

How to Set or Change Custody, Visitation, Support and/or Other Orders

Step 1	<p>Complete the following forms in blue or black ink:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> FL-300 Request for Order <input type="checkbox"/> MC-025 Attachment to Judicial Council Form <input type="checkbox"/> FL-311 Child Custody and Visitation Application Attachment <input type="checkbox"/> Local form FM-1013 Declaration in Support of Ex Parte Application for Orders <input type="checkbox"/> FL-305 Temporary Emergency Court Orders <input type="checkbox"/> FL-155 Financial Statement (Simplified), if child support is an issue OR <input type="checkbox"/> FL-150 Income and Expense Declaration, if spousal support is at issue <u>or</u> you are self-employed. <i>Read the back of the Financial Statement to see which form you qualify to complete.</i>
Step 2	<p>If you are asking for emergency/temporary orders, the law requires you to give 1 copy of the forms to the other party before you file them. Then you will complete form FM-1013 (detailed instructions on 2nd page). You may not have to give notice; please check with an attorney.</p>
Step 3	<p>Copies: Make <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 copies, in addition to the original.</p>
Step 4	<p>File:</p> <p><input type="checkbox"/> If you <u>are not</u> asking for a fee waiver or emergency/temporary orders, turn your forms into the Clerk's Office. You will pay the filing fee and get copies back with a file-stamp.</p> <p><input type="checkbox"/> If you <u>are</u> asking for a fee waiver or emergency/temporary orders, turn your forms into the Document Examiner/Court Specialist Office. There is a 24 to 48 hour hold on the papers. During that time, the Judge will determine if you get emergency/temporary orders and/or if the filing fee will be waived. If emergency/temporary orders are granted, these orders will be in effect until the court date.</p> <p><i>Note: the Judge may or may not grant your request for temporary orders and/or fee waiver.</i></p> <p>File in the courthouse located at: You can file at <i>any</i> branch if you are receiving cash aid.</p> <p><input type="checkbox"/> 170 Park Avenue, San Jose, CA <input type="checkbox"/> 99 Notre Dame Ave., San Jose, CA</p> <p><input type="checkbox"/> 605 W. El Camino Real, Sunnyvale, CA <input type="checkbox"/> 301 Diana Ave., Morgan Hill, CA</p> <p>Monday-Friday from 8:30am to 4:00pm.</p>
Step 5	<p>Service: After the filed copies are returned to you:</p> <ul style="list-style-type: none"> • Keep for your records—1 filed copy • Serve 1 filed copy and a blank FL-320 <i>Responsive Declaration to Request for Order</i> and <input type="checkbox"/> FL-155 or <input type="checkbox"/> FL-150 on the other parent. "<i>Personal Service</i>" means: someone, NOT YOU, who is at least 18 years old must hand deliver the filed copies to the other parent. You can find a "Process Server" who will do this for a fee. <p>Service must be completed at least:</p> <ul style="list-style-type: none"> <input type="checkbox"/> 16 court days before the court hearing (weekends and holidays do not count) <input type="checkbox"/> 5 calendar days before the court hearing (if the judge grants your request for emergency orders) <p>Whoever serves must complete the attached <i>Proof of Personal Service</i> form (FL-330) and give it back to you. You must file the original and a copy of this form at the Clerk's Office, the clerk will file stamp the copy and give it back to you. Keep this copy for your records.</p> <p><input type="checkbox"/> Drop off 1 filed copy at the Self-Help Center/Family Law Facilitator's office at 99 Notre Dame Ave (at any time; you don't need to wait in line) and that office will serve a copy on the Department of Child Support Services (DCSS) for you.</p>
STEP 6	<p>Go to your court date.</p>

Please turn over for important information

WHAT IS A “*REQUEST FOR ORDER*” AND WHY WOULD I NEED TO FILE ONE?

A *Request for Order* is a request for the court to have a hearing so the Judge can make a court order. If you want the Judge to make a new order about custody, visitation, support or other orders in an existing case, or if you want to change an order that already exists, you would file a *Request for Order*. If you do not already have an open case, you will need to file additional paperwork to open one. See below to find out how you can get assistance at the Self-Help Center/Family Facilitator’s Office.

WHAT ARE EMERGENCY/TEMPORARY ORDERS?

The Judge may grant a request to make orders immediately (within 24 to 48 hours) if a situation has occurred, or may occur, where irreparable harm would occur without the emergency orders. For example, your child is in danger of immediate harm or of being abducted.

The law requires the requesting parent to give 1 copy of the forms to the other parent before they are filed so the other parent knows about the emergency orders asked for (has “notice”). This gives them a chance to respond to the court on an emergency basis to give the Judge their side of the story. In some cases, the Judge won’t make the requesting party give advance notice to the other parent.

If emergency/temporary orders are made, they are in effect until your court date (see the court date the Clerk’s Office will put on the front of the *Request for Order* when you file it). If a request for emergency orders is denied, there may still be a court date to hear your request.

WHAT HAPPENS IF I CANNOT GET THE OTHER PARTY SERVED?

The law requires you to have someone other than you, who is over 18, hand deliver a filed copy of the forms to the other party. If you are unable to serve the other party on time, the court will not be able to hear your request or make any court orders at the hearing. The Judge may grant a reissuance (this means a new court date is scheduled). If so, any emergency/temporary orders that were made will usually continue to be in effect until the new court date.

HOW CAN I GET THE FORMS?

There are a few ways that you can get the forms:

- hire an attorney;
- get the forms online at the state’s website, (www.courts.ca.gov/selfhelp);
- contact a Legal Services Agency such as Bay Area Legal Aid or Pro Bono Project
- use a self-help legal book or
- visit the Self-Help Center/Family Law Facilitator’s Office in person, Monday through Thursday, starting at 8:30 am. Please go to www.scscourt.org (and click on the self-help section of the site) for details on how to sign up for help at our office. **Please note: we cannot help people who have attorneys.**

Self-Help Center/Family Law Facilitator’s Office
Superior Court, County of Santa Clara
99 Notre Dame Avenue, San Jose, CA 95113
(408) 882-2926

www.scscourt.org
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www.courts.ca.gov/selfhelp
State of California Courts Self-Help