEY FOR MINOR CHILD

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

- 1. I am the mother/father of _____ who was born on _____.
- 2. I give Power of Attorney to _____ with respect to the care and custody of my child _____ to become effective upon the occurrence of the following triggering event(s): _____

3. Specifically, I give _____ full Power of Attorney with respect to the care and custody of _____ in matters affecting their medical needs, schooling, housing, legal matters, public assistance, Medi-Cal, CalWORKS, and all other matters pertaining to their well-being.

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

5. This Power of Attorney will remain in effect until _____ or until revoked in writing.

Signed this _____ day of _____ (month), _____ (year).

Signature of Parent

ACKNOWLEDGEMENT

State of California)
))
County of _____)

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

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

WITNESS my hand and official seal.

[Notary Public signature]

POWER OF ATTORNEY FOR MINOR CHILD

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

1. I am the mother/father of _____ who was born on _____.

2. I give Power of Attorney to _____ with respect to the care and custody of my child _____ to become effective upon the occurrence of the following triggering event(s):

3. Specifically, I give _____ full Power of Attorney with respect to the care and custody of _____ in matters affecting his/her medical needs, schooling, housing, legal matters, public assistance, Medi-Cal, CalWORKS, and all other matters pertaining to his/her well-being.

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

5. This Power of Attorney will remain in effect until _____ or until revoked in writing.

Signed this _____ day of _____ (month), _____ (year).

Signature of Parent

STATEMENT OF WITNESSES

On the date written above, I declare under penalty of perjury under the laws of California that the person who signed or acknowledged this document is personally known to me (or proved to me on the basis of convincing evidence) to be the principal, that the principal signed or acknowledged this power of attorney in my presence, that the principal appears of sound mind and under no duress, fraud, or undue influence, that I am over the age of eighteen, and that I am not the person appointed as attorney in fact (agent) by this document.

_____ [Signature of Witness #1]
_____ [Printed or typed name of Witness #1]
_____ [Address of Witness #1, Line 1]
_____ [Address of Witness #1, Line 2]

_____ [Signature of Witness #2]
_____ [Printed or typed name of Witness #2]
_____ [Address of Witness #2, Line 1]
_____ [Address of Witness #2, Line 2]

[Probate Code sections 4121 and 4122.]

POWER OF ATTORNEY FOR MINOR CHILD

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

- 1. I am the mother/father of _____ who was born on _____.
- 2. I am presently incarcerated at _____ located in _____.
- 3. During this time, my child _____ is being cared for by _____.
- 4. I give Power of Attorney to _____ with respect to the care and custody of my child _____.
- 5. Specifically, I give _____ full Power of Attorney with respect to the care and custody of _____ in matters affecting their medical needs, schooling, housing, legal matters, public assistance, Medi-Cal, CalWORKS, and all other matters pertaining to their well-being.
- 6. I understand that this Power of Attorney is not a legal custody order and that I am not giving up my parental rights by signing this document.
- 7. This Power of Attorney will remain in effect until _____ or until revoked in writing.

Signed this _____ day of _____ (month), _____ (year).

Signature of Parent

STATEMENT OF WITNESSES

On the date written above, I declare under penalty of perjury under the laws of California that the person who signed or acknowledged this document is personally known to me (or proved to me on the basis of convincing evidence) to be the principal, that the principal signed or acknowledged this power of attorney in my presence, that the principal appears of sound mind and under no duress, fraud, or undue influence, that I am over the age of eighteen, and that I am not the person appointed as attorney in fact (agent) by this document.

 _____ [Signature of Witness #1]
 _____ [Printed or typed name of Witness #1]
 _____ [Address of Witness #1, Line 1]
 _____ [Address of Witness #1, Line 2]

 _____ [Signature of Witness #2]
 _____ [Printed or typed name of Witness #2]
 _____ [Address of Witness #2, Line 1]
 _____ [Address of Witness #2, Line 2]

[Probate Code sections 4121 and 4122.]

ATTORNEY OR PARTY WITHOUT ATTORNEY (<i>Name, State Bar number, and address</i>): TELEPHONE NO.: _____ FAX NO. (<i>Optional</i>): _____ E-MAIL ADDRESS (<i>Optional</i>): _____ ATTORNEY FOR (<i>Name</i>): _____	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
GUARDIANSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE OF (<i>Name</i>):	
<input type="checkbox"/> CONSENT OF PROPOSED GUARDIAN <input type="checkbox"/> NOMINATION OF GUARDIAN <input type="checkbox"/> CONSENT TO APPOINTMENT OF GUARDIAN AND WAIVER OF NOTICE	CASE NUMBER:

CONSENT OF PROPOSED GUARDIAN

1. I consent to serve as guardian of the person estate of the minor.
Date: _____

_____ _____

(TYPE OR PRINT NAME) (SIGNATURE OF PROPOSED GUARDIAN)

NOMINATION OF GUARDIAN

2. I am a parent of the minor a donor of a gift to the minor. I nominate (*name and address*):

as guardian of the person estate of the minor.

