

Relevant Welfare & Institutions Code Sections

302.

- (a) A juvenile court may assume jurisdiction over a child described in Section 300 regardless of whether the child was in the physical custody of both parents or was in the sole legal or physical custody of only one parent at the time that the events or conditions occurred that brought the child within the jurisdiction of the court.
- (b) Unless their parental rights have been terminated, both parents shall be notified of all proceedings involving the child. In any case where the social worker is required to provide a parent or guardian with notice of a proceeding at which the social worker intends to present a report, the social worker shall also provide both parents, whether custodial or noncustodial, or any guardian, or the counsel for the parent or guardian a copy of the report prior to the hearing, either personally or by first-class mail. The social worker shall not charge any fee for providing a copy of a report required by this subdivision. The social worker shall keep confidential the address of any parent who is known to be the victim of domestic violence.
- (c) When a child is adjudged a dependent of the juvenile court, any issues regarding custodial rights between his or her parents shall be determined solely by the juvenile court, as specified in Sections 304, 361.2, and 362.4, so long as the child remains a dependent of the juvenile court.
- (d) Any custody or visitation order issued by the juvenile court at the time the juvenile court terminates its jurisdiction pursuant to Section 362.4 regarding a child who has been previously adjudged to be a dependent child of the juvenile court shall be a final judgment and shall remain in effect after that jurisdiction is terminated. The order shall not be modified in a proceeding or action described in Section 3021 of the Family Code unless the court finds that there has been a significant change of circumstances since the juvenile court issued the order and modification of the order is in the best interests of the child.

304. After a petition has been filed pursuant to Section 311, and until the time that the petition is dismissed or dependency is terminated, no other division of any superior court may hear proceedings pursuant to Part 2 (commencing with Section 3020) of Division 8 of the Family Code regarding the custody of the child or proceedings under Part 2 (commencing with Section 1500) of Division 4 of the Probate Code, except as otherwise authorized in this code, regarding the establishment of a guardianship for the child. While the child is under the jurisdiction of the juvenile court all issues regarding his or her custody shall be heard by the juvenile court. In deciding issues between the parents or between a parent and a guardian regarding custody of a child who has been adjudicated a dependent of the juvenile court, the juvenile court may review any records that would be available to the domestic relations division of a superior court hearing

that matter. The juvenile court, on its own motion, may issue an order as provided for in Section 213.5, or as described in Section 6218 of the Family Code. The Judicial Council shall adopt forms for these restraining orders. These form orders shall not be confidential and shall be enforceable in the same manner as any other order issued pursuant to Division 10 (commencing with Section 6200) of the Family Code.

This section shall not be construed to divest the domestic relations division of a superior court from hearing any issues regarding the custody of a child when that child is no longer a dependent of the juvenile court.

361.2.

- (a) When a court orders removal of a child pursuant to Section 361, the court shall first determine whether there is a parent of the child, with whom the child was not residing at the time that the events or conditions arose that brought the child within the provisions of Section 300, who desires to assume custody of the child. If that parent requests custody, the court shall place the child with the parent unless it finds that placement with that parent would be detrimental to the safety, protection, or physical or emotional well-being of the child. The fact that the parent is enrolled in a certified substance abuse treatment facility that allows a dependent child to reside with his or her parent shall not be, for that reason alone, prima facie evidence that placement with that parent would be detrimental.
- (b) If the court places the child with that parent it may do any of the following:
 - (1) Order that the parent become legal and physical custodian of the child. The court may also provide reasonable visitation by the noncustodial parent. The court shall then terminate its jurisdiction over the child. The custody order shall continue unless modified by a subsequent order of the superior court. The order of the juvenile court shall be filed in any domestic relation proceeding between the parents.
 - (2) Order that the parent assume custody subject to the jurisdiction of the juvenile court and require that a home visit be conducted within three months. In determining whether to take the action described in this paragraph, the court shall consider any concerns that have been raised by the child's current caregiver regarding the parent. After the social worker conducts the home visit and files his or her report with the court, the court may then take the action described in paragraph (1), paragraph (3), or this paragraph. However, this paragraph shall not be interpreted to imply that the court is required to take the action described in this paragraph as a prerequisite to the court taking the action described in either paragraph (1) or (3).

(3) Order that the parent assume custody subject to the supervision of the juvenile court. In that case the court may order that reunification services be provided to the parent or guardian from whom the child is being removed, or the court may order that services be provided solely to the parent who is assuming physical custody in order to allow that parent to retain later custody without court supervision, or that services be provided to both parents, in which case the court shall determine, at review hearings held pursuant to Section 366, which parent, if either, shall have custody of the child.

(c) The court shall make a finding either in writing or on the record of the basis for its determination under subdivisions (a) and (b).

(d)–(k) * * *

362.4.

When the juvenile court terminates its jurisdiction over a minor who has been adjudged a dependent child of the juvenile court prior to the minor's attainment of the age of 18 years, and proceedings for dissolution of marriage, for nullity of marriage, or for legal separation, of the minor's parents, or proceedings to establish the paternity of the minor child brought under the Uniform Parentage Act, Part 3 (commencing with Section 7600) of Division 12 of the Family Code, are pending in the superior court of any county, or an order has been entered with regard to the custody of that minor, the juvenile court on its own motion, may issue a protective order as provided for in Section 213.5 or as defined in Section 6218 of the Family Code, and an order determining the custody of, or visitation with, the child.

Any order issued pursuant to this section shall continue until modified or terminated by a subsequent order of the superior court. The order of the juvenile court shall be filed in the proceeding for nullity, dissolution, or legal separation, or in the proceeding to establish paternity, at the time the juvenile court terminates its jurisdiction over the minor, and shall become a part thereof.

If no action is filed or pending relating to the custody of the minor in the superior court of any county, the juvenile court order may be used as the sole basis for opening a file in the superior court of the county in which the parent, who has been given custody, resides. The court may direct the parent or the clerk of the juvenile court to transmit the order to the clerk of the superior court of the county in which the order is to be filed. The clerk of the superior court shall, immediately upon receipt, open a file, without a filing fee, and assign a case number.

The clerk of the superior court shall, upon the filing of any juvenile court custody order, send by first-class mail a copy of the order with the case number to the juvenile court and to the parents at the address listed on the order.

The Judicial Council shall adopt forms for any custody or restraining order issued under this section. These form orders shall not be confidential.

726.5.

- (a) At any time when (1) the minor is a ward of the juvenile court under Section 725, or the court terminates wardship while the minor remains under the age of 18 years, and (2) proceedings for dissolution of marriage, for nullity of marriage, or for legal separation of the minor's parents, proceedings to determine custody of the child, or to establish paternity of the minor under the Uniform Parentage Act, Part 3 (commencing with Section 7600) of Division 12 of the Family Code are pending in the superior court of any county, or an order has been entered with regard to the custody of the minor, the juvenile court may issue a protective order as provided in Section 213.5 or as defined in Section 6218 of the Family Code and may issue an order determining parentage, custody of, or visitation with, the minor.

A custody or visitation order issued by the juvenile court pursuant to this subdivision shall be made in accordance with the procedures and criteria of Part 2 (commencing with Section 3020) of Division 8 of the Family Code. An order determining parentage issued by the juvenile court pursuant to this subdivision shall be made in accordance with the procedures and presumptions of the Uniform Parentage Act, Part 3 (commencing with Section 7600) of Division 12 of the Family Code.

- (b) If the juvenile court decides to issue an order pursuant to subdivision (a), the juvenile court shall provide notice of that decision to the superior court in which the proceeding to decide parentage, custody of, or visitation with, the minor is pending. The clerk of the superior court, upon receipt of the notice, shall file the notice with other documents and records of the pending proceeding and send by first-class mail a copy of the notice to all parties of record in that proceeding.
- (c) Any order issued under this section shall continue until modified or terminated by a subsequent order of the juvenile court. The order of the juvenile court shall be filed in the proceeding for nullity, dissolution, or legal separation, or in the proceeding to determine custody or to establish paternity, if that proceeding is pending at the time the juvenile court terminates its jurisdiction over the minor. The order shall then become a part of that proceeding and may be terminated or modified as the court in that proceeding deems appropriate.
- (d) If no action is filed or pending relating to the custody of the minor in the superior court of any county at the time the juvenile court terminates its jurisdiction over the minor, the juvenile court order entered pursuant to subdivision (a) may be used as the sole basis for opening a file in the superior court of the county in which

the parent who has been awarded physical custody resides. The clerk of the juvenile court shall transmit the order to the clerk of the superior court of the county in which the order is to be filed. The clerk of the superior court shall, upon receipt, open a file, without a filing fee, and assign a case number.

- (e) The clerk of the superior court shall, upon the filing of any juvenile court order pursuant to subdivision (d), send by first-class mail a copy of the order with the case number, to the juvenile court and to the parents at the address listed on the order.
- (f) The Judicial Council shall adopt forms for orders issued under this section. These orders shall not be confidential.

Relevant Family Law Code Sections

3002.

"Joint custody" means joint physical custody and joint legal custody.

3003.

"Joint legal custody" means that both parents shall share the right and the responsibility to make the decisions relating to the health, education, and welfare of a child.

3004.

"Joint physical custody" means that each of the parents shall have significant periods of physical custody. Joint physical custody shall be shared by the parents in such a way so as to assure a child of frequent and continuing contact with both parents, subject to Sections 3011 and 3020.

