

INCARCERATED PARENTS MANUAL: Legal Rights and Responsibilities

Legal Services for Prisoners with Children

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Updated and edited by LSPC Staff Attorney Carol Strickman, with great appreciation for contributors and editors of previous editions.

For questions about this manual, please contact us at:

Legal Services for Prisoners with Children
1540 Market Street, Suite 490
San Francisco, CA 94102
Ph: (415) 255-7036; fax (415) 552-3150
www.prisonerswithchildren.org
info@prisonerswithchildren.org

Mission: LSPC organizes communities impacted by the criminal justice system and advocates to release incarcerated people, to restore human and civil rights and to reunify families and communities. We build public awareness of structural racism in policing, the courts and prison system and we advance racial and gender justice in all our work. Our strategies include legal support, trainings, advocacy, public education, grassroots mobilization and developing community partnerships.

A note to attorneys: This manual is designed to assist you in explaining this area of law to your clients. Legal Service Providers, Support Centers and other attorneys may distribute this manual to incarcerated people and/or their loved ones who contact them for legal assistance.

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LSPC Staff

Dorsey Nunn
Hamdiya Cooks-Abdullah
Alex Berliner
Anna Couey
Harriette Davis
Manuel La Fontaine
Denise Mewbourne
Tina Nunn
Endria Richardson
Brittany Stonesifer
Jesse Stout
Carol Strickman
Gina Walters

Other Manuals Published by LSPC

Child Custody and Visiting Rights Manual for Incarcerated Parents: This manual is written for incarcerated parents in California prisons and jails who want to have visits with their minor children but are not getting them.

Child Custody and Visiting Rights Manual for Recently Released Parents: This manual is written for formerly incarcerated parents in California who want to reestablish and strengthen a connection with their minor children upon their release from prison or jail.

Grandparent-Relative Caregivers and Their Advocates Manual: This manual contains references to applicable statutes, illustrative cases, charts to supplement the text and an extensive statewide resource guide.

Manual on Divorce Issues for Prisoners in California Prisons and Jails: This manual is intended to answer questions that California prisoners may have about divorce, and help guide them through the divorce process. It only provides basic information and instruction, and should not be substituted for the legal advice of an attorney.

A Toolbox for Family Advocates of California Prisoners: This manual assists family members and prisoners with communicating with prison officials, filing administrative appeals, applying for transfers, writing letters and much more.

Transportation to Court: The purpose of this manual is to notify prisoners and their legal advocates of a prisoner's legal right to request to be present at all hearings and court proceedings affecting their children.

What to Plan for When You Are Pregnant at Valley State Prison for Women: This manual serves as an informational guide for pregnancy related medical and housing considerations while incarcerated as well as providing resources for participation in alternatives to incarceration mother-infant programs. The manual also answers a wide range of frequently asked pregnancy-related questions.

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Dedication

When staff members from Legal Services for Prisoners with Children first met Lydia Watkins¹ it was her birthday and she was imprisoned at Valley State Prison for Women in Chowchilla, California. She had a court hearing that day to determine custody arrangements for her three-year-old daughter Geneva whom Lydia had not seen in over a year. She thought we were there to take her to court and was deeply disappointed when she found that was not true. Geneva was being cared for by an acquaintance of Lydia's. This acquaintance refused to relinquish custody of Geneva so that mother and daughter could be reunited at a community mother-infant facility. For the next year-and-a-half, Lydia fought for custody of her daughter. Her insistence on protecting her own rights and those of her daughter's paid off and Lydia and Geneva were eventually reunited.

We have met hundreds of women and men in prison who have been just as dedicated as Lydia, who have truly fought for the "best interests of the child." For your determination, for your perseverance, but most of all for your love of your children, we dedicate this manual to all of you.

Legal Services for Prisoners with Children wishes to thank the parents in jail and prison who have asked questions about the law and what you can do to help your families. This manual has been revised and updated for you.

¹Lydia's and Geneva's names are fictional but their story is true.

Introduction

If you are a parent in prison or jail, you probably have many questions and concerns about your children and about your legal rights as a parent. Your children may be with relatives or they may be in foster care or a group home. If your children are in foster care, you may have questions about your legal rights and about the juvenile dependency court proceedings involving your children. If your children are with a divorced spouse or if a legal guardianship has been established, you may have questions about how to reunify with your children once you are released from prison.

This manual is designed to answer many of the legal and practical questions that incarcerated parents have about custody of their children, both during and after the time they are in prison or jail. It is not intended to answer all your legal questions or take the place of an attorney. LSPC does not provide direct legal representation. The information in this manual is based on California law. All code sections refer to the California Code (for example, “Penal Code” is the California Penal Code). All information, including addresses, is up to date as of December 2014. It is your responsibility to check relevant legal codes, court rules, and forms when using this manual.

A note about formatting: Any time you see a word or phrase typed in *underlined italics*, the legal meaning of that word or phrase is in the definitions at the end of this manual.

I. My arrest: what happens to my child?

The law does not *require* the arresting officers to let you make arrangements for your child at the time of arrest. However, the arresting officer *may* let you make a phone call to make sure that your child is with a responsible relative or close friend.

If you are unable to make a call, ask the first attorney assigned to you to get a *court order* allowing you to make emergency phone calls to locate your child and arrange for your child’s care. If you do not have family who can care for your child, contact a trusted friend to care for your child or help you talk with your child.

What if my child is with me?

If your child is with you when you’re arrested, the arresting or booking officer *may* allow you to arrange care for your child before being booked. If so, call **as soon as possible**:

- The child's other parent;
- A responsible relative of the child; or,
- A responsible friend—someone your child knows and trusts.

What if my child is not with me?

If your child is **not** with you, let the school, day care center, or other *caregiver* know:

- That you will not be able to pick up your child; and,

- That your relative/friend/babysitter will be picking up the child; or,
- Who they can call to care for your child.

What if my child is not picked up?

If your child is not picked up by a relative or friend, s/he will likely be placed in an emergency shelter through the county Child Protective Services (CPS) agency. [Cal. Welf. & Inst. Code §§ 300(g), 306.]

What if my child goes to CPS?

If your child is brought to CPS, act as quickly as possible:

- Call a relative immediately;
- Have your relative call CPS immediately; and,
- Tell your relative to bring any proof that exists about their relationship (birth certificate, signed letter from you, passport).