3. I am a parent of the minor a donor of a gift to the minor. I nominate (*name and address*):

as guardian of the person estate of the minor.

Date: _____

_____ _____

(TYPE OR PRINT NAME) (SIGNATURE)

NOTICE: The guardian of the person of a minor child has full legal and physical custody until the child becomes an adult or is adopted, the court changes guardians, or the court terminates the guardianship. Parents or other interested persons must petition the court to terminate the guardianship. The court will not do so unless the judge decides that termination would be in the child's best interest.

CONSENT TO APPOINTMENT OF GUARDIAN AND WAIVER OF NOTICE

4. I consent to appointment of the guardian as requested in the Petition for *Appointment of Guardian of Minor*, filed on (*date*): . I am entitled to notice in this proceeding, but I waive notice of hearing of the petition, including notice of any request for independent powers contained in it. I waive timely receipt of a copy of the petition.

DATE	(TYPE OR PRINT NAME)		(SIGNATURE)	RELATIONSHIP TO MINOR
DATE	(TYPE OR PRINT NAME)		(SIGNATURE)	RELATIONSHIP TO MINOR
DATE	(TYPE OR PRINT NAME)		(SIGNATURE)	RELATIONSHIP TO MINOR

Continued on Attachment 4.

CONSENT OF PROPOSED GUARDIAN, NOMINATION OF GUARDIAN, AND CONSENT TO APPOINTMENT OF GUARDIAN AND WAIVER OF NOTICE



Hague Convention Signers who are U.S. Treaty Partners

Andorra	2017/01/01
Argentina	1991/06/01
Armenia	2018/03/01
Australia	1988/07/01
Austria	1988/10/01
Bahamas, The	1994/01/01
Belgium	1999/05/01
Belize	1989/11/01
Bosnia and Herzegovina	1991/12/01
Brazil	2003/12/01
Bulgaria	2005/01/01
Burkina Faso	1992/11/01
Canada	1988/07/01
Chile	1994/07/01
China - (Hong Kong and Macau only)	
• Hong Kong	1997/09/01
• Macau	1999/03/01
Colombia	1996/06/01
Costa Rica	2008/01/01
Croatia	1991/12/01
Cyprus	1995/03/01
Czech Republic	1998/03/01
Denmark	1991/07/01
Dominican Republic	2007/06/01
Ecuador	1992/04/01
El Salvador	2007/06/01
Estonia	2007/05/01

Fiji	2017/05/01
Finland	1994/08/01
France	1988/07/01
Germany	1990/12/01
Greece	1993/06/01
Guatemala	2008/01/01
Honduras	1994/06/01
Hungary	1988/07/01
Iceland	1996/12/01

Ireland	1991/10/01
Israel	1991/12/01
Italy	1995/05/01
Jamaica	2019/04/01
Japan	2014/04/01
Korea, Republic of	2013/11/01
Latvia	2007/05/01
Lithuania	2007/05/01
Luxembourg	1988/07/01
Malta	2003/02/01
Mauritius	1993/10/01
Mexico	1991/10/01
Monaco	1993/06/01
Montenegro	1991/12/01
Morocco	2012/12/01
Netherlands	1990/09/01

New Zealand	1991/10/01
North Macedonia, Republic of	1991/12/01
Norway	1989/04/01
Pakistan	2020/10/01
Panama	1994/06/01
Paraguay	2008/01/01
Peru	2007/06/01
Poland	1992/11/01
Portugal	1988/07/01
Romania	1993/06/01
Saint Kitts and Nevis	1995/06/01
San Marino	2008/01/01
Serbia	1991/12/01
Seychelles	2021/09/01
Singapore	2012/05/01
Slovakia	2001/02/01
Slovenia	1995/04/01
South Africa	1997/11/01
Spain	1988/07/01
Sri Lanka	2008/01/01
Sweden	1989/06/01