3006.

"Sole legal custody" means that one parent shall have the right and the responsibility to make the decisions relating to the health, education, and welfare of a child.

3007.

"Sole physical custody" means that a child shall reside with and be under the supervision of one parent, subject to the power of the court to order visitation.

3011.

In making a determination of the best interest of the child in a proceeding described in Section 3021, the court shall, among any other factors it finds relevant, consider all of the following:

- (a) The health, safety, and welfare of the child.

(b) Any history of abuse by one parent or any other person seeking custody against any of the following:

- (1) Any child to whom he or she is related by blood or affinity or with whom he or she has had a caretaking relationship, no matter how temporary.
- (2) The other parent.
- (3) A parent, current spouse, or cohabitant, of the parent or person seeking custody, or a person with whom the parent or person seeking custody has a dating or engagement relationship.

As a prerequisite to considering allegations of abuse, the court may require substantial independent corroboration, including, but not limited to, written reports by law enforcement agencies, child protective services or other social welfare agencies, courts, medical facilities, or other public agencies or private nonprofit organizations providing services to victims of sexual assault or domestic violence. As used in this subdivision, "abuse against a child" means "child abuse" as defined in Section 11165.6 of the Penal Code and abuse against any of the other persons described in paragraph (2) or (3) means "abuse" as defined in Section 6203 of this code.

(c) The nature and amount of contact with both parents, except as provided in Section 3046.

(d) The habitual or continual illegal use of controlled substances, the habitual or continual abuse of alcohol, or the habitual or continual abuse of prescribed controlled substances by either parent. Before considering these allegations, the court may first require independent corroboration, including, but not limited to, written reports from law enforcement agencies, courts, probation departments, social welfare agencies, medical facilities, rehabilitation facilities, or other public agencies or nonprofit organizations providing drug and alcohol abuse services. As used in this subdivision, "controlled substances" has the same meaning as defined in the California Uniform Controlled Substances Act, Division 10 (commencing with Section 11000) of the Health and Safety Code.

(e)

- (1) Where allegations about a parent pursuant to subdivision (b) or (d) have been brought to the attention of the court in the current proceeding, and the court makes an order for sole or joint custody to that parent, the court shall state its reasons in writing or on the record. In these circumstances, the court shall ensure that any order regarding custody or visitation is specific as to time, day, place, and manner of transfer of the child as set forth in subdivision (b) of Section 6323.
- (2) The provisions of this subdivision shall not apply if the parties stipulate in writing or on the record regarding custody or visitation.

3020.

- (a) The Legislature finds and declares that it is the public policy of this state to assure that the health, safety, and welfare of children shall be the court's primary concern in determining the best interest of children when making any orders regarding the physical or legal custody or visitation of children. The Legislature further finds and declares that the perpetration of child abuse or domestic violence in a household where a child resides is detrimental to the child.
- (b) The Legislature finds and declares that it is the public policy of this state to assure that children have frequent and continuing contact with both parents after the parents have separated or dissolved their marriage, or ended their relationship, and to encourage parents to share the rights and responsibilities of child rearing in order to effect this policy, except where the contact would not be in the best interest of the child, as provided in Section 3011.
- (c) Where the policies set forth in subdivisions (a) and (b) of this section are in conflict, any court's order regarding physical or legal custody or visitation shall be made in a manner that ensures the health, safety, and welfare of the child and the safety of all family members.

3031.

- (a) Where the court considers the issue of custody or visitation the court is encouraged to make a reasonable effort to ascertain whether or not any emergency protective order, protective order, or other restraining order is in effect that concerns the parties or the minor. The court is encouraged not to make a custody or visitation order that is inconsistent with the emergency protective order, protective order, or other restraining order, unless the court makes both of the following findings:
 - (1) The custody or visitation order cannot be made consistent with the emergency protective order, protective order, or other restraining order.
 - (2) The custody or visitation order is in the best interest of the minor.
- (b) Whenever custody or visitation is granted to a parent in a case in which domestic violence is alleged and an emergency protective order, protective order, or other restraining order has been issued, the custody or visitation order shall specify the time, day, place, and manner of transfer of the child for custody or visitation to limit the child's exposure to potential domestic conflict or violence and to ensure the safety of all family members. Where the court finds a party is staying in a place designated as a shelter for victims of domestic violence or other confidential location, the court's order for time, day, place, and manner of transfer of the child for custody or visitation shall be designed to prevent disclosure of the location of the shelter or other confidential location.
- (c) When making an order for custody or visitation in a case in which domestic violence is alleged and an emergency protective order, protective order, or other

restraining order has been issued, the court shall consider whether the best interest of the child, based upon the circumstances of the case, requires that any custody or visitation arrangement shall be limited to situations in which a third person, specified by the court, is present, or whether custody or visitation shall be suspended or denied.

3044.

- (a) Upon a finding by the court that a party seeking custody of a child has perpetrated domestic violence against the other party seeking custody of the child or against the child or the child's siblings within the previous five years, there is a rebuttable presumption that an award of sole or joint physical or legal custody of a child to a person who has perpetrated domestic violence is detrimental to the best interest of the child, pursuant to Section 3011. This presumption may only be rebutted by a preponderance of the evidence.
- (b) In determining whether the presumption set forth in subdivision (a) has been overcome, the court shall consider all of the following factors:
 - (1) Whether the perpetrator of domestic violence has demonstrated that giving sole or joint physical or legal custody of a child to the perpetrator is in the best interest of the child. In determining the best interest of the child, the preference for frequent and continuing contact with both parents, as set forth in subdivision (b) of Section 3020, or with the noncustodial parent, as set forth in paragraph (1) of subdivision (a) of Section 3040, may not be used to rebut the presumption, in whole or in part.
 - (2) Whether the perpetrator has successfully completed a batterer's treatment program that meets the criteria outlined in subdivision (c) of Section 1203.097 of the Penal Code.
 - (3) Whether the perpetrator has successfully completed a program of alcohol or drug abuse counseling if the court determines that counseling is appropriate.
 - (4) Whether the perpetrator has successfully completed a parenting class if the court determines the class to be appropriate.
 - (5) Whether the perpetrator is on probation or parole, and whether he or she has complied with the terms and conditions of probation or parole.
 - (6) Whether the perpetrator is restrained by a protective order or restraining order, and whether he or she has complied with its terms and conditions.
 - (7) Whether the perpetrator of domestic violence has committed any further acts of domestic violence.
- (c) For purposes of this section, a person has "perpetrated domestic violence" when he or she is found by the court to have intentionally or recklessly caused or attempted

to cause bodily injury, or sexual assault, or to have placed a person in reasonable apprehension of imminent serious bodily injury to that person or to another, or to have engaged in any behavior involving, but not limited to, threatening, striking, harassing, destroying personal property or disturbing the peace of another, for which a court may issue an ex parte order pursuant to Section 6320 to protect the other party seeking custody of the child or to protect the child and the child's siblings.

(d)

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

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

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

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

3080.

There is a presumption, affecting the burden of proof, that joint custody is in the best interest of a minor child, subject to Section 3011, where the parents have agreed to joint custody or so agree in open court at a hearing for the purpose of determining the custody of the minor child.

3081.

On application of either parent, joint custody may be ordered in the discretion of the court in cases other than those described in Section 3080, subject to Section 3011. For the purpose of assisting the court in making a determination whether joint custody is appropriate under this section, the court may direct that an investigation be conducted pursuant to Chapter 6 (commencing with Section 3110).

3082.

When a request for joint custody is granted or denied, the court, upon the request of any party, shall state in its decision the reasons for granting or denying the request. A statement that joint physical custody is, or is not, in the best interest of the child is not sufficient to satisfy the requirements of this section.

3083.

In making an order of joint legal custody, the court shall specify the circumstances under which the consent of both parents is required to be obtained in order to exercise legal control of the child and the consequences of the failure to obtain mutual consent. In all other circumstances, either parent acting alone may exercise legal control of the child. An order of joint legal custody shall not be construed to permit an action that is inconsistent with the physical custody order unless the action is expressly authorized by the court.

3084.

In making an order of joint physical custody, the court shall specify the rights of each parent to physical control of the child in sufficient detail to enable a parent deprived of that control to implement laws for relief of child snatching and kidnapping.

3085.

In making an order for custody with respect to both parents, the court may grant joint legal custody without granting joint physical custody.

3086.

In making an order of joint physical custody or joint legal custody, the court may specify one parent as the primary caretaker of the child and one home as the primary home of the child, for the purposes of determining eligibility for public assistance.

3087.

An order for joint custody may be modified or terminated upon the petition of one or both parents or on the court's own motion if it is shown that the best interest of the child requires modification or termination of the order. If either parent opposes the modification or termination order, the court shall state in its decision the reasons for modification or termination of the joint custody order.

3088.

An order for the custody of a minor child entered by a court in this state or any other state may, subject to the jurisdictional requirements in Sections 3403 and 3414 [now 3421–3424], be modified at any time to an order for joint custody in accordance with this chapter.

3089.

In counties having a conciliation court, the court or the parties may, at any time, pursuant to local rules of court, consult with the conciliation court for the purpose of assisting the parties to formulate a plan for implementation of the custody order or to resolve a controversy which has arisen in the implementation of a plan for custody.

3100.