CPS will initiate an emergency assessment of relatives who come forward to care for the child. This assessment includes a criminal background check (including pending criminal charges), verification of their relationship to the child, and a visit to the home to ensure that the environment is safe. **CPS may also consider a nonrelative extended family member as a caregiver**. [Cal. Welf. & Inst. Code § 309(d).]

CPS will release your child to a parent, guardian, or responsible relative who poses no risk or danger to your child. [Cal. Welf. & Inst. Code §309(a).]

If CPS does not place a child with a relative within 48 hours, CPS must file papers in court to make the child a dependent of the court.

BE PERSISTENT: ask your public defender, chaplain, community services or medical staff for information or help.

II. How can I make informal arrangements for my child’s care?

If CPS does not become involved, then you may be able to arrange care for your child with the child’s other parent, another relative, or friend without any court involvement. There are two forms which can help with this arrangement: the Caregiver’s Authorization Affidavit and a Power of Attorney.

► ***Caregiver’s Authorization Affidavit – Attachment #6***

The Caregiver’s Authorization Affidavit is a two-page form signed by a qualified relative to ensure a child’s medical and educational needs are met. It allows relatives to enroll a

child in school and to consent to school-related medical care on behalf of a child. It is good for one year and can be renewed.

Limitations:

- This authorization is for temporary situations.
- The caregiver is not automatically eligible for Temporary Assistance for Needy Families (TANF) or other benefits.
- It can be revoked at any time.
- It does **not** give the caregiver legal custody of your child.

► **Power of Attorney – Attachment #7**

This form lets the caregiver make decisions about a child for a parent until the parent is released. A *Power of Attorney* authorizes both relatives and friends to act as a caregiver to a child.

Limitations:

- The form must be notarized.
- Even notarized forms are not legally binding custody agreements.
- The form is not a court order.

III. **Court placement: where will my child live?**

If CPS is involved, you have a right to a court-appointed lawyer. If CPS is not involved, you may have to find a lawyer on your own or represent yourself.

Placement with the other parent (Family Court order)

If the custodial parent can no longer care for the child, a non-custodial parent may come forward to take custody of the child. The parent taking custody of the child can obtain a court order formalizing this new arrangement, but it is not necessary. If the parents were married but are filing for divorce, custody can be obtained in the divorce case. Alternatively, a married parent who does not want to file for divorce may file a Petition for Custody and Support of Minor Children (FL 260). If the parents were unmarried, the form used depends on whether paternity has been established. If paternity has not been established, the parent seeking custody may file a Petition to Establish Parental Relationship (FL 200). If paternity has been established, the parent seeking custody may file a Petition for Custody of Support of Minor Children (FL 260).

► *Forms titled “FL XXX” can be found at www.courts.ca.gov/forms*

If your child’s parent files any of these legal actions, you should be served with the legal documents and you will have an opportunity to respond. Even if you agree that your

child's other parent should have custody while you are incarcerated, you may wish to establish your right to have visits with your child.

You can write to your county's Family Law Facilitator for information and forms (**Attachment #4**). You can use the sample letter to the court clerk (**Attachment #5**) if you send forms to the court for filing. For more information, you can write for LSPC's *Child Custody and Visitation Rights Manual for Incarcerated Parents*.

- ▶ *Letter to Family Law Facilitator (seeking legal forms and assistance) – Attachment #4*
- ▶ *Letter to court clerk (with forms to be filed) – Attachment #5*

Placement with a foster family (Juvenile Dependency Court)

Foster care is residential care that has been approved by CPS and ordered by the juvenile dependency court. A foster care provider can be a relative, extended family member, or a nonrelative. [Cal. Welf. & Inst. Code §11402.] Relatives who care for a child who is a dependent of the court can get financial help and services through CPS. Parents have a right to counsel in juvenile dependency court. (See "Foster Care and Dependency" section on page 4 for a detailed description of your rights.)

Placement with a legal guardian (Dependency Court or Probate Court)

Legal Guardianship is a court order for a non-parent to have legal custody of a child indefinitely. A legal guardianship suspends a parent's rights, but does not terminate them. Legal guardianship orders may be issued in the probate court or in the juvenile dependency court in connection with CPS placement. A legal guardian may be a relative, partner, friend, or foster parent. Once the court appoints a legal guardian, the guardian has full legal responsibility for a child including making education, health and medical decisions. A legal guardian can apply for Kin-GAP, CalWORKS, or other benefits for a child.

Right to counsel: A parent has the right to an appointed attorney in the juvenile dependency court. The courts generally do not appoint counsel to represent parents in guardianship cases; however, if there is a risk that the guardians will later seek to adopt your child, you should ask for an attorney to be appointed under equal protection principles.

IV. Foster care and dependency: what do I need to know?

A. GETTING STARTED

If you are unable to arrange placement for your child after your arrest, then CPS will try to place your child with the other parent, or another relative. CPS may place your child

in an emergency shelter or *foster care* on a temporary basis while it tries to contact your child's relatives. If CPS cannot place your child with relatives or believes your child is at risk of harm, CPS will file a *Juvenile Dependency Petition*. If this happens:

- **Request an attorney:** Call or write CPS and let them know where you are and that you want a lawyer as soon as you know there is a case regarding your child. Even though you are in jail, you can protect your child and your rights.
- **Inform CPS of all relatives:** Make sure you let CPS know the names of **all** relatives on both sides of the family (maternal and paternal) who may be available to care for your child. If your child's placement changes, this will help ensure that your child remains in family care.

Important Suggestions

- Ask to be present at every court hearing.
- Ask relatives and close friends who know your child to be present in court. [Cal. Rules of Court, rule 5.534(f).]
- Talk to your lawyer: you have a right to understand what is happening in court.
- Talk to your lawyer: tell him/her what you want for your child and ask questions.
- Talk to your child's social worker: make sure s/he knows you care.
- Tell the court if specific counseling or other treatment services are not offered at your facility. You are exempted from participating in services that you do not have access to. [Cal. Welf. & Inst. Code § 361.5(a)(3).]
- Go to any parenting, counseling, AA/NA meetings, or other classes offered.
- Use the Attachment letters to the judge, social worker, and attorney (**Attachments #1, #2, and #3**).