Switzerland	1988/07/01
Thailand	2016/04/01
Trinidad and Tobago	2013/08/01
Turkey	2000/08/01
Ukraine	2007/09/01
United Kingdom	1988/07/01
• Anguilla	2008/06/01
• Bermuda	1999/03/01
• Cayman Islands	1988/08/01
• Falkland Islands	1998/06/01
• Isle of Man	1991/09/01
• Montserrat	1999/03/01
Uruguay	2004/09/01
Venezuela	1997/01/01
Zimbabwe	1995/08/01

<https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/abductions/hague-abduction-country-list.html>

May 26, 2023

Immigration Resources

ABA Immigration Justice Project of San Diego

2727 Camino del Rio South, Suite 320
San Diego, CA 92108
Phone: (619) 255-8810
Email: contact@abajp.org
[Pro bono legal services for those in immigration proceedings in San Diego]
Website:
https://www.americanbar.org/groups/public_interest/immigration/projects_initiatives/immigration_justice-project/contact-us/

Advancing Justice - Asian Law Caucus

55 Columbus Ave.
San Francisco, CA 94111
Phone: (415) 896-1701
[Impact litigation, community education, and advocacy for immigrants facing deportation due to criminal convictions]
Website:
<https://www.advancingjustice-alc.org/about>

African Advocacy Network

3106 Folsom St.
San Francisco, CA 94110
Phone: (415) 503-1032
[Serves African and Afro-Caribbean immigrants, refugees and asylees in the Bay Area]
Website: <https://www.aansf.org/>

Arab Resource and Organizing Center

[Legal services for low income Arab and Muslim immigrants in San Francisco]
Website: <https://aroc.herokuapp.com/>

Casa Cornelia Law Center

2760 Fifth Avenue, Suite 200
San Diego, California 92103
Phone: (619) 231-7788
Email: LawCenter@CasaCornelia.org
[Pro bono legal services to victims of human and civil rights violations in Imperial and San Diego County]
Website: <https://casacornelia.org/>

Catholic Charities of Los Angeles - Esperanza Immigrant Rights Project

1530 James M. Wood Blvd.
Los Angeles, CA 90015
Phone: (213) 251-3505
[Pro bono Legal Representation for adults in Adelanto Detention Center and unaccompanied children]
Website: <https://www.esperanza-la.org/>

Catholic Charities of San Bernardino - Refugee & Immigration Services (San Bernardino Office)

1450 N D St.
San Bernardino, CA 92405
Phone: (909) 388-1239
Email: communications@ccsbriv.org or info@ccsbriv.org
[Legal and immigration information and resources]
Website: <https://ccsbriv.org/our-core-programs>

Central American Resource Center (San Francisco Office)

3101 Mission St., Suite 101
San Francisco, CA 94110
Phone: (415) 642-4400
[Low cost legal services, community education, and family wellness programs]
Website: <https://carecensf.org/>

Centro Legal de la Raza

3400 E. 12th Street
Oakland, CA 94601
Phone: (510) 437-1554
Email: info@centrolegal.org
[Free low or low-cost legal aid and representation for residents in the Bay Area]
Website: <https://www.centrolegal.org/?lang=es>

Coachella Valley Immigration Service and Assistance, Inc.

934 Vella Road
Palm Springs, CA 92264
Phone: (760) 327-1579
[Low cost representation with special attention with clients with physical or mental disabilities] op. Website: www.cvisa.org

Coastside Hope

99 Avenue Alhambra
PO Box #1089
El Granada, CA 94018
General Phone: (650) 726-9071
Email:
For Immigration Assistance: immigration@coastsidehope.org or (650)523-3526
For help with food, housing, CalFresh, Medi-Cal, or similar issues: assistance@coastsidehope.org or (650)523-3536
[Provides wide range of programs and services to homeless or poor from emergency food provisions to immigration and citizenship services]

Immigration Resources

Website: <https://coastsidehope.org/>

Community Legal Services in East Palo Alto

1861 Bay Road
East Palo Alto, CA 94303
Phone: (650) 326-6440

[Legal information and advocacy for immigrants facing deportation, youth, affordable housing, and economic advancement]

Website: <https://clsepa.org/>

Dolores Street Community Services

938 Valencia Street
San Francisco, CA 94110
Phone: (415) 282-6209
Help with urgent ICE issue: (415) 282.6209 ext. 130 or email immigration@dscs.org

[Assistance with deferred action for Childhood Arrivals, removal hearings, and community services in San Francisco]

Website:

<https://www.dscs.org/our-work/community-services/>

East Bay Community Law Center

2921 Adeline St.
Berkeley, CA 94703
Phone: (510) 548-4040
Email: info@ebclc.org

[Legal representation, health, and economic services for low-income community in Alameda and Contra Costa County]