- (a) In making an order pursuant to Chapter 4 (commencing with Section 3080), the court shall grant reasonable visitation rights to a parent unless it is shown that the visitation would be detrimental to the best interest of the child. In the discretion of the court, reasonable visitation rights may be granted to any other person having an interest in the welfare of the child.
- (b) If a protective order, as defined in Section 6218, has been directed to a parent, the court shall consider whether the best interest of the child requires that any visitation by that parent be limited to situations in which a third person, specified by the court, is present, or whether visitation shall be suspended or denied. The court shall include in its deliberations a consideration of the nature of the acts from which the parent was enjoined and the period of time that has elapsed since that order. A parent may submit to the court the name of a person that the parent deems suitable to be present during visitation.
- (c) If visitation is ordered in a case in which domestic violence is alleged and an emergency protective order, protective order, or other restraining order has been issued, the visitation order shall specify the time, day, place, and manner of transfer of the child, so as to limit the child's exposure to potential domestic conflict or violence and to ensure the safety of all family members. If a criminal protective order has been issued pursuant to Section 136.2 of the Penal Code, the visitation order shall make reference to, and, unless there is an emergency protective order that has precedence in enforcement pursuant to paragraph (1) of subdivision (c) of Section 136.2 of the Penal Code or a no-contact order, as described in Section 6320, acknowledge the precedence of enforcement of, an appropriate criminal protective order.
- (d) If the court finds a party is staying in a place designated as a shelter for victims of domestic violence or other confidential location, the court's order for time, day, place, and manner of transfer of the child for visitation shall be designed to prevent disclosure of the location of the shelter or other confidential location.

Rules 5.620 and 5.700 of the California Rules of Court

1 Rule 5.620. Orders after filing under section 300

2
3 (a) Exclusive jurisdiction (§ 304)
4

5 Once a petition has been filed alleging that a child is described by section 300, and
6 until the petition is dismissed or dependency is terminated, the juvenile court has
7 exclusive jurisdiction to hear proceedings relating to the custody of the child and
8 visitation with the child and establishing a guardianship for the child.
9

10 (b) * * *
11

12 (c) Custody and visitation (§ 361.2)
13

14 If the court sustains a petition, finds that the child is described by section 300, and
15 removes physical custody from a parent or guardian, it may order the child placed
16 in the custody of a previously noncustodial parent as described in rule
17 5.695(a)(7)(A) or (B).
18

19 (1) This order may be entered at the dispositional hearing, at any subsequent
20 review hearing under rule 5.708(k), or on granting a request under section
21 388 for custody and visitation orders.
22

23 (2) If the court orders legal and physical custody to the previously noncustodial
24 parent and terminates dependency jurisdiction under rule 5.695(a)(7)(A), the
25 court must proceed under rule 5.700.
26

27 (3) If the court orders custody to the noncustodial parent subject to the
28 continuing supervision of the court, the court may order services provided to
29 either parent or to both parents under section 361.2(b)(3). If the court orders
30 the provision of services, it must review its custody determination at each
31 subsequent hearing held under section 366 and rule 5.708.
32

33 (d)–(e) * * *
34
35

36 Rule 5.700. Termination of jurisdiction—custody and visitation orders (§§ 302, 304,
37 361.2, 362.4, 726.5)
38

39 When the juvenile court terminates its jurisdiction over a dependent or ward of the court
40 and places the child in the home of a parent, it may issue an order determining the rights
41 to custody of and visitation with the child. The court may also issue protective orders as
42 provided in section 213.5 or as described in Family Code section 6218.
43

1 **(a) Effect of order**

2
3 Any order issued under this rule continues in effect until modified or terminated by
4 a later order of a superior court with jurisdiction to make determinations about the
5 custody of the child. The order may be modified or terminated only if the superior
6 court finds both that:

7
8 (1) There has been a significant change of circumstances since the juvenile court
9 issued the order; and

10
11 (2) Modification or termination of the order is in the best interest of the child.

12
13 **(b) Preparation and transmission of order**

14
15 The order must be prepared on *Custody Order—Juvenile—Final Judgment* (form
16 JV-200). The court must direct either the parent, parent’s attorney, county counsel,
17 or clerk to:

18
19 (1) Prepare the order for the court’s signature; and

20
21 (2) Transmit the order within 10 calendar days after the order is signed to any
22 superior court where a proceeding described in (c)(1) is pending or, if no
23 such proceeding exists, to the superior court of, in order of preference:

24
25 (A) The county in which the parent who has been given sole physical
26 custody resides;

27
28 (B) The county in which the children’s primary residence is located if no
29 parent has been given sole physical custody; or

30
31 (C) A county or other location where any parent resides.

32
33 **(c) Procedures for filing order—receiving court**

34
35 On receiving a juvenile court custody order transmitted under (b)(2), the clerk of
36 the receiving court must immediately file the juvenile court order as follows.

37
38 (1) Except as provided in paragraph (2), the juvenile court order must be filed in
39 any pending nullity, dissolution, legal separation, guardianship, Uniform
40 Parentage Act, Domestic Violence Prevention Act, or other family law
41 custody proceeding and, when filed, becomes a part of that proceeding.
42

1 (2) If the only pending proceeding related to the child in the receiving court is
2 filed under Family Code section 17400 et seq., the clerk must proceed as
3 follows.

4
5 (A) If the receiving court has issued a custody or visitation order in the
6 pending proceeding, the clerk must file the received order in that
7 proceeding.

8
9 (B) If the receiving court has not issued a custody or visitation order in the
10 pending proceeding, the clerk must not file the received order in that
11 proceeding, but must instead proceed under paragraph (3).

12
13 (3) If no dependency, family law, or guardianship proceeding affecting custody
14 or visitation of the child is pending, the order must be used to open a new
15 custody proceeding in the receiving court. The clerk must immediately open
16 a family law file without charging a filing fee, assign a case number, and file
17 the order in the new case file.

18
19 **(d) Endorsed filed copy—clerk’s certificate of mailing**

20
21 Within 15 court days of receiving the order, the clerk of the receiving court must
22 send an endorsed filed copy of the order showing the case number assigned by the
23 receiving court by first-class mail to the child’s parents and the originating juvenile
24 court, with a completed clerk’s certificate of mailing, for inclusion in the child’s
25 file.
26

ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NO.: _____ NAME: _____ FIRM NAME: _____ STREET ADDRESS: _____ CITY: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL ADDRESS: _____ ATTORNEY FOR (<i>name</i>): _____	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
CASE NAME: _____	
CUSTODY ORDER—JUVENILE—FINAL JUDGMENT	CASE NUMBER: _____ JUVENILE: _____ FAMILY (<i>existing, if one; otherwise, new</i>): _____

Date of hearing: _____	Dept.: _____
Judicial officer (<i>name</i>): _____	

THE COURT FINDS AND ORDERS

1. a. **Jurisdiction.** This court has jurisdiction to make child custody orders in this case under the Uniform Child Custody Jurisdiction and Enforcement Act (Fam. Code, §§ 3400–3465).
- b. **Notice and opportunity to be heard.** The parties were given notice and an opportunity to be heard as provided by the laws of the State of California.
- c. **Country of habitual residence.** The country of habitual residence of the child or children in this case is
 the United States other (*specify*): _____
- d. **Penalties for violating this order.** If you violate this order, you may be subject to civil or criminal penalties or both.

2. **Parents bound by this order.**

- | | | |
|-----------------|---------------------------------|---------------------------------|
| a. Name: | <input type="checkbox"/> Mother | <input type="checkbox"/> Father |
| b. Name: | <input type="checkbox"/> Mother | <input type="checkbox"/> Father |
| c. Name: | <input type="checkbox"/> Mother | <input type="checkbox"/> Father |

are the parents of the children listed in item 3.

Parents are are not married to each other.

Parents do do not reside together.

3. **Custody.** Custody of the minor children is ordered as follows:

<u>Child's name</u>	<u>Date of birth</u>	<u>Legal custody to</u> <i>(name):</i>	<u>Physical custody to</u> <i>(name):</i>	<u>Primary residence with</u> <i>(name):</i>
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Additional children listed on Attachment 3.

4. This order reflects a change in the physical custody of the child or children to the custody of a formerly noncustodial parent.

CASE NAME:	CASE NUMBER: JUVENILE: FAMILY:
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5. **Visitation (parenting time) of (name of parent):**
 This parent may spend time with the children as follows:
 All children listed in item 3 The following children (name each):
- a. As arranged by the parents, but no less than (minimum): hour(s), times per (time period): .
 b. As stated on the attached [form JV-205](#).
 c. No visitation is ordered for the reasons stated on the attached [form JV-206](#) on Attachment 4c.
6. **Visitation (parenting time) of (name of parent):**
 This parent may spend time with the children as follows:
 All children listed in item 3 The following children (name each):
- a. As arranged by the parents, but no less than (minimum): hour(s), times per (time period): .
 b. As stated on the attached [form JV-205](#).
 c. No visitation is ordered for the reasons stated on the attached [form JV-206](#) on Attachment 5c.
7. **Child abduction prevention.** There is a risk that one parent will take the children out of California without the other parent's permission. *Child Abduction Prevention Order Attachment (form FL-341(B))* is attached and must be obeyed.
8. **Change of residence.** Under Family Code section 3024, unless there is prior written agreement to the change, any parent planning to change the residence of the child(ren) for longer than 30 days must provide notice to the other parent(s) at least 45 days before the proposed change to the extent feasible to allow time for mediation of a new plan.
9. **Parentage (attach court order).** (Name): _____ was declared or adjudged
 the biological presumed parent of (names of children): _____
- by court order (specify county and case number):
 juvenile court family court other (specify): _____
 on (date): _____
 Additional parentage determination(s) and order(s) listed on Attachment 9.
10. **Additional physical custody provisions.** The parents will follow the physical custody provisions listed in the schedule
 on Attachment 10.
 on *Visitation (Parenting Time) Order—Juvenile (form JV-205)*.
 on *Additional Provisions—Physical Custody Attachment (form FL-341(D))*.
11. **Holiday schedule.** The children will spend holiday time as listed in the schedule
 on Attachment 11.
 on *Children's Holiday Schedule Attachment (form FL-341(C))*.
12. **Joint legal custody.** The parents will share joint legal custody as listed in the plan
 on Attachment 12.
 on *Joint Legal Custody Attachment (form FL-341(E))*.