▶ *Letter to judge (seeking reunification, transportation to court) – Attachment #1*

▶ *Letter to social worker (seeking reunification, transportation to court) – Attachment #2*

▶ *Letter to dependency court attorney (seeking reunification, transportation to court) – Attachment #3*

B. HOW DO I GET TRANSPORTED TO JUVENILE DEPENDENCY COURT?

California law gives incarcerated parents the right to be transported to court for jurisdictional and dispositional hearings in dependency court, and for hearings that seek to terminate their parental rights. [Cal. Pen. Code §2625(d).] The court should automatically issue an order for you to be transported to these hearings. The court must send a copy of the transport order to the warden or sheriff not less than 15 days from the date a prisoner is to be transported.

If you do not receive this order, or if you want to be transported to court for other dependency court hearings, you can write to the court to request such an order, or ask your attorney to request one. (**Attachment #1** or **Attachment #2**.) Keep track of your

child's *hearing* dates. Ask your lawyer and social worker to let you know of any changes in court dates.

- ▶ *Letter to judge (seeking reunification, transportation to court) – Attachment #1*
- ▶ *Letter to social worker (seeking reunification, transportation to court) – Attachment #2*

For more information, you can request a copy of LSPC's manual *Transportation to Court for Hearings Affecting Prisoners' Parental Rights*.

C. WHAT ARE MY RIGHTS AT EACH STAGE IN DEPENDENCY COURT?

Juvenile Dependency Petition

CPS files a *juvenile dependency petition* in dependency court if it believes that "there is a substantial risk that the child will suffer serious physical harm or illness by the inability of the parent or legal guardian to provide regular care for the child." [Cal. Welf. & Inst. Code §300.] If your child is not released to a responsible adult, the social worker must file a petition within 48 hours of your child being taken by CPS; otherwise, the petition must be filed "as soon as possible." [Cal. Rules of Court, rule 5.670(a) and (b).]

If a *petition* is filed, you have:

- A right to be notified.
- A right to be present.
- A right to an interpreter, if needed.
- A right to a lawyer at each of the following court hearings:
 - Detention hearing;
 - Jurisdiction hearing;
 - Disposition hearing;
 - Status Review hearings; and
 - Permanent Plan hearing.

Detention Hearing

If your child was *detained*, a *detention hearing* will be scheduled "before the end of the next court date after a petition is filed," excluding weekends and holidays. [Cal. Rules of Court, rule 5.670(d).] This hearing is to decide whether the child will be placed with a relative or other responsible adult known to the family, or remain in foster care. The court will also consider whether visitation should occur between the child and others, including the child's siblings. [Cal. Rules of Court, rule 5.670(g).]

At the detention hearing, the court will appoint lawyers for the parents, and sometimes for the child. Make sure you talk to the social worker so that s/he can get to know you.

At this hearing, the court will consider the reports from the social worker, police officer, or any other documents submitted, to determine where your child should live. The

parent, the child, and the guardian have the right to confront and cross-examine the people who prepared any report or any other document submitted to the court. You cannot be forced to testify against yourself. [Cal. Rules of Court, rule 5.674(d)(1).]

The court may rely solely on the written reports mentioned above. Those reports must include:

1. A statement of reasons why the child was removed from the parent's custody.
2. A description of the services provided, and of any available services that would prevent the need for the child to remain in the court's custody.
3. Identification of the need for the child to remain in the court's custody.
4. Information about a non-custodial parent or any relative with whom the child might be placed.

[Cal. Rules of Court, rule 5.676(b).]

During the hearing, the court may also consider detention alternatives, including placement with a nonrelative extended family member. If a relative or nonrelative is to be considered, the court will listen to the recommendations of the social worker. The social worker should have made an emergency assessment of the relative or nonrelative (including a criminal records check and any prior report alleging child abuse). [Cal. Rules of Court, rule 5.678(e).] If the court decides to detain your child (that is, to continue your child in foster care), the court will set a jurisdiction hearing date for within 15 days, and within 30 days if not detained. [Cal. Rules of Court, rule 5.670(f).]

Jurisdiction Hearing

At the jurisdiction hearing, the juvenile dependency court decides whether or not to make your child a dependent of the court, based on the dependency petition, the social worker's report, and anything else presented at the hearing. If the judge finds that the allegations in the petition are true ("sustains the petition"), and that these allegations show that your child is at a risk of harm, your child will become a dependent of the court.

You have the right to disagree with the allegations and to:

- Have a hearing on the issues in the petition.
- Cross-examine witnesses.
- Subpoena witnesses on your own behalf.
- Remain silent.

[Cal. Rules of Court, rule 5.682(b).]

It is important to object to and refute any false allegations or unproven statements. The information in the petition is used as a basis to require or deny reunification services (a plan for the return of your child to you). It can also be used in future proceedings. If the judge finds the allegations to be true by a preponderance of the evidence, the court will take legal custody of your child. This means that the court will decide who your child should live with on a more permanent basis.

Disposition Hearing

At a disposition hearing, CPS recommends a case plan for you and your child, and the judge makes a decision. A case plan includes where your child will live, what services CPS needs to provide to you and your child (called "reunification services"), and what you need to do to reunify with your child, if your child is not with you. It is very important to object at this hearing to any factual errors or false allegations in reports, evidence, or argument presented at the hearing. If you do not raise these issues, the court can consider that you gave up your right to raise these issues on appeal. It is not *automatically* giving up the right, but the court has discretion to decide whether it is. [*In re S.B.* (2004) 32 Cal. 4th 1287.]

You have the right:

- To review the CPS plan for you and your family, and for your lawyer to challenge any false claims or inaccurate statements in the report. [Cal. Rules of Court, rule 5.690(a)(2).]
- To say what you want about where your child should live.
- If your child is placed in foster care, to ask that your child be placed either in the county where you are incarcerated, or in the county where your child's other parent or guardian live. [Cal. Welf. & Inst. Code § 361.2(g)(1).]
- To stay in touch with your child (unless the court has specifically found otherwise). You can request that the court specifically order:
 - Collect phone calls between you and your child on a regular basis.
 - Visits with your child. Age or distance alone are not sufficient reasons to deny you visits with your child. [*In re Dylan T.* (1988) 65 Cal. App. 4th 765.]
 - A plan to transport your child for visits.
 - Counseling for you.
 - Counseling for your child.
 - Other services for you or your child.
 - Services for your extended family.[Cal. Welf. & Inst. Code § 361.5(e)(1)(D).]
- To family reunification services, unless your child is placed with the other parent or unless you fall under one of the exceptions listed below. A court's decision not to provide you with reunification services is unfortunately a decision that the court will not return your child to you.