Website: <https://ebclc.org/>

East Bay Sanctuary Covenant

2362 Bancroft Way
Berkeley, CA 94704
Phone: (510) 540-5296
Email: info@eastbaysanctuary.org

[Support, advocacy, and protection through Refugee rights program, community development and education program]

Website: <https://eastbaysanctuary.org/>

Immigrants Rising - previously known as Educators for Fair Consideration (E4FC)

Send mail to: Immigrants Rising
P.O. Box 411512
San Francisco, CA 94141

[Free legal information for undocumented young people (must be under 35)]

Website: <https://immigrantsrising.org/>

EI Rescate Legal Services

1605 W. Olympic Blvd., Suite 516
Los Angeles, CA, 90015
Phone: (213) 387-3284

Email: contact@elrescate.org

Mail: P.O. Box 57036, Los Angeles, 90057

[Legal representation for those who have been physically abused or subject to mental cruelty by U.S. citizen, spouse or parent]

Website: <https://www.elrescate.org/spanish/>

Human Rights Project

201 S. Santa Fe Ave., Suite 101
Los Angeles, CA 90012
Phone: (213) 680-7801

Email: patterson.amelia@gmail.com or judy@igc.org

[Assistance to immigrants and refugees who have been victims of torture and violence, deals with women's and children's rights]

Website: <http://www.hrproject.org/index.html>

Immigration Center for Women and Children

Downtown Office:
381 Bush Street, Suite 800
San Francisco CA 94104
Phone: (415) 728-0420

San Francisco Mid-Market Office:
1254 Market Street, 3rd Floor
San Francisco, CA 94102
Phone: (415) 651-2793
Email: intakeSF@icwclaw.org

Los Angeles Office:
634 S. Spring St., Ste. 727
Los Angeles, CA 90014
Phone: (213) 614-1165

San Diego Office:
427 C St., Ste. 208
San Diego, CA 92101
Phone: (619) 515-2200

Website: <https://www.icwclaw.org>

Immigration Resources

Immigrant Defenders Law Center

634 S. Spring St., 10th Fl.

Los Angeles, CA 90014

Phone: (213) 634-0999

Email: info@immdef.org

[Assist with legal information on immigration system, provide access to legal representation for adults and children]

Website: <https://www.immdef.org/>

Immigrant Legal Resource Center

San Francisco, CA

[Education services and informational resources for immigrants and their advocates]

Website: <https://www.ilrc.org/>

Jewish Family Service of San Diego

8788 Balboa Ave.

San Diego, CA 92123

Phone: (858) 637-3000

[Low-cost immigration services relating to work, travel, and family]

Website: <https://www.jfssd.org/>

Kids in Need of Defense (Los Angeles Office)

801 S. Grand Ave., Suite 550

Los Angeles, CA 90017

Phone: (213) 274-0170

Email: info@supportkind.org

[Pro bono legal counsel to unaccompanied refugee and immigrant children]

Website: <https://supportkind.org/>

La Maestra Community Health Centers, Inc.

4060 Fairmount Ave

San Diego, CA 92105

Phone: (619) 779-7900

[Wide range of immigration services, economic, health and family support]

Website: <https://lamaestra.org/>

Legal Aid Foundation of Los Angeles (East Los Angeles Office)

(Temporary Location)

5301 Whittier Blvd., 4th Floor

Los Angeles, CA 90022

Phone: (800) 399-4529

[Direct family and immigration education, policy advocacy, and representation]

Website: <https://lafla.org/>

Librería Del Pueblo, Inc.

998 N D St.

San Bernardino, CA 92410

Phone: (909) 888-1800

Email: libreriadelpueblo@gmail.com

[Legal advice and referrals and aid with appeals in San Bernardino County]

Website: <https://www.libreriadelpueblo.info/>

McGeorge School of Law - Immigration Clinic

McGeorge Community Legal Services Building
2925 34th St.

Sacramento, CA 95817

Phone: (916) 739-7191

Email: bnordahl@pacific.edu

[Legal services for non-citizens below the poverty level]

Website: <https://www.pacific.edu/>

Mujeres Unidas y Activas

3543 18th Street, #23

San Francisco, CA 94110

Phone: (415) 621-8140

Email: olga@mujeresunidas.net

[Legal services for Latina immigrant women and their families. Services for immigrant, domestic violence, and family law issues]

Website: <https://mujeresunidas.net/>

National Center for Lesbian Rights - Immigration Project

870 Market Street, Suite 370

San Francisco, CA 94102

Phone: (415) 392-6257

Email: info@NCLRights.org

[Free legal assistance for LGBTQ+ immigrants including family law and prisoner advocacy]