CASE NAME:	CASE NUMBER: JUVENILE: FAMILY:
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13. **Other findings and orders** (including circumstances underlying any limits on custody or visitation at the time of the order):

- Continued on the attached [form JV-206](#).
- Continued on Attachment 13.

NOTICE

The juvenile court has terminated jurisdiction over the children listed in 3.

All requests for modification or termination of these orders must be brought in the family court case in which these orders are filed.

14. a. A criminal protective order on [form CR-160](#) relating to the parties in this case is currently valid and in effect in case number (specify):
in (specify court, if known):
The order is scheduled to expire on (expiration date):
- b. A Domestic Violence Prevention Act protective order on form [DV-110](#), [DV-116](#), [DV-130](#), or [DV-730](#) relating to the parties in this case is currently valid and in effect in case number (specify):
in (specify court, if known):
The order is scheduled to expire on (expiration date):
- c. A restraining order (form [JV-250](#), [JV-255](#), or [JV-257](#)) is attached.

Instruction for Law Enforcement

Conflicting Orders—Priorities for Enforcement.

If more than one restraining order has been issued protecting the protected person from the restrained person, the orders must be enforced in the following order (see Pen. Code, § 136.2, and Fam. Code, §§ 6383(h)(2), 6405(b).):

1. *EPO*: If one of the orders is an *Emergency Protective Order* ([form EPO-001](#)) and it is more restrictive than other restraining or protective orders, it has precedence in enforcement over all other orders.
2. *No-Contact Order*: If there is no EPO, a no-contact order that is included in a restraining or protective order has precedence in enforcement over any other restraining or protective order.
3. *Criminal Order*: If none of the orders includes a no-contact order, a domestic violence protective order issued in a criminal case takes precedence in enforcement over any conflicting civil court order. Any nonconflicting terms of the civil restraining order remain in effect and enforceable.
4. *Family, Juvenile, or Civil Order*: If more than one family, juvenile, or other civil restraining or protective order has been issued, the one that was issued last must be enforced.

Date: _____

JUDICIAL OFFICER OF THE JUVENILE COURT

(See reverse for transmittal and filing instructions.)

CASE NAME:	CASE NUMBER: JUVENILE: FAMILY:
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15. The (check one): clerk of the juvenile court parent given physical custody parent's attorney county counsel is directed to transmit this order within 10 calendar days to the clerk of the superior court in any county where a proceeding described in rule 5.700(a)(1) involving the child or children is pending or, if no such case exists, to the clerk of the court in (specify jurisdiction):
- which is (in order of preference):
- the county where the parent who holds sole physical custody resides.
 - the county where the child's or children's primary residence is located (if no parent holds sole physical custody).
 - a county or location where a parent resides.
 - other (name of jurisdiction):

To the clerk of the receiving court:

16. Immediately on receiving this order, file the order as described in rule 5.475(a)(1) or 5.700(b) in a pending proceeding or a new file.
17. After filing the order, send an endorsed file-stamped copy of this order showing the case number assigned by your court by first-class mail to **the originating juvenile court** and:
- a. The parent in 2a (name and mailing address):
 - b. The parent in 2b (name and mailing address):
 - c. The parent in 2c (name and mailing address):
 - d. Other (name and mailing address):

with a completed clerk's certificate of mailing (see below).

CLERK'S CERTIFICATE OF MAILING
(To be completed by clerk of receiving court)

I certify that I am not a party to this cause and that an endorsed filed copy of the foregoing order was mailed as follows: Each copy was enclosed in an envelope with postage fully prepaid. The envelopes were addressed to the originating court and to each person whose name and address are given in item 17. Each envelope was sealed and deposited with the United States Postal Service

at (place):

on (date):

Date: _____ Clerk, by _____, Deputy

CASE NAME:	CASE NUMBER:
	JUVENILE:
	FAMILY:

VISITATION (PARENTING TIME) ORDER—JUVENILE

Attachment to **Custody Order—Juvenile—Final Judgment (form JV-200)**

Notice of Hearing and Temporary Restraining Order—Juvenile (form JV-250)

Restraining Order—Juvenile (form JV-255) **Change to Restraining Order After Hearing (form JV-257)**

1. This order applies to the following children (name each):

- a. _____ b. _____ c. _____
- d. _____ e. _____ f. _____

2. **VISITATION (Parenting Time)** (name of parent): _____ will have the children with him or her

(NOTE: Either a or b must be checked. If neither is checked, this order may not be enforceable.)

a. as stated in the visitation agreement on Attachment 2a.

or

b. as follows:

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

- First weekend of the month from _____ at _____ a.m. p.m.
(specify day(s) and times): to _____ at _____ a.m. p.m.
- Second weekend of the month from _____ at _____ a.m. p.m.
(specify day(s) and times): to _____ at _____ a.m. p.m.
- Third weekend of the month from _____ at _____ a.m. p.m.
(specify day(s) and times): to _____ at _____ a.m. p.m.
- Fourth weekend of the month from _____ at _____ a.m. p.m.
(specify day(s) and times): to _____ at _____ a.m. p.m.
- Fifth weekend of the month from _____ at _____ a.m. p.m.
(specify day(s) and times): to _____ at _____ a.m. p.m.

(2) **Alternating weekends** starting on (specify date): _____ from _____

at _____ a.m. p.m. to _____ at _____ a.m. p.m.

(3) **Midweek** from _____ at _____ a.m. p.m.

to _____ at _____ a.m. p.m.

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

Continued on Attachment 2b(4).

3. **SUPERVISED VISITATION.** Until further order of the superior court other (specify):

(name of parent): _____ may have only supervised visitation with the children according to the schedule in 2 for the reasons stated on the attached form JV-206 Attachment 3.

Visit supervisor (name): _____ Phone #: _____ E-mail: _____

4. **TRANSPORTATION FOR VISITATION AND PLACE OF EXCHANGE**

a. Transportation to the visits must be provided by Parent (name):

Other (specify):

b. Transportation from the visits must be provided by Parent (name):

Other (specify):

c. The children must be delivered to and picked up from (specify location):

d. Other (specify):

CASE NAME:	CASE NUMBER:
	JUVENILE:
	FAMILY:

5. **TRAVEL WITH CHILDREN.** Parent (*name*):
must have written permission from the other parent (*name*): _____ or a court order to take the children out of
- a. the state of California.
- b. the following counties (*specify*): _____
- c. other places (*specify*): _____
6. **Other findings and orders** (*specify circumstances, at the time of the order, underlying any limits on visitation*): _____

- Continued on Attachment 6.
- Continued on the attached [form JV-206](#).

Instruction for Law Enforcement

Conflicting Orders—Priorities for Enforcement.

If more than one restraining order has been issued protecting the protected person from the restrained person, the orders must be enforced in the following order (see Pen. Code, § 136.2, and Fam. Code, §§ 6383(h)(2) and 6405(b)):

1. *EPO*: If one of the orders is an *Emergency Protective Order* ([form EPO-001](#)) and it is more restrictive than other restraining or protective orders, it has precedence in enforcement over all other orders.
2. *No-Contact Order*: If there is no EPO, a no-contact order that is included in a restraining or protective order has precedence in enforcement over any other restraining or protective order.
3. *Criminal Order*: If none of the orders includes a no-contact order, a domestic violence protective order issued in a criminal case takes precedence in enforcement over any conflicting civil court order. Any nonconflicting terms of the civil restraining order remain in effect and enforceable.
4. *Family, Juvenile, or Civil Order*: If more than one family, juvenile, or other civil restraining or protective order has been issued, the one that was issued last must be enforced.

CASE NAME:	CASE NUMBER: JUVENILE: FAMILY:
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REASONS FOR NO OR SUPERVISED VISITATION—JUVENILE

Attachment to **Custody Order—Juvenile—Final Judgment (form JV-200)**
 Visitation (Parenting Time) Order—Juvenile (form JV-205)

1. This order applies to the following children (*name each*):

2. This parent (*name*): _____ was ordered to have no visitation only supervised visitation with the child or children named in 1 because
 - a. this parent has not completed has not made substantial progress in the following court-ordered programs:
 - Sexual abuse treatment or awareness program for offenders for victims
 - Drug abuse treatment program with random testing
 - Alcohol abuse treatment program with random testing
 - Domestic violence treatment program for offenders for victims
 - Anger management training
 - Parenting classes
 - Individual counseling
 - Other (*specify*): _____

 - b. The court denied services to this parent on (*date*): _____ based on a finding, by clear and convincing evidence, that:
 - he or she was responsible for severe sexual abuse of the child as described in section 361.5(b)(6) of the Welfare and Institutions Code.
 - he or she was responsible for severe physical abuse of or severe physical harm to the child as described in section 361.5(b)(5)–(6) of the Welfare and Institutions Code.
 - his or her whereabouts were unknown on that date and remain unknown.
 - other (*specify*): _____

Completion of one of the programs above *might*, but need not, constitute a significant change of circumstances for purposes of modifying this final custody order. (Welf. & Inst. Code, § 302(d).)