Reunification services will not be offered in any of the following situations:

- The court cannot find you or doesn't know where you are.
- The court finds that you have a mental disability which prevents you from taking care of your child (two psychiatric evaluations are necessary here).
- The court has already taken a child away from you due to physical or sexual abuse, returned the child to you, and that child or that child's sibling is again being removed for physical or sexual abuse.

- The court has found that you caused the death of a child through abuse or neglect.
- The child is under the age of five and has suffered severe physical abuse by you or someone you know (and you knew, or should have known, of the abuse).
- The court finds that you (or someone else with your consent) have severely abused a child, and decides that your child would not benefit from reunification services with you.
- The court finds that you willfully abandoned your child, which placed the child in serious danger.
- A California court terminated reunification services for you with another child under Welfare & Institutions Code section 361.
- You have a history of drug or alcohol abuse and have resisted treatment.
- Your parental rights of another child were terminated and you have not dealt to the court's satisfaction with the reasons you lost custody of that child.
- You have told the court that you do not want reunification services and that you do not want custody of your child.
- The court finds that you have taken a child from a placement, and have refused to return the child or tell the social worker where the child is.
- You have been convicted of a violent felony as defined in Penal Code section 667.5(c).

[Cal. Welf. & Inst. Code § 361.5(b).]

If none of the above is found, the court can still refuse to offer you reunification services if it finds your relationship with your child is detrimental. To find detriment, the court looks at:

- Your child's age.
- The strength of your relationship.
- Your sentence.
- Your crime, to the extent that it is substantially related to the welfare of your child or your ability to exercise custody and control regarding your child
[Cal. Welf. & Inst. Code § 366.21(e).]
- Effect on your child if no services are offered.
- Your child's wishes if your child is older than 10.
- Any other factors parties want the court to consider.

[Cal. Welf. & Inst. Code § 361.5(e)(1).]

NOTE: You can still try and show by *clear and convincing evidence* that reunification is in the child's best interest. [Cal. Welf. & Inst. Code § 361.5(c).] To do this, you can present evidence of your earlier history and relationship with your child (documented behavior), that you visit with your child regularly, and any other significant factors.

If the court does not order reunification services, then it will schedule a permanent placement hearing.

D. FAMILY REUNIFICATION: HOW LONG WILL I HAVE TO REUNIFY?

The law provides time deadlines for incarcerated parents to meet the requirements of the reunification plan and reunify with their children. Parents of children **3 years of age or older** shall receive **12 months** of court-ordered services after the child enters foster care. [Cal. Welf. & Inst. Code § 361.5(a)(1)(A).] However, parents of children **under 3 years of age** are guaranteed only **6 months**, but can receive up to 12 months at the discretion of the court. [Cal. Welf. & Inst. Code § 361.5(a)(1)(B).] At the termination of court-ordered services, the child will either reunite with the parent, or the court will make a different permanent plan. That plan may include the termination of parental rights. (*See the discussion about permanent plan hearings, on page 12 below.*) A child is considered to have entered foster care when either (a) the jurisdictional hearing is complete, or (b) 60 days after the child was initially removed from the physical custody of the parent or guardian, **whichever comes first**. [Cal. Welf. & Inst. Code § 361.49.] However, this time can be extended if the court grants a continuance.

Court-ordered services *may* be extended to **18 months** (from the date the child was removed from your physical custody) if it can be shown at a *status review hearing* that there is a substantial probability that the child will be returned to you within the extended time period **or** you can show that reasonable services were not provided to you. [Cal. Welf. & Inst. Code § 361.5(a)(3).]

To prove substantial probability that your child will be returned, the court will consider whether:

- You have consistently and regularly contacted and visited with your child.
- You have made significant progress in resolving problems that led to the removal of your child from your home.
- You have demonstrated the capacity and ability to (1) complete the objectives of your treatment plan and (2) to provide for the child's safety, protection, physical and emotional well-being, and special needs.

If court-ordered services have been offered for the maximum 18-month time limit, you still have the right to ask the court for a continuance (extension) because the court has discretion to extend reunification services beyond the 18-month period. Under Welfare & Institutions Code section 352(a), the court may continue the hearing **unless the continuance is contrary to the interest of the minor**. In doing so, the court gives substantial weight to:

- A child's need for prompt resolution of his/her custody status;
- The need to provide children with stable environments; and
- The damage to a minor of prolonged temporary placement.

The court shall also consider these obstacles to a parent's ability to access services:

- Special circumstances of an incarcerated or institutionalized parent or parents;

- Parent or parents were court-ordered to a residential substance abuse program;
- Other barriers to the parent’s access to services and ability to maintain contact with the child; and
- If at the end of the applicable time period, a child cannot be safely returned to the care and custody of a parent or guardian without court supervision, but the child clearly desires contact with the parent or guardian, the court shall take the child’s desire into account.

[Cal. Welf. & Inst. Code §361.5(a)(2).]

If your child has been in foster care for 15 of the most recent 22 months, a social worker must submit a recommendation that the court set a hearing to terminate parental rights, but there is an exception. If incarceration is a significant factor in your child’s placement in foster care during this time (15 of the most recent 22 months), the court will then look at whether termination of parental rights is in the child’s best interest.

[Cal. Welf. & Inst. Code § 16508.1(b)(6).] The court will consider:

- The age of your child.
- The degree of parent and child bonding.
- The length of your sentence.
- The nature of your treatment.
- The nature of your crime or illness.

E. WHAT HAPPENS IN THE LATER STAGES OF DEPENDENCY COURT?

Status Review Hearings: 6, 12, and 18-Month Reviews

After the disposition hearing, if your child has not been returned to you, the court must review your child's case every six months at a court hearing. Before this hearing, the social worker will write a progress report and will make recommendations based on it. The first review hearing is the most important because the court really looks at what you and your family have done to deal with the situation that brought you before the court. You have a right to have a copy of the report at least 10 days before the hearing. *READ the report.* Tell your lawyer if you do not agree with the report.

The court may:

- Order six more months of services at the 6 or 12-month review hearing;
- Continue the case at the 18-month review hearing for further reunification services; or,
- Order family reunification services terminated and set a permanent plan hearing (also called a 26 hearing).