Website: <https://www.nclrights.org/>

New Voice Immigration Assistance Services

10701 Sampson Avenue

Lynwood, CA 90262

Phone: (562) 398-3019

Email: info@new-voice.org

[Wide variety of legal services for low and moderate-income people including family and immigration services]

Website: <https://new-voice.org/>

Immigration Resources

Coalition for Humane Immigrant Rights Immigrant Lines Assistance (CHIRLA)

Headquarters:
2533 West 3rd Street, Suite 101
Los Angeles CA 90057
Phone: (213) 353-1333
Email: info@chirla.org

Offices in California:

Sacramento
Central Valley
San Bernardino
Orange County
San Fernando Valley
South Los Angeles
Compton
Santa Ana

For addresses refer to:

<https://www.chirla.org/who-we-are/connect/office/s/>

[Legal information, policy analysis, and job training for Latino Community]

Website: <https://www.chirla.org/>

O.L.A Raza Inc.

1420 19th St.
Bakersfield, CA 93301
Phone: (661) 324-1667
Email: info@olaraza.org

[Education center providing immigration and citizenship services to new immigrants low-income persons, students, and families]

Website: <https://www.olarazainc.com/>

Pangea Legal Services (San Francisco Office)

391 Sutter St, Suite 500
San Francisco, CA 94108
Phone: (415) 254-0475
Email: welcome@pangealegal.org

[Legal representation and policy advocacy for immigrants in deportation proceedings]

Website: <https://www.pangealegal.org/>

Public Counsel - Immigrants' Rights Project

610 South Ardmore Avenue
Los Angeles, CA 90005
Phone: (213) 385-2977

[Representation to low-income and indigent clients in a variety of areas including children and immigration]

Website: <https://publiccounsel.org/>

San Bernardino Community Service Center, Inc.

788 N Arrowhead Ave.
San Bernardino, CA 92401
Phone: (909) 885-1992
Email: sbcsc.org@gmail.com

[Immigration services in Riverside and San Bernardino counties]

Website: <https://www.sbcscinc.org/>

Social Justice Collaborative

1832 Second Street
Berkeley CA, 94710
Phone: (510) 992-3964
Email: office@socialjusticecollaborative.org

[Serves low-income people in immigration and criminal matters in the Bay Area]

Website:

<https://www.socialjusticecollaborative.org/>

Stanford Law School - Immigrants' Rights Clinic

Crown Quadrangle
559 Nathan Abbott Way
Stanford, CA 94305
Phone: (650) 723-2465

[Student representation to individuals in removal and appeals proceedings]

Website:

<https://law.stanford.edu/immigrants-rights-clinic/#slsnav-overview>

TODEC Legal Center

234 South D Street
Perris, CA. 92570
Phone: (951) 943-1955
Email: info@todec.org

[Legal information and services for limited and non-English speaking people]

Website: <https://todec.org/>

Transgender Law Center - Trans Immigrant Defense Effort (TIDE)

P.O. Box 70976
Oakland, CA 94612
Phone: (510) 587-9696

Collect line for people in prison and detention: (510) 380-8229

Email: info@transgenderlawcenter.org

[Pro bono representation for deportation and removal defense to TGNC immigrants]

Website: <https://transgenderlawcenter.org/>

Immigration Resources

University of California, Davis School of Law Immigration Law Clinic

UC Davis School of Law
Clinical Legal Education
One Shields Avenue
Davis, CA 95616
Phone: (530) 752-6942

[Provides information on the immigration consequences for convictions and family law issues; provides few select cases with full representation]

Website:

<https://law.ucdavis.edu/clinics/immigration-law-clinic>

University of Southern California Gould School of Law - Immigration Clinic

699 Exposition Boulevard
Los Angeles, California 90089
Phone: (213) 740-7331

[Pro bono representation with focus on immigrants detained by ICE at Santa Ana City Jail]

Website:

<https://gould.usc.edu/academics/experiential/clinics/immigration/>

Western State College of Law - Immigration Clinic

Western State College of Law
16715 Von Karman Blvd., #100
Irvine, CA 92606
Phone: (714) 459-1196

Email: rivera@wsulaw.edu

[Legal representation to low-income immigrants in Orange County]

Website: <https://www.wsulaw.edu>

Vital Immigration Defense Advocacy and Services (VIDAS)

576 B St., Suite 1C
Santa Rosa, CA 95401
Phone: (707) 523-1740

[Low-cost immigration services and information]

Website: <https://vidaslegal.org/>