THIS IS A COURT ORDER.

PETITIONER: RESPONDENT:	CASE NUMBER:
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CHILD ABDUCTION PREVENTION ORDER ATTACHMENT

TO **Child Custody and Visitation Order Attachment (form FL-341(A))** **Other (specify):**

1. **The court finds there is a risk that** *(specify name of parent):* _____ **will take the child without permission because that parent** *(check all that apply):*
- a. has violated—or threatened to violate—a custody or visitation order in the past.
 - b. does not have strong ties to California.
 - c. has done things that make it easy for him or her to take the children away without any permission, such as *(check all that apply):*
 - quit a job. sold his or her home.
 - closed a bank account. ended a lease.
 - sold or gotten rid of assets. hidden or destroyed documents.
 - applied for a passport, birth certificate, or school or medical records.
 - Other *(specify):* _____
 - d. has a history of *(check all that apply):*
 - domestic violence.
 - child abuse.
 - not cooperating with the other parent in parenting.
 - e. has a criminal record.
 - f. has family or emotional ties to another country, state, or foreign country.
- (NOTE: If item "f" is checked, at least one other factor must be checked, too.)**

THE COURT ORDERS, to prevent the parent in item 1 from taking the children without permission:

- 2. **Supervised visitation.** Terms of visitation are *(check one):*
 as specified on attached form FL-341(A) as follows: _____

- 3. **The parent in item 1 must post a bond for \$** _____ . The terms of the bond are *(specify):* _____

- 4. **The parent in item 1 must not move from the following locations with the children** without permission in writing from the other parent or a court order:
 Current residence Current school district *(specify):* _____
 This county Other *(specify):* _____

- 5. **The parent in item 1 must not travel with the children out of** *(check all that apply):*
 this county. the United States.
 California. other *(specify):* _____

- 6. **The parent in item 1 must register this order** in the state of *(specify):* _____ before the children can travel to that state for visits.

- 7. **The parent in item 1 must not apply for a passport or any other document,** such as a visa or birth certificate, that can be used for travel, and must turn in the following documents *(specify):* _____

PETITIONER: RESPONDENT:	CASE NUMBER:
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8. **The parent in item 1 must give the other parent the following *before* traveling with the children:**
- The children's travel itinerary
 - Copies of round-trip airline tickets
 - Addresses and telephone numbers where the children can be reached at all times
 - An open airline ticket for the other parent in case the children are not returned
 - Other (*specify*):
9. **The parent in item 1 must notify the embassy or consulate** of (*specify country*): _____ of
 this order and provide the court with proof of that notification within (*specify number*): _____ days.
10. **The parent in item 1 must get a custody and visitation order** equivalent to the most recent U.S. order before the children may travel to that country for visits. The court recognizes that foreign orders may be changed or enforced according to the laws of that country.
11. **Enforcing the order.** The court authorizes any law enforcement officer to enforce this order. In this county, contact the Child Abduction Unit of the Office of the District Attorney at (*phone number and address*): _____
12. **Other** (*specify*): _____
13. This order is valid in other states and in any country that has signed the Hague Convention on Child Abduction.

NOTICE TO AUTHORITIES IN OTHER STATES AND COUNTRIES

This court has jurisdiction to make child custody orders under California's Uniform Child Custody Jurisdiction and Enforcement Act (California Fam. Code, § 3400 et seq.) and the Hague Convention on Civil Aspects of International Child Abduction (42 U.S.C. § 11601 et seq.). If jurisdiction is based on other factors, they are listed in item 12 above.

Date: _____

 JUDICIAL OFFICER

PETITIONER: RESPONDENT:	CASE NUMBER:
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CHILDREN'S HOLIDAY SCHEDULE ATTACHMENT

TO Petition or Application for Order Findings and Order After Hearing or Judgment
 Stipulation and Order for Custody and/or Visitation of Children

1. **Holiday parenting.** The following table shows the holiday parenting schedules. Write "Pet" or "Resp" to specify each parent's years—odd, even, or both ("every year")—and under "Time" specify the starting and ending days and times.

Holiday	Time (from when to when) <i>(Unless otherwise noted, all single-day holidays start at a.m. and end at p.m.)</i>	Every Year <i>Petitioner/ Respondent</i>	Even Years <i>Petitioner/ Respondent</i>	Odd Years <i>Petitioner/ Respondent</i>
January 1 (New Year's Day)				
Martin Luther King's Birthday (weekend)				
Lincoln's Birthday				
President's Day (weekend)				
Spring Break, first half				
Spring Break, second half				
Mother's Day				
Memorial Day (weekend)				
Father's Day				
July 4th				
Labor Day (weekend)				
Columbus Day (weekend)				
Halloween				
Veteran's Day (weekend)				
Thanksgiving Day				
Thanksgiving weekend				
Winter Break, first half				
Winter Break, second half				
New Year's Eve				
Child's birthday				
Mother's birthday				
Father's birthday				
Breaks for year-round schools				
Summer Break, first half				
Summer Break, second half				
Other (specify):				

Any three-day weekend not specified above will be spent with the parent who would normally have that weekend.

Other (specify):

2. **Vacations.** The petitioner respondent may take a vacation of up to (specify number): days weeks with the children the following number of times per year (specify): . They must notify the other parent in writing of their vacation plans a minimum of (specify number): days in advance and provide the other parent with a basic itinerary that includes dates of leaving and returning, destinations, flight information, and telephone numbers for emergency purposes.

The other parent has (specify number): days to respond if there is a problem with the schedule.

a. This vacation may be outside California.

b. Any vacation outside California the United States requires prior written consent of the other parent or a court order.

c. Other (specify):

PETITIONER: RESPONDENT:	CASE NUMBER:
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ADDITIONAL PROVISIONS—PHYSICAL CUSTODY ATTACHMENT

TO **Petition or Application for Order** **Findings and Order After Hearing or Judgment**
 Stipulation and Order for Custody and/or Visitation of Children

1. **Notification of parent's current address.** Each parent must notify the other parent of his or her current address and telephone number within (*specify number*): _____ days of any change in his or her
 - a. address for residence mailing work.
 - b. telephone/message number at home work the children's schools.

Neither parent may use such information for the purpose of harassing, annoying, or disturbing the peace of the other or invading the other's privacy. If a parent has an address with the State of California's Safe at Home confidential address program, no residence or work address is needed.
2. **Notification of proposed move of child.** Each parent must notify the other parent (*specify number*): _____ days prior to any planned change in residence of the children. The notification must state, to the extent known, the planned address of the children, including the county and state of the new residence. The notification must be sent by certified mail, return receipt requested.
3. **Child care**
 - a. The children must not be left alone without age-appropriate supervision.
 - b. The parents must let each other know the name, address, and phone number of the children's regular child-care providers.
4. **Right of first option of child care.** In the event either parent requires child care for (*specify number*): _____ hours or more while the children are in his or her custody, the other parent must be given first opportunity, with as much prior notice as possible, to care for the children before other arrangements are made. Unless specifically agreed or ordered by the court, this order does not include regular child care needed when a parent is working.
5. **Canceled parenting time**
 - a. If the noncustodial parent fails to arrive at the appointed time and fails to notify the custodial parent that he or she will be late, then the custodial parent need wait for only (*specify number*): _____ minutes before considering the visitation canceled.
 - b. In the event a noncustodial parent is unable to exercise visitation on a given occasion, he or she must notify the custodial parent at the earliest possible opportunity.
 - c. The custodial parent must give the noncustodial parent as much notice as possible if the children are ill and unable to participate in scheduled time with the other parent. A doctor's excuse is required.
6. **Phone contact between parents and children**
 - a. The children may have telephone access to the parents and the parents may have telephone access to the children at reasonable times, for reasonable durations.
 - b. The scheduled phone contact between parents and the children is (*specify*): _____
 - c. Neither parent nor any other third party may listen to or monitor the calls.
7. **No negative comments.** Neither parent will make or allow others to make negative comments about the other parent or the other parent's past or present relationships, family, or friends within hearing distance of the children.
8. **No use of children as messengers.** The parents will communicate directly with each other on matters concerning the children and may not use the children as messengers between them.
9. **Alcohol or substance abuse.** The petitioner respondent may not consume alcoholic beverages, narcotics, or restricted dangerous drugs (except by prescription) within (*specify number*): _____ hours prior to or during periods of time with the children and may not permit any third party to do so in the presence of the children.
10. **No exposure to cigarette smoke.** The children will not be exposed to secondhand cigarette smoke while in the home or car of either parent.