The court will look at the progress you have made to reunify with your child. The court considers how hard you have worked at meeting the reunification requirements in your case plan for the past six months. The court is more likely to return your child if you do all of the following during this six month period:

- Follow the case plan (reunification requirements).

- Visit your child as often as possible.
- Live in a safe place.
- Get a job on which you can support your family.
- Follow all probation or parole rules.

[Cal. Welf. & Inst. Code § 366.21(e), Cal. Rules of Court, rule 5.710(c)(2).]

In addition, the court must take into account the particular barriers to an incarcerated or institutionalized parent's access to those court-mandated services and ability to maintain contact with the child. [Cal. Welf. & Inst. Code § 366.21(e).]

If the court does not return your child to you at this time, you have the right to appeal that decision by filing a Rule 8.452 Writ. (See "What are my rights if I disagree with the rulings of the juvenile dependency court?" on page 14.)

Permanent Plan Hearing (also called a 26 Hearing)

If you have not reunified with your child or were not offered Family Reunification, the court will set a permanent plan hearing. At this hearing, the court will read the social worker's recommendations for a long-term plan for your child, so that s/he will have a permanent, stable place to live. This hearing usually takes place between 12 and 18 months after your child was detained. If no Family Reunification services have been offered, this hearing may take place much earlier. [Cal. Welf. & Inst. Code § 366.26.]

NOTE: The court may not order a 26 hearing be held unless there is clear and convincing evidence that reasonable services have been provided or offered to a parent or legal guardian eligible for those services. [Cal. Welf. & Inst. Code § 366.22(b)(3).]

The court will consider three permanent plans in this order: termination of parental rights and adoption, legal guardianship, or long-term foster care. Each is described in more detail below.

1. **Termination of Parental Rights and Referral of Child for Adoption:** This may happen if reunification efforts have failed or if you were never offered reunification services at all. If your parental rights are terminated, you will no longer have any right to care for or even visit your child in the future.

These are considered a sufficient basis for termination of parental rights:

- The whereabouts of a parent have been unknown for six months.
- The parent has failed to visit or contact their child for six months. (However, the court will take into account the particular barriers to an incarcerated parent's or guardian's ability to maintain contact with his/her child.)
- The court has terminated reunification services.
- The parent has been convicted of a felony indicating parental unfitness.

[Cal. Welf. & Inst. Code § 366.26(c)(1).]

When deciding whether to terminate parental rights, the court must consider whether this action would be detrimental to the child. The court considers several factors when determining detriment, including:

- The parents have maintained regular visitation and contact with the child and the child would benefit from continuing the relationship.
- A child 12 years of age or older objects to termination of parental rights.
- The child is placed in a residential treatment facility, adoption is unlikely or undesirable, and continuation of parental rights will not prevent finding the child a permanent family placement if the parents cannot resume custody when residential care is no longer needed.
- The child is living with a foster parent or Indian custodian who is unable or unwilling to adopt the child because of exceptional circumstances, but is willing and capable of providing the child with a stable and permanent environment. Moreover, the removal of the child from this caregiver would be detrimental to the emotional well-being of the child. This clause does not apply to any child who is either (1) under six years of age or (2) a member of a sibling group where at least one child is under six years of age and the siblings are, or should be, permanently placed together.
- There would be substantial interference with a child's sibling relationship.
- The child is an Indian child, and there is a compelling reason to determine that termination of parental rights would not be in the best interest of the child.
- *One or both parents' or guardians' incarceration or court-ordered participation in a residential substance abuse treatment program constituted the sole reason for which reunification services were terminated.*

[Cal. Welf. & Inst. Code § 366.26 (c)(1)(B).]

- 2. Legal Guardianship with a Relative, Friend, or Other Person.** A legal guardianship suspends, but does not terminate, your parental rights. The court can grant legal guardianship at this hearing if it finds that termination of parental rights or adoption is not in the child's best interests or that termination would be detrimental to the child. [Cal. Welf. & Inst. Code § 366.26(c)(1).]

If you are at risk of having your parental rights terminated and you are comfortable with your child's current living situation, you might consider legal guardianship as an alternative to termination of parental rights. It might be helpful to discuss legal guardianship with the caregiver or foster care provider before the 26 hearing. At the 26 hearing, you can notify the judge that you would like to enter into a voluntary legal guardianship. At this point, the court can grant the guardianship immediately, agree to consider the guardianship, or

not grant the guardianship at all. If the court agrees to consider the guardianship, the court will continue the hearing and set a date for the receipt of the guardianship papers and home study. [Cal. Rules of Court, rule 5.735(d)(1), Cal. Welf. & Inst. Code § 360(a).]

If legal guardianship is granted, you are no longer entitled to reunification services, but the court must make an order for visitation unless it finds that visitation would be detrimental to the child. [Cal. Welf. & Inst. Code § 366.26(c)(4)(C).]

3. **Placement of Child in Long-Term Foster Care.** This placement can be with a family member or whomever the child has been living with temporarily. The law favors adoption or guardianship, but this option is available where those placements are not realistic or are not in the child's best interests. [Cal. Welf. & Inst. Code § 366.21(g)(3).] This is more likely to be granted with older children. Parental rights are not terminated under this option.

Post-Permanent Plan Hearings

These hearings are held every six months if your child is in long-term foster care. You have a legal right to attend this hearing unless your parental rights have been terminated. If you are unable to get to court, try to send a relative in your place. [Cal. Welf. & Inst. Code § 366.3(d).]

F. WHAT ARE MY RIGHTS IF I DISAGREE WITH THE RULINGS OF THE JUVENILE DEPENDENCY COURT?

Section 388 Motion to Change Court Order:

If you have been denied reunification services or disagree with any other interim court order, you may file a *section 388 petition* to try and change, modify, or set aside the order. In this motion, you must present a change of circumstances or evidence. You also must show that the child's best interests will be promoted by the proposed change in order. See Request to Change Court Order (**Attachment #8**).

► *Request to Change Court Order (JV 180) (Dependency Court) – Attachment #8*

Writ Relief Rule 8.452 Writ (Petition for Extraordinary Relief):

If you object to an order made at any hearing at which a 26 hearing is set, you may file a Petition for Extraordinary Relief (JV 825). This petition must be filed within 7 days if you were present at the hearing, or 12 days after the order was mailed if you were not present. In the back of this manual, you will find forms JV 825 and JV 820 (**Attachments #9 and 10**) that you must file within this period. If you do not seek writ review of these orders, you give up further review of the orders in a later appeal. [Cal. Welf. & Inst. Code § 366.26 (l).] Ask your lawyer to file your 8.452 Writ. If your lawyer is unable to do so, you can file the writ yourself.

- ▶ *Request to Change Court Order (JV 180) (Dependency Court) – Attachment #8*
- ▶ *Notice of Intent to File Writ Petition (JV 280) (Dependency Court) – Attachment #9*

Possible issues to raise in a Rule 8.452 Writ Petition:

1. If the 26 Hearing was set at a disposition hearing:
 - Jurisdictional issues [*Kimberly R. v. Superior Court* (2002) 96 Cal. App. 4th 1067.]
 - Challenges to sufficiency of evidence [*In re Marquis D.* (1995) 38 Cal. App. 4th 1813.]
 - Wrongful denial of services [*Renee J. v. Superior Court* (2002) 96 Cal. App. 4th 1450.]
2. If the 26 Hearing was set after reunification services were terminated:
 - Failure to provide reasonable services [*Robin v. v. Superior Court* (1995) 33 Cal. App. 4th 1158.]
 - Failure to implement reunification plan [*Steve J. v. Superior Court* (1994) 35 Cal. App. 4th 798.]
 - Erroneous termination of services [*Daria D. v. Superior Court* (1998) 61 Cal. App. 4th 606.]
3. If the 26 Hearing was set at a section 388 hearing, the erroneous denial of 388 petition can be raised. [*In re Anthony B.* (1999) 72 Cal. App. 4th 1017.]

Procedure for filing a Rule 8.452 Writ Petition:

1. File a Notice of Intent to File Writ and Request for Record in the juvenile court. (**Attachment #9**). This will notify the court to send you the court record.

▶ *Notice of Intent to File Writ Petition (JV 820) (Dependency Court) – Attachment #9*

Signatures: The Notice must be authorized by you and signed by either you or your attorney. [Cal. Rules of Court, rule 8.450(e)(3).]

2. Review the record. When you receive the record make sure the record includes:
 - The petition.
 - Any notice of hearings.
 - All court minutes.
 - Any report or other document submitted to the court.
 - The jurisdictional and dispositional findings and orders.
 - The judgment or order appealed from.
 - Any application for rehearing.
 - The notice of appeal and any order pursuant to the notice.
 - Any transcript of a sound or sound-and-video recording offered to the court under rule 2.1040.
 - Any application for additional record and any order on the application.

- Any opinion or disposition order of a reviewing court in the same case. [Cal. Rules of Court, rules 8.407(a), 9.450(f)(2).]

If one of the above is missing, you can write to the juvenile dependency court appeals clerk and request that the missing items be included.

3. File the writ petition. (**Attachment #10**). This petition must be served on the other party and filed in the Court of Appeal within 10 days from the date of the filing of the record. [Cal. Rules of Court, rule 8.452(c).]

► *Petition for Extraordinary Writ (JV 825) (Dependency Court) – Attachment #10*

Appeal Process after the Disposition Hearing:

Your trial counsel has the duty (1) to tell you if there are arguably meritorious grounds that exist for reversal, and (2) to file a timely notice of appeal from the court’s dispositional order. An appeals court *will not* re-weigh the facts; however, an appeals court *will* review whether the procedures in the lower court were proper. The notice of appeal must be filed within 60 days of the final order. [Cal. Rules of Court, rule 8.406(s).] In order to file this notice, you do not have to wait for a formal written judgment: just a pronouncement of the order in open court and its recording in the minutes can constitute a final order.

It is important to move quickly. The longer your child is in temporary or permanent placement, the more likely the court will find that returning the child to you would be harmful and will deny the appeal. To expedite the appeals process, you can file a motion for calendar preference. [Cal. Rules of Court, rule 8.240.]

Counsel:

You have a constitutional right to counsel in the appeals process for dependency proceedings. [*In re J.W.* (2002) 29 Cal. 4th 200.] If you are indigent, the court must appoint you counsel. (See “California Appellate Projects Contact Information” on page 38 for a list of the offices that assign and supervise appointed counsel in these cases.)

Possible grounds for appeal include:

1. Final orders.
2. Jurisdictional findings or dispositional orders based on incorrect standard of proof. [*Cynthia D. v. Superior Court* (1993) 5 Cal. App. 4th 242.]
3. Lack of properly specific grounds for jurisdiction.
4. Detention (only under the continuing public importance exception), “because it is an issue capable of repetition yet evading review.” [*In re Raymond G.* (1991) 230 Cal. App. 3d 964.]
5. Inadequate notice of any hearing [*In re B.G.* (1974) 11 Cal. 3d 679, 688 (failure to notify), *In re Brendan P.* (1974) 184 Cal. App. 3d 910 (failure to *timely* notify).]

6. Improper denial of the parent's request for a continuance. [Cal. Welf. & Inst. Code § 352(a).]
7. Denial of due process rights to present evidence or cross-examine witnesses.
8. Court's failure to give parent a hearing on a Section 388 Petition when parent sufficiently pleads changed circumstances.
9. Court's denial of paternity test to an alleged father. [*In re Baby Boy V.* (2006) 140 Cal. App. 4th 1108.]

Ineffective Assistance of Counsel:

To establish an ineffective assistance of counsel claim, you have to show that your lawyer acted unreasonably in comparison to competent attorneys, and that if your lawyer had acted differently, there is a reasonable probability that the outcome of the case would have been different. [*Strickland v. Washington* (1984) 466 U.S. 668.]

For example, if there is no tactical reason why your counsel did not make proper objection in court AND this action negatively impacted you (for example, if you clearly would have prevailed in court otherwise), then you can base an appeal or a petition for writ of habeas corpus on ineffective assistance of counsel. Be sure to tell your appeals counsel the ways that you were dissatisfied with your attorney's performance in the dependency court.

G. WHAT CAN I DO IF MY PARENTAL RIGHTS ARE TERMINATED?

If your parental rights have been terminated, your options are quite limited. However, there are some things you may be able to do to have a continuing relationship with your child, even if only after your child becomes an adult.

Appeal:

If your parental rights were recently terminated, you may be able to appeal. (See "*What are my rights if I disagree with the rulings of the juvenile dependency court*" on page 14.)

Child's petition to reinstate your rights:

If your parental rights were terminated but your child has not been adopted, your child may file a 388 petition to reinstate your parental rights under certain circumstances:

- **If adoption is determined to no longer be a permanent plan:** If your child has not been adopted after three years since the termination of your parental rights and the court determines that adoption is no longer the permanent plan, *your child* may bring a petition to reinstate your rights.
- **If adoption is unlikely:** If your child and the social service agency both agree that adoption is unlikely, *your child* may bring a petition even before three years have passed.

This would probably happen in the case of an older child, and/or a child who has had an attorney appointed for him/her. The court must grant these petitions if it finds that the child is now unlikely to be adopted and that reinstatement is in the child's best interest. [Cal. Welf. & Inst. Code §§ 366.26(i)(3), 388.]

Court agreement for contact:

If you had a "post adoption contact agreement" (sometimes called an "open adoption"), the adoptive parents may allow you to continue to have contact with your child. These agreements are not binding, however. The adoptive parents can change their minds and forbid contact, and the courts will not interfere.

It can be difficult to accept that someone else is now the legal parent of your child. You will need to show that your contact with your child will be good for the child and the new family, and will not be disturbing or disruptive.

Informal agreement for contact:

Even if you did not have a court agreement, the adoptive parents may allow you to have contact with your child. This would be easier to work out where the child was adopted by someone you know. You can ask your attorney to find out whether the new parents might be open to you maintaining contact. You will need to show that your contact will be positive for the child and the new family.

Contact from your adult child:

Adopted children are often interested in meeting and/or restoring contact with their birth parents. These days, the internet is a powerful tool to put people in touch with each other. Your child may try to reach you this way. Particularly when your child reaches adulthood, this may be an effective way for you to reunite.

State agency assistance:

Finally, the State of California has created a way to help adopted children and their birth parents reconnect. You can fill out Form AD 904 and file it with the state. If your adult child does the same, the state will connect you up. The form is attached here as **Attachment #11** and has additional instructions.

► *Consent for Contact (AD 904) (to reunite adult adoptee with birth parent) – Attachment #11*

H. OTHER THINGS TO KNOW ABOUT DEPENDENCY COURT

De Facto Parent

A *de facto* parent is someone who has assumed the role of a parent on a day-to-day basis. This means that the person has provided emotional support, taken care of the child's physical needs, and given the child affection for a substantial period of time just as the natural parent would do. [Cal. Rules of Court, rule 5.502(10).]

In order to be recognized as a *de facto* parent for a child who is in the juvenile dependency system, a person files an application for *de facto* parent status (JV 295). On the application, the person tells the court about the relationship the person has with the child. For example, the person made sure the child went to school or day care, spoke with the teacher about the child's progress, took the child to the doctor for regular check-ups, helped with homework, read bedtime stories, etc. If the petition is granted, the *de facto* parent is entitled to certain procedural rights, such as the right to attend hearings, present evidence and be represented by counsel, but does not have rights to reunification services, custody or visitation. A *de facto* parent can advocate for your rights.

► Forms titled "JV XXX" can be found at www.courts.ca.gov/forms

Indian Child Welfare Act

The *Indian Child Welfare Act (ICWA)* is based on the belief that it is in the best interest of an American Indian child that the role of the tribal community in the child's life be protected. ICWA applies to temporary placement situations and to court proceedings that result in adoption or termination of parental rights. ICWA does *not* apply to disputes between parents in a divorce action. [25 U.S.C. § §1903 *et seq.*] If you and/or your child are of Native American heritage, you should tell your lawyer, the social worker in the juvenile dependency court, or the probate court investigator immediately. If the court finds that you and/or your child are active members of an Indian tribe, it must work towards maintaining the stability of this tie to the tribe when determining placement of your child in a foster home or in the home of a guardian. The court will do this by contacting the tribe to seek its input and assistance.

V. How do I get visiting rights while I am incarcerated?

Prisons and jails are set up for visits with family members, including children. Visits help you maintain a relationship with your child. Maintaining an active relationship with your child while you are incarcerated will benefit you and your child when you are released.

Some caregivers are willing and able to bring a child to visit an incarcerated parent. Others are not. If your child's caregiver is unwilling, you may have to file for a court order granting you visitation rights and requiring the caregiver or another person to bring your child to you.

To learn more about how to file for visitation rights while you are incarcerated, send for LSPC's *Child Custody and Visiting Rights Manual for Incarcerated Parents*.

VI. Family reunification: how do I get my child back after I am released?

After you have been released from custody, the process that you follow to get your child back will depend on many things. The big considerations are: whether or not there is already a court order about the custody of your child; the attitude of your child's current caregiver; the strength of your relationship with your child; and your child's best interest. You may be able to work things out with the caregiver, or you may have to go to court. In any case, the caregiver will play a key role.

When you are first released, your first goal will be to reestablish yourself in the community: housing, income, transportation, etc. You can also begin to ease back into your child's life. While you get yourself stable, you may start with short visits. Your visits may increase over time as you show a pattern of consistency and responsibility. Always consider that your child has developed a relationship with the caregiver. Be respectful of that relationship and take the long view. Reunification will probably not happen overnight, but with time.

To learn how to file for a visitation or custody order after you are released, send for LSPC's *Child Custody and Visiting Rights Manual for Recently Released Parents*.

VII. Making a record: what can I do while I'm in jail or prison?

While you are incarcerated, there are things you can do to help your efforts to reunify with your child after you are released. Try to stay in contact with your child and participate in any rehabilitation programs available to you. Keep records of all of your efforts by writing down the time and date of everything you do for you and your child. This means keeping track of every phone call and visit with your child, your child's caregiver, the social worker, or your lawyer.

Steps to make a record:

1. Get a notebook or special pad of paper and use it only for your child's case. Write down the *date and time of*:
 - Each call you make to or about your child;
 - Each visit you have with your child;
 - Each call you make to your child's caregiver, and what the call was about;
 - Each call you make to the social worker, and what the call was about;
 - Each meeting you have with the social worker, and what the meeting was about;
 - Each call you make to your lawyer; and
 - Each meeting you have with your lawyer.
2. Write letters to your child and save copies of those letters.
3. If your child is too young to understand letters, draw and send pictures to your child, and save copies of the pictures, and write down the date sent.
4. Ask to see your child's report cards.
5. Go to any available classes, meetings or programs that your detention facility offers and write down the dates and time.
6. Keep copies of certificates, or other proof, showing that you attended classes, groups or meetings (whether the court ordered you to attend or not).
7. Ask the teachers and counselors of any programs you complete to write a letter about how you did.

After you are released, you may have to prove to a judge that you can safely parent your child. By keeping a record, you can prove that you care about what happens to your child. A judge is much more likely to believe that you called your child every Sunday if you submit your written record, than if you simply tell the judge that you made the calls.

VIII. Paternity: how do I show that I am the dad?

California distinguishes between *presumed*, *natural*, and *alleged* fathers. Presumed fatherhood status ranks the highest. It is based on marriage, a written agreement (Voluntary Declaration of Paternity), or a fathering relationship with the child (see below for more information). A natural (or biological) father is one who has established paternity through DNA testing. An alleged father is someone who either the child's mother or he himself *claims* is the father, but paternity has not been established through DNA testing. You should try and establish that you are the presumed father first, but if you cannot, try to establish that you are the natural father.

How do I establish that I am the presumed father?

Marriage: If you and the child's mother are, or were, legally married, then it is "presumed" that you are the father of the child as long as the child was born during the marriage or within 300 days after the marriage ended due to death, divorce, or a judgment of separation. [Cal. Fam. Code § 7611.] A *presumed father* is entitled to reunification services and child custody.

Declaration of Paternity: If you are not married to the child's mother, you can achieve presumed father status if you and the child's mother sign a Declaration of Paternity. A Voluntary Declaration of Paternity establishes paternity and has the same force and effect as a judgment of paternity issued by a court. It gives the father *presumed father* status for purposes of custody, visitation, and child support. [Cal. Fam. Code § 7573.]

The declaration can be signed by both parents in the hospital after the baby is born or at any time later. If signed later, both parents must sign this form and it must be notarized. The general rule is that both the mother and the father sign the same form at the same time. If a parent is incarcerated, this may not be possible. Another challenge is that the form is in triplicate and is only available through government offices such as county Social Services, Registrars of Births and Deaths, and Family Law Facilitators.

If you have the cooperation of the mother, then she or you can contact the county offices listed above for assistance in signing the form. You can also ask for assistance from the prison's litigation office, your counselor, or other institution staff. Perhaps the mother can go to your institution and you can both sign the same form there in front of a notary. Or, perhaps you can each sign separate forms that say the same thing and have them separately notarized. (See "*Family Law Facilitators in California*" on page 37 for a list of facilitators.)

Parenting relationship: The third and final way to establish *presumed father* status is by proving to the court that you “receive the child into your home and openly hold out the child as your natural child.” [Cal. Fam. Code § 7611(d).] You can assert this position in court procedures that have been filed by others concerning your child, or you can file a court case yourself. You would file a Petition to Establish Parental Relationship (see below). A man who has not received the child may be declared a *presumed father* if he has been prevented by the mother from physically receiving the child. [*Adoption of Kelsey S.* (1992) 1 Cal. 4th 816, 849-850.]

NOTE: If you are requesting presumed father status after reunification has ended and a hearing has been set to terminate your parental rights, file a *section 388 petition* to try and modify the order based on changed circumstances. In this petition, you must establish that it would be in the minor’s best interest for the court to grant it. [*In re Eric E.* (2006) 137 Cal. App. 4th 252.]

How do I file a Petition to Establish Parental Relationship?

If you and the child’s mother were not married and you cannot agree or are unable to use the Declaration of Paternity, then you can file an action in family court to establish that you are the natural or presumed father. You may seek custody, visitation, and/or child support orders as part of this action. You will have to file the petition, a summons, and several other forms (it depends upon whether you are trying to get visitation or custody or just establish paternity), pay a filing fee (which can be waived), set a hearing date, have the child’s mother served with the documents, and then get to court. [Cal. Fam. Code § 7630.] During this proceeding, you can petition for a DNA test. If a biological relationship is not established, the court will look at whether you have received the child into your home and openly held out the child as your natural child. [Cal. Fam. Code § 7611(d), *In re Spencer W.* (1997) 48 Cal. App. 4th 1647.]

For step-by-step information about how to file this petition, you can send for LSPC’s *Child Custody and Visitation Manual for Incarcerated Parents*.

What are my rights in juvenile dependency court?

A *presumed father* is entitled to notice, reunification services, and custody of his child. [*In re Cody B.* (2007) 153 Cal. App. 4th 1004.] An *alleged father* is only entitled to notice and an opportunity to appear and assert a position, though he can attempt to change his paternity status by completing the Statement Regarding Paternity (**Attachment #12**). [*In re O.S.* (2002) 102 Cal. App. 4th 1402, 1408.] A *natural father* is not entitled to reunification services but is also not precluded from them. The juvenile dependency court *may* order reunification services for the natural father if it determines that the services will benefit the child. [Cal. Welf. & Inst. Code § 361.5(a).]

► *Statement Regarding Parentage (JV 505) (Dependency Court) – Attachment #12*

Does the court require my consent in order for my child to be adopted?

It depends on your fatherhood status. If you are a *presumed father*, you are entitled to contest or consent to an adoption. If you are a *natural father*, but not the *presumed father*, you are entitled to notice of the proceedings, but not necessarily a right to contest or consent to them. If you receive notice that your child’s mother is placing your child up for adoption, you have 30 days to bring an action to establish paternity. [Cal. Fam. Code § 7666(b)(4).]

If you are the *natural father*, but not the *presumed father*, and adoption proceedings take place, you may still have a right to contest or consent to an adoption and the termination of your parental rights if the court declares you a “biological plus” father.

The “biological plus” relationship is explained here:

“[I]f an unwed father promptly comes forward and demonstrates a full commitment to his parental responsibilities – emotional, financial, and otherwise – his federal constitutional right to due process prohibits the termination of his parental relationship absent a showing of his unfitness as a parent.” [Adoption of Kelsey S. (1992) 1 Cal. 4th 816, 849.]

The court can also find the natural (biological) father’s consent is required for the adoption if it finds that keeping parental rights is in the best interests of the child. In determining best interests, the court will look at:

- Efforts made by the biological father to obtain custody of the child.
- The age and prior placement of the child.
- The effects of a change of placement on the child.
- All other relevant evidence.

[Cal. Fam. Code § 7664(b).]

Note: A court can dispense with notice if “the biological father or possible natural father cannot be located or his whereabouts