

Invitation to Comment

Title	Family Law: Child Custody Information Sheet (approve JC form FL-314-INFO)
Summary	<p>Assembly Bill 402 mandates that the Judicial Council adopt a new form by January 1, 2008, as a statewide information sheet for parties involved in child custody and visitation disputes that informs litigants of the child custody court process and alternative dispute resolution options. This proposed form will also provide information and resources to help litigants resolve custody disputes; develop agreements; find an attorney, alternative dispute resolution options, and available court-based self-help services; and other legal resources.</p>
Source	<p>Family and Juvenile Law Advisory Committee Hon. Jerilyn L. Borack and Hon. Susan D. Huguenor, Cochairs</p>
Staff	<p>Rita G. Mah, 415-865-7670, rita.mah@jud.ca.gov</p>
Discussion	<p>Assembly Bill 402 (Stats. 2006, ch. 496, effective January 1, 2007), enacted Family Code section 3022.3(a), mandating that the Judicial Council create an information sheet as a statewide form for parties involved in child custody and visitation matters. This proposed statewide form will inform parties involved in custody and visitation litigation of the following: (1) they have the right to agree to a custody or visitation arrangement; (2) if they do not agree, they will be required to participate in child custody mediation; (3) if mediation does not result in an agreement, then the court will be required to make a determination on the custody issues; (4) how to obtain assistance in resolving a custody case; (5) how to find an attorney; (6) how to access available court-based self-help services; (7) how to find other sources of assistance in developing a custodial agreement; and (8) other alternative dispute resolution options. The Judicial Council must adopt this information sheet as a statewide form on or before January 1, 2008, and take reasonable steps to ensure that it is distributed statewide and made available to litigants in custody matters.</p> <p>The proposed form would further support the goals of standard 5.30, family court matters to promote, develop, coordinate, and increase access to information, community resources, and available services to assist families and children in the family court system.</p> <p>Proposed form FL-314-INFO is attached at page 2. Family Code section 3022.3 is attached at page 3.</p>
	<p>Attachments</p>

Parents who separate must decide when their child will live with each of them and how to share their parenting responsibilities. Many parents can agree and make a parenting agreement that is approved by the court. This agreement may also be called a “stipulation,” a “parenting plan,” or a “time-share plan.” The judge makes the final decision but usually will approve an arrangement that both parents agree to.

Parenting Plan

A parenting plan may include general or specific custody and visitation terms (e.g., days, times, weekends, holidays, vacations, transportation, pick-up/drop-off, or travel restrictions). “Legal custody” means the right and the responsibility to make the important decisions relating to the health, education, and welfare of a child. “Physical custody” means who your child lives with or who takes care of the child. “Legal custody” and “physical custody” may each be designated as “joint” (shared between the parents) or “sole” (with one parent).

Where to Get Help

1. Get help with your parenting plan from the court’s family court services mediation program.
2. Get information from the family law facilitator or self-help center at your court.
3. Get help from an attorney. For information about finding an attorney, contact your local bar association, or the California State Bar at <http://calbar.ca.gov>.
4. Get help from a private mediator. Mediators can help you work out a parenting agreement. Contact family court services or your local bar association. They may be lawyers or counselors.
5. Find information on the Self-Help Center Web site: www.courtinfo.ca.gov/selfhelp/custody.
6. Find information at your local law library.
7. Request a court hearing and let the judge decide what is in the best interest of the child.



Requests for Accommodations

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the proceeding. Contact the clerk’s office or go to www.courtinfo.ca.gov/forms for *Request for Accommodations by Persons With Disabilities and Response* (form MC-410). (Civil Code, § 54.8.)

Mediation With Family Court Services

If parents cannot agree on a parenting plan and one party requests a court hearing, the parties must meet with a family court services mediator to try to work out a parenting plan. This is a free service offered by the court.

Court Hearing

If no agreement is reached in mediation, the judge will make a decision in the best interest of the child. In some courts, the mediator will make a recommendation to the judge about custody and visitation orders. Ask the mediator in family court services how the process works in your local court.