PETITIONER: RESPONDENT:	CASE NUMBER:
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11. **No interference with schedule of other parent without that parent's consent.** Neither parent will schedule activities for the children during the other parent's scheduled parenting time without the other parent's prior agreement.
12. **Third-party contact**
- a. The children will have no contact with *(specify name)*:
- b. The children must not be left alone in the presence of *(specify name)*:
13. **Children's clothing and belongings**
- a. Each parent will maintain clothing for the children so that the children do not have to make the exchanges with additional clothing.
- b. The children will be returned to the other parent with the clothing and other belongings they had when they arrived.
14. **Log book.** The parents will maintain a "log book" and make sure that the book is sent with the children between their two homes. Using businesslike notes (no personal comments), parents will record information related to the health, education, and welfare issues that arise during the time the children are with them.
15. **Terms and conditions of order may be changed.** The terms and conditions of this order may be added to or changed as the needs of the children and parents change. Such changes will be in writing, dated and signed by both parents; each parent will retain a copy. If the parents want a change to be a court order, it must be filed with the court in the form of a court document.
16. **Other** *(specify)*:

PETITIONER: RESPONDENT:	CASE NUMBER:
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JOINT LEGAL CUSTODY ATTACHMENT

TO **Petition or Application for Order** **Findings and Order After Hearing or Judgment**
 Stipulation and Order for Custody and/or Visitation of Children

1. The parents will have joint legal custody of the minor children.
2. In exercising joint legal custody, the parents will share in the responsibility and confer in good faith on matters concerning the health, education, and welfare of the children. The parents must confer in making decisions on the following matters:
 - a. Enrollment in or leaving a particular private or public school or daycare center
 - b. Participation in particular religious activities or institutions
 - c. Beginning or ending of psychiatric, psychological, or other mental health counseling or therapy
 - d. Selection of a doctor, dentist, or other health professional (except in emergency situations)
 - e. Participation in extracurricular activities
 - f. Out-of-country or out-of-state travel
 - g. Other (*specify*):

In all other matters in exercising joint legal custody, the parents may act alone, as long as the action does not conflict with any orders concerning the physical custody of the children.

3. If a parent does not obtain the required consent of the other parent to the decisions checked in item 2:
 - a. He or she may be subject to civil or criminal penalties.
 - b. The court may change the legal and physical custody of the minor children.
 - c. Other consequences (*specify*):
4. **Special decision-making designation**
 - a. The petitioner respondent will be responsible for making decisions regarding the following issues (*specify*):
 - b. Each parent will have access to the children's school, medical, and dental records and the right to consult with professionals who are providing services to the children.
5. **Health-care notification**
 - a. Each parent must notify the other of the name and address of each health practitioner who examines or treats the children; such notification must be made within (*specify number*): days of the commencement of the first such treatment or examination.
 - b. Each parent is authorized to take any and all actions necessary to protect the health and welfare of the children, including but not limited to consent to emergency surgical procedures or treatment. The parent authorizing such emergency treatment must notify the other parent as soon as possible of the emergency situation and of all procedures or treatment administered to the children.
 - c. Both parents are required to administer any prescribed medications for the children.
6. **School notification.** Each parent will be designated as a person the children's school will contact in the event of an emergency.
7. **Name.** Neither parent will change the last name of the children or have a different name used on the children's medical, school, or other records without the written consent of the other parent.
8. Other (*specify*):

Moving Cases from Juvenile to Family Court: How Mediation Can Help

JUDGE LEONARD EDWARDS *

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* The author is the Judge-in-Residence at the Administrative Office of the Courts. The author wishes to thank Judges Shawna Schwarz and Jerilyn Borack, George Ferrick, and Steve Baron for their assistance in the preparation of the article. A shorter version of this article appeared in the California Judges Association quarterly, The Bench.

I. Introduction

Legal cases involving custody of children can arise in a number of different superior court divisions. Family court, probate court, juvenile dependency court, and juvenile delinquency court can each create a child custody order.¹ Both the probate and juvenile dependency courts can create a guardianship.² Moreover, cases involving the same child and family can move from one court to another. Just as a juvenile delinquency case can move to the juvenile dependency court,³ a probate guardianship case can move to juvenile dependency court,⁴ and a child's juvenile dependency case can move to the juvenile delinquency court. Similarly, a custody dispute in family court can move to the juvenile dependency court⁵ and a juvenile dependency case can move to family court.⁶

Moving cases between court divisions can create problems because the law differs from division to division. For example, the parties may be different in these courts.⁷ Some litigants may choose to move a case to another division where they believe the law and procedures favor their

¹ CAL. FAM. CODE § 3022 (West 2012); CAL. PROB. CODE §1510 (West 2012); CAL. WELF. & INST. CODE §§ 362.4, 727 (West 2012)

² CAL. WELF. & INST. CODE § 360 (West 2012) and CAL. PROB. CODE §§ 1510-1539 (West 2012).

³ CAL. WELF. & INST. CODE § 241.1 (West 2012).

⁴ CAL. PROB. CODE §1513(c) (West 2012); *In re* Guardianship of Christian G., 195 Cal. 4th 581, 602 (2011).

⁵ See CAL WELF. & INST. §§ 329, 331 (West 2012); *In re* M.C., 199 Cal. 4th 784, 709 (2011).

⁶ CAL. WELF. & INST. CODE §§ 361.2(b)(1), 362.4 (West 2012).

⁷ The social services agency is the moving party in juvenile dependency proceedings. CAL. WELF. & INST. CODE § 311(a) (West 2012). That agency is not a party in Family Court or Probate Court proceedings. Parents are entitled to counsel at state expense in juvenile dependency proceedings, but not in family or probate proceedings. CAL. PROB. CODE §1516.5 (West 2012); *Lassiter v. State Department of Social Services*, 42 U.S. 18 (1981); Leonard Edwards, *The Relationship between Juvenile and Family Court in Child Abuse Cases*, 27 SANTA CLARA L. REV. 201 (1987); GARY C. SEISER & KURT KUMLI, CALIFORNIA JUVENILE COURTS: PRACTICE AND PROCEDURE § 217[6][b] (Matthew Bender 2011).

position.⁸ Judges and court administrative staff must be involved in these movements because a file may have to be moved and new parties noticed. On occasion, the court clerk may have legal responsibilities to create a new file and keep track of legal papers created in the juvenile court.⁹

Some of the most interesting and complex case movements in California child custody law involves juvenile dependency cases that are dismissed with juvenile court child custody orders that are then transferred to the family court. Many call these creations “exit orders,” but the official legal term is “juvenile court custody orders.”¹⁰ The orders derive from Welfare and Institutions Code sections 361.2(b)(1) and 362.4. The latter code section states in part:

When the juvenile court terminates its jurisdiction over a minor who has been adjudged a dependent child of the juvenile court. . .the juvenile court on its own motion may issue a protective order as provided for in section 213.5 or as defined in Section 6218 of the Family Code, and an order determining the custody of, or visitation with, the child.

The custody order shall be filed in any pending proceeding for nullity, dissolution, or legal separation, or in the proceeding to establish paternity, and shall become a part thereof.¹¹ If there is no such pending proceeding, the clerk of the court opens a file, without a filing fee,

⁸ For example, some litigants may prefer to have their child custody cases appear in juvenile dependency proceedings where the parents will receive family reunification services. Others may prefer to avoid juvenile dependency court where there is a possibility of losing parental rights.

⁹ CAL. WELF. & INST. CODE § 362.4 (West 2012).

¹⁰ See GARY C. SEISER & KURT KUMLI, CALIFORNIA JUVENILE COURTS: PRACTICE AND PROCEDURE § 2.1272.127[1][a], practice tip at 2-340 (Matthew Bender, 2011). The California Fourth District Court of Appeal appeared to approve reluctantly the term “exit order.” In re John W., 41 Cal. App. 4th 961 (1996).

¹¹ CAL. WELF. & INST. CODE § 362.4 (West 2012).

and assigns a case number.¹²

Juvenile court judicial officers issue these orders frequently. Based on statistics from several courts, judicial officers make well over 300 such orders statewide each month.¹³

This article will discuss several issues that arise in the creation of juvenile court custody orders: (1) how they are different from family law custody orders and the importance of those differences; (2) common errors in making these orders; (3) how the transfer process sometimes results in these orders either being ignored by family court judicial officers or being of little use because of the lack of detail within the orders, and (4) how changes in the transfer process and the use of child protection mediation can ensure better, more comprehensive, custody orders that can avoid unnecessary litigation in family court, and save court and litigant time and resources.

II. The Importance of Juvenile Court Custody Orders

For Juvenile court custody orders differ from family court custody orders because they can condition parental access to the child in ways unavailable to the family court. This is understandable since these are typically some of the highest risk cases in the court system.¹⁴ They involve abused and neglected children who have been placed under the protection of the juvenile court. The juvenile court would have maintained jurisdiction over a particular child for some period of time and ordered that one or both of the parents participate in services designed to address the problems that brought the child before the court. At the time of dismissal, the juvenile court has concluded that the child currently

¹² *Id.*

¹³ In Los Angeles alone, the average is over 200 a month. Email from Megan Orlando, Director of Los Angeles Juvenile Court Mediation (Sept. 5, 2011) (on file with author).

¹⁴ In a juvenile dependency case a juvenile court judge has found that a child has been abused or neglected as described in section 300 of the California Welfare and Institutions Code.

resides in a safe environment, but the court must acknowledge the danger of re-abuse or neglect. Thus, the juvenile court can make a custody order that conditions parental access to the child on a parent's future conduct.¹⁵

The California Supreme Court recognized the special nature of juvenile court custody orders in the case of *In re Chantal S.* In that case, the juvenile court judge found the child needed protection from the father because of his violence and because the mother was unable to protect the child.¹⁶ At the conclusion of dependency proceedings, the juvenile court issued a custody order granting sole custody of the child to the mother and conditioning the father's visitation on his participation in counseling. The court delegated the decision concerning when visitation would occur to the father's therapist and the child's therapist.¹⁷ The juvenile court custody order placed conditions on father's visitation rights as follows:

Visitation for father to be facilitated by Chantal's therapist, Diane Childs. Before visitation with father and his daughter can occur, father must be (1) in psychotherapy with a therapist qualified to work with issues such as father's. (2) Father must attend therapy regularly and make satisfactory progress for a time before any visits as determined by his therapist. (3) At the time that visits are scheduled to begin, father must sign a release of information to Ms. Childs to obtain

¹⁵ For a comprehensive discussion of the relationship and differences between the juvenile and family courts, see Leonard Edwards, *The Relationship of Family and Juvenile Courts in Child Abuse Cases*, 27 SANTA CLARA L. REV. 201 (1987).

¹⁶ *In re Chantal S.*, 13 Cal. 4th 196, 201 (1996). The trial court also found that father's alcohol abuse "significantly impaired his ability to parent Chantal," that she was at substantial risk of "suffering severe emotional damage as revealed by severe anxiety and withdrawal towards her father," and that she had been exposed to domestic violence during visits with her father. *Id.* at 212.

¹⁷ *See id.* at 202.

information from his therapist regarding progress in therapy and to allow Ms. Childs to relay issues she sees during visits that are of a concern to her. (4) Father will be financially responsible for these visits. Payment to be at the beginning of all visits. (5) Visits will be in Ms. Child's office; Familiar surroundings for Chantal.¹⁸

The father appealed the trial court's orders arguing that Family Code section 3190¹⁹ precluded the court from conditioning visitation upon his participation in counseling and, further, that the juvenile court custody unlawfully delegated judicial authority to the therapists.

The Supreme Court affirmed the trial court with regards to all issues, noting that dependency proceedings are special proceedings governed by their own set of rules and statutes, and not necessarily by the Family Code.²⁰ The Court stated that family court is a part of the superior court performing its duties under the Family Code.²¹ On the one hand, family court presumes the parents to be fit and capable of raising their children.²² On the other hand, the juvenile court "provides a forum to restrict parental behavior regarding children and to remove children from the custody of their parents or guardians."²³ Thus, the presumption of parental fitness that underlies custody law in family court does not apply to dependency cases decided in juvenile court.

In re Chantal S. makes it clear that the juvenile court can make orders that a family court judge cannot. This is true so long as the court gives the parent notice and an opportunity

¹⁸ *In re Chantal S.*, 13 Cal. 4th at 202.

¹⁹ Family Code section 3190 restricts counseling orders to one year and requires the trial court to make a number of findings that the juvenile court in the *Chantal* case did not make. It does not authorize open ended counseling orders.

²⁰ *In re Chantal S.*, 13 Cal. 4th at 201.

²¹ *Id.*

²² CAL. FAM. CODE § 3061 (West 2012).

²³ *In re Chantal S.*, 13 Cal. 4th at 201.

to be heard.²⁴ For example, the parents have the right to a contested hearing where the court may find a particular order is necessary to protect the child and serve the child's best interest. The court must base its determination on competent evidence, and must draw the order narrowly to respect both the parent's rights and the child's needs.²⁵ In making a custody order, the juvenile court is not bound by the presumption in Family Code section 3080 for joint custody,²⁶ nor is the juvenile court bound by the restrictions of Family Code section 3190 in limiting counseling orders to parents to a period of one year.²⁷

Given the special nature of juvenile court proceedings and the reasoning in the *Chantal S.* case, it is likely that the appellate courts would approve juvenile court custody orders that restrict parental access to a child based on almost any child protection issue that might arise in juvenile court proceedings. In *Chantal S.*, the Supreme Court specifically addressed sexual abuse therapy holding that the court could create a custody order conditioning one parent's contact with the child on counseling for an indefinite period.²⁸ In *Nicholas H.*, the Court of Appeals held that the juvenile court custody order can require the parents to reach a mediated agreement about how a child will be told about his paternity.²⁹ Other juvenile court custody orders might address participation in parenting classes, domestic violence intervention programs, substance abuse programs, or adherence to medication regimes prescribed by doctors.

²⁴ *Id.*

²⁵ *Id.* at 210-11.

²⁶ In ruling the supreme court approved of the holding in *In re Jennifer R.*, 14 Cal. App. 4th 704 (1993), that former Civil Code section 4600.5(a) – now Family Code section 3080 – creating a presumption in favor of joint custody does not apply to juvenile proceedings.

²⁷ *Id.*, 13 Cal. 4th at 207 (the court specifically found that “application of Family Code section 3910 to juvenile courts would produce results inconsistent with the purpose of juvenile court law.”)

²⁸ *Id.* at 208 (citing the cases of *In re Daniel C.H.*, 220 Cal. App. 3d 814, 837-38 (1990), and *In re Elizabeth M.*, 232 Cal. App. 3d 553, 569 (1991).

²⁹ *In re Nicholas H.*, 112 Cal. App.4th 251, 270 (2003).

Juvenile court judicial officers, children's attorneys, and social workers should be aware of the juvenile court's unique powers when creating juvenile court custody orders and how these orders can better protect children. Careful attention to the potential orders that a juvenile court can create at the time of dismissal could result in earlier dismissal of juvenile court jurisdiction.

III. Problems and Strategies Regarding Juvenile Court Custody Orders Moving to Family Court

A. Lack of Awareness of Juvenile Custody Order

The transfer process from juvenile to family court and the content of juvenile court custody orders have presented difficulties for family court judicial officers for years. First, some family court judges have not been aware that a juvenile court custody order exists. This problem arises depending on the transfer process and depending on whether the juvenile court custody order is available to the family court judge. On occasion, the juvenile court custody order never reaches the family court file. Even if it does, the family court judge may not be aware of its existence within the file.³⁰

To address these problems, some family courts mark the files to indicate the presence of a juvenile court custody order. Other courts have developed procedures that permit the juvenile dependency file to be delivered to the family court judge. Pursuant to Welfare and Institutions Code section 827.10, the court, parties, and attorneys can receive and inspect the juvenile court file, and the social worker can testify in the family court regarding the juvenile court proceedings.³¹ Several courts hold periodic meetings between the family and juvenile court judges and administrators to coordinate relations between the two court systems. At least one California court refers the case back to the juvenile court

³⁰ The author is aware of these problems from personal experience as a judge in both family and juvenile court and based on discussions with family and juvenile court judges.

³¹ CAL. WEL. & INST. CODE § 827.10 (West 2012).

judge for the custody hearing.³² Court administrators can work with supervising judges in the family and juvenile courts to ensure that juvenile court custody orders are tracked into the family court so that family court judicial officers are alerted to their existence as well as the availability of access to the juvenile court file, if necessary. Additionally, pursuant to Family Code section 3150, the family court judge can appoint the child's attorney in the juvenile proceedings to represent the child in the family court.

Failure to alert the family court judge to the history of the juvenile court proceedings can expose the child to further abuse or neglect. After dismissal of the juvenile court case, the parents will occasionally reach a private agreement to permit contact between the child and the parent who originally abused or neglected the child. They will then request that the family court judge modify the existing juvenile court custody order. Without access to the juvenile court custody order, the juvenile court file, the social worker, or the child's attorney, the family court judge may not be able to understand fully the potential dangers to the child.

B. Misunderstanding of the Authority of Juvenile Court Custody Orders

Second, some family court judges have not understood the authority of juvenile court custody orders. For a number of years, some family court and appellate judges held that they were *pendent lite* orders and not equivalent to permanent custody orders.³³ However, juvenile court custody orders are not similar to *pendente lite* orders under family law. Instead, they are equivalent to a permanent custody order.³⁴ As such, a

³² In Santa Clara County the practice is for any modification requests in family court within one year of dismissal of the juvenile dependency case to be heard by the juvenile dependency judge who created the order. As Judge Shawna Schwarz of that court stated, "a judge's interest in NOT having a big custody/visitation mess on his/her hands is great incentive to spend the time to do it right in the first place." E-mail from Judge Schwarz to author (Oct. 26, 2011) (on file with author) (emphasis in the original).

³³ See *In re John W.*, 41 Cal. App. 4th 961, 970-73 (1996).

³⁴ *Speelman v. Superior Court*, 152 Cal. App. 3d 124, 129 (1983).

later modification of a juvenile court custody order in family court must be based both upon the best interest of the child and upon a significant change in circumstances.³⁵ The standard of proof necessary to make a change in existing custody orders resembles the proof necessary to grant a motion pursuant to Welfare and Institutions Code section 388.³⁶ The legislature confirmed this legal standard when it added Welfare and Institutions Code section 302(d) to read:

Any custody or visitation order issued by the juvenile court at the time the juvenile court terminates its jurisdiction pursuant to Section 362.4 regarding a child who has been previously adjudged to be a dependent child of the juvenile court shall be a final judgment and shall remain in effect after that jurisdiction is terminated. The order shall not be modified in a proceeding or action described in Section 3021 of the Family Code unless the court finds that there has been a significant change of circumstances since the juvenile court issued the order and modification of the order is in the best interests of the child.

As noted above, so long as a parent receives full due process rights (notice, opportunity to be heard, contested hearing if desired) and the court makes its findings based upon competent evidence, the order is “tailored as narrowly as possible to respect the parent’s rights and yet still protect the child,” the order will be considered a final judgment.³⁷ Consequently, failure to provide the parties an opportunity to present evidence will render the juvenile court custody order null and void.³⁸ This failure may result in the case returning to the juvenile court for a full custody hearing.³⁹

There are limitations on the authority of some juvenile court custody orders. In one case, the juvenile court judge ordered that the juvenile court custody order not be modified

³⁵ *Id.* (emphasis added).

³⁶ GARY C. SEISER & KURT KUMLI, *supra* note 10, at 2.127[1][a].

³⁷ *In re Chantal S.*, 13 Cal. 4th 196, 210-11 (1996).

³⁸ *In re Michael W.*, 54 Cal. App. 4th 190 (1997); *In re Roger S.*, 4 Cal. App. 4th 25 (1992).

³⁹ *In re T.H.*, 190 Cal. App. 4th 1119 (2010).

for approximately a year.⁴⁰ On appeal, the appellate court declared this an unwarranted extension of juvenile court jurisdiction. Further, the appellate court noted that the juvenile court had based his decision “on the false assumption that he had to split physical custody because there was no evidence one parent was any better or worse than the other.”⁴¹ The correct test, noted the appellate court, is the best interests of the child.⁴² Finally, the appellate court remanded the case to the family court for a new custody determination.

C. *Incomplete Custody Orders*

Third, most juvenile court custody orders contain so little substance as to be of little or no use to a family court judge.⁴³ As Judge Mary Ann Grilli, an experienced family court judge has said:

We are a large, well-coordinated court, yet we struggle somewhat with juvenile court custody orders. They are often too general. These orders are essentially judgments. As such, it is vital that they be clear and specific. Otherwise, there will be enforcement issues, as well as difficulties in ascertaining what constitutes a substantial change in circumstances. If the orders are clear at the outset, the results include far fewer court hearings and returns to mediation.⁴⁴

Judge Grilli’s comments are understandable as social workers preparing recommendations for the juvenile court

⁴⁰ *In re John W.*, 41 Cal. App. 4th 961 (1996).

⁴¹ *Id.* at 965.

⁴² *Id.*

⁴³ For example in the case of *In re A.C.*, 197 Cal. App. 4th 796 (2011), the clerk’s transcript differed from the court’s oral statements. There was no comprehensive order – instead a box was checked indicating that visitation was to be determined by the parents. The appellate court had to make a decision about the meaning of the “order”.

⁴⁴ Email from Judge Grilli to author (Aug. 27, 2011) (on file with author). Also see the comment of Judge Shawna Schwarz. Schwarz, *supra* note 32.

rarely have experience in developing comprehensive custody and visitation orders. The typical juvenile court custody order might read: "Legal and physical custody to mother with reasonable rights of visitation to father." This order provides no clarification when modification motions are filed in family court.⁴⁵ The parents understandably will have trouble understanding the details of such an order, including vacations, holidays, Father's and Mother's Day, transportation, and related matters. When the parents ask the family court to modify the order to settle disputes about custody and visitation, the judge must refer the matter to mediation and then holding a contested custody hearing should mediation fail.⁴⁶ Consequently, the failure to provide the family court with a detailed custody and visitation plan leads to more litigation, court time, and further expenditure of court resources.⁴⁷

Parents are often more cooperative in the juvenile court. Their main concern is to dismiss juvenile dependency in order to remove the threat of losing their parental rights. They are often willing to come to an agreement on many issues just so the court will transfer the case out of juvenile court. Parents usually have attorneys to assist them in juvenile court, while a high percentage of family litigants are unrepresented. Additionally, their child has legal representation in juvenile court as does the social worker. Juvenile courts should take advantage of this opportunity to

⁴⁵ A number of family court judges around the state have complained to the author that the juvenile court custody orders they review are inadequate and create significant problems in the family court. They state that they find it necessary to start over from the beginning in order to create a comprehensive custody order.

⁴⁶ The family court judge will not decide any custody or visitation issue until the parties have participated in mediation. CAL. FAM. CODE § 3170.

⁴⁷ One method of developing more detailed juvenile custody orders is to have a check list of custody/visitation issues that the social worker will fill out and then the attorneys and the judge can discuss at the time of dismissal. In this way, the specific issue such as Father's Day, Mother's Day, holidays and other details of a visitation scheme can be addressed in juvenile court prior to dismissal. Santa Clara County has developed such a list. A copy is available from that court or from the author.

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assist the parents in reaching a comprehensive mediated custody agreement before the court dismisses the juvenile court case.

IV. How Dependency Mediation Can Resolve These Issues

The most successful and efficient approach to comprehensive juvenile court custody orders has been the use of dependency mediation at the time the dependency case is dismissed.⁴⁸ Dependency mediation can help parents reach comprehensive custody orders that resemble those that result from mediated agreements in family court.⁴⁹ The family court judge will not have to start over if the juvenile court has completed a detailed custody order.

This approach assumes that dependency mediation is available to the juvenile court. The legislature has encouraged the development of dependency mediation program,⁵⁰ and twenty-three courts throughout California have such programs, usually borrowing mediators from the Family Court Services mediation staff.⁵¹ While all contested issues in juvenile dependency cases can be resolved using dependency mediation,⁵² most judges and practitioners believe that, at a

⁴⁸ This is the opinion of family court judges such as Judge Grilli. Grilli, *supra* note 44.

⁴⁹ “Dependency mediation provides a non-adversarial setting in which a mediator assists the parties in reaching a fully informed and mutually acceptable resolution that focuses on the child’s safety and best interest, and the safety of all family members.” Cal. Rules of Court 5.518(b)(1).

⁵⁰ CAL. WELF. & INST. CODE § 350(a)(1) (West 2012).

⁵¹ *Juvenile Dependency Mediation in California: An Overview*, CFCC RESEARCH UPDATE (Ctr. for Families, Children & Cts., Admin. Off. of Cts., San Francisco, Cal.), Feb. 2012, http://www.courts.ca.gov/documents/JDM_Research_Update_Final.pdf.

The survey found that of the 23 dependency mediation programs, 15 of the programs used family court services mediators.

⁵² As Justice Dawson wrote in the case of *In re Mickel O.*, 197 Cal. App. 4th 586, 623 (2011) “I write to encourage the superior courts to heed the words of the California Legislature in Welfare and Institutions Code section 350, subdivision (a)(2):

‘Each juvenile court is encouraged to develop a dependency mediation

minimum, mediation should be used when juvenile custody orders are created.

Dependency mediation will provide the parties with the opportunity to develop a detailed plan that they have helped create and that will answer the questions they raise during the mediation process.⁵³ It will help guide parties after the juvenile case has been dismissed, and since they assisted in the creation of the plan, it will have a greater likelihood of success.⁵⁴ The order will provide the family court judge with essential details about the custody arrangement. The mediated juvenile court custody order will save court resources, particularly in the family court. It will serve the parties well by providing guidance for the resolution of issues that inevitably arise after the juvenile court dismisses the dependency case. Finally, and perhaps most importantly, it will further protect the child by creating a comprehensive custody order that takes into consideration the specific needs of the child in light of the dependency case.

V. Conclusion

The creation of juvenile court custody orders presents a number of issues for the superior court. These orders differ from family court custody orders because they can condition a parent's access to a child in ways family court orders cannot. The transfer of custody orders from juvenile to family court can create several problems including (1) a failure to understand the nature of the juvenile court custody order, (2)

program to provide a problem-solving forum for all interested persons to develop a plan in the best interests of the child, emphasizing family preservation and strengthening. The Legislature finds that mediation of these matters assists the court in resolving conflict, and helps the court to intervene in a constructive manner in those cases where court intervention is necessary.”

⁵³ “Dependency mediators provide a forum for all interested persons to develop a plan focused on the best interest of the child, emphasizing family preservation and strengthening and the child's need for permanency.” Cal. R. Ct. 5.518(c)(1)(C).

⁵⁴ Leonard P. Edwards, *Mediation in Child Protection Cases*, 5 J. CENTER FOR FAMILIES, CHILD. & THE COURTS 57, 64-65 (2004).

the family court judge's inability to know that the juvenile court order exists, (3) the location of the order into the family court file, and (4) the custody order's lack of specificity.

The best practice is for the juvenile court to require the parties to participate in dependency mediation in order to create the juvenile court custody order. This can be accomplished by using existing family court mediators, trained volunteers, or dependency mediators with expertise and training in drafting these orders. Family court mediators resolve family court custody issues on a daily basis. They will be able to assist parents create a detailed custody order that will serve the parties well and that will provide the family court with guidance should the parties return to family court for a modification. When the juvenile court transfers the custody order to the family court, court administration should ensure that the family court file is well-marked to alert the family court judge of the existence of that order. The family court judge should also have access to the juvenile court file when hearing a custody modification petition or be able to refer the case back to the juvenile court judge for further hearing. The child's attorney from juvenile court can assist the family court judge and help ensure that any modification of custody or visitation protects the child from future harm. Finally, the use of dependency mediation will save the court time, energy, and resources by putting into place a custody order in juvenile court where the parties are represented and more likely to be cooperating with one another.