Alternative Dispute Resolution (ADR)

To minimize court hearings, legal fees, filing fees, expert costs, time off from work, time spent in litigation, and the stressful court process, you can try these alternative dispute resolution (ADR) options:

1. **Meet and confer:** Parties, and their attorneys, if any, may meet at any time and as frequently as necessary to work out a parenting plan without a court hearing.
2. **Mediation:** A mediator helps the parties communicate effectively to reach a mutually acceptable resolution of the dispute.
3. **Settlement conference:** Parties meet with a judge (or neutral evaluators) to evaluate the strengths and weaknesses of the case and to discuss settlement. Check with the court clerk to find out when a settlement conference date is set in your case.
4. **Collaborative law process:** Both parents hire lawyers and all agree to resolve the disputes without going to court.

ADR may not be appropriate where there is a history of domestic violence in a relationship. For local domestic violence resources, call 211 (if available) or The National Domestic Violence Hotline: 1-800-799-7233, TDD:1-800-787-3224

For more information: www.courtinfo.ca.gov

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*** THIS SECTION IS CURRENT THROUGH THE 2007 SUPPLEMENT ***

(ALL 2006 LEGISLATION)

FAMILY CODE

Division 8. Custody of Children

Part 2. Right to Custody of Minor Child

Chapter 1. General Provisions

GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Fam Code § 3022.3 (2006)

§ 3022.3. Statement explaining basis of decision by court

Upon the trial of a question of fact in a proceeding to determine the custody of a minor child, the court shall, upon the request of either party, issue a statement of the decision explaining the factual and legal basis for its decision pursuant to Section 632 of the Code of Civil Procedure.

HISTORY:

Added Stats 2006 ch 496 § 3 (AB 402), effective January 1, 2007.

NOTES:

Note

Stats 2006 ch 496 provides:

SECTION 1. This act shall be known and may be cited as the Collaborative Family Law Act.

SEC. 4. (a) The Judicial Council shall create an information sheet for parties involved in child custody and visitation matters that informs the parties that they have the right to agree to a custody or visitation arrangement, that if they do not agree, they will be required to participate in child custody mediation, and that if mediation does not result in an agreement, the court will be required to make a determination on the custody issues. The sheet shall also provide information on how to obtain assistance in resolving a custody case, including, but not limited to, information on finding an attorney, information on accessing court based self-help services if they are available, and information regarding other sources of assistance in developing a custodial agreement. The Judicial Council shall adopt this sheet as a statewide form on or before January 1, 2008, and take reasonable steps to ensure that it is distributed statewide and made available to litigants in custody matters.

(b) Funding for creating the notice described in this section shall be derived from existing resources.

SEC. 5. (a) It is the intent of the Legislature that legislation be enacted during the 2007-08 legislative session to provide a procedural framework for the practice of collaborative law, as described in Section 2 of this act. Towards that end, the Committees on the Judiciary of the Senate and Assembly are requested to convene a working group to study and make recommendations for a comprehensive statute governing the practice of collaborative law.

(b) Members of the working group shall include the following:

(1) Family law attorneys, including members of the Executive Committee of the Family Law Section of the State Bar.

(2) Representatives from the judicial, executive, and legislative branches.

(3) Members of the public.

(c) The working group is requested to complete its deliberations by January 1, 2007.

Hierarchy Notes:

Div. 8, Pt. 2 Note

Item SPR07-27 Response Form

Title: Family Law: Child Custody Information Sheet (approve JC form FL-314-INFO)

- Agree** with proposed changes
- Agree** with proposed changes **if modified**
- Do not agree** with proposed changes

Comments: _____

Name: _____ **Title:** _____

Organization: _____

- Commenting on behalf of an organization**

Address: _____

City, State, Zip: _____

Please **write** or **fax** or **respond using the Internet** to:

Address: Ms. Camilla Kieliger,
Judicial Council, 455 Golden Gate Avenue,
San Francisco, CA 94102
Fax: (415) 865-7664 **Attention:** Camilla Kieliger
Internet: www.courtinfo.ca.gov/invitationstocomment

DEADLINE FOR COMMENT: 5:00 p.m., Wednesday, June 20, 2007
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Your comments may be written on this *Response Form* or directly on the proposal or as a letter. If you are not commenting directly on this sheet please remember to attach it to your comments for identification purposes.

*Circulation for comment does not imply endorsement by the Judicial Council,
the Rules and Projects Committee, or the Policy Coordination and Liaison Committee.
All comments will become part of the public record of the council's action.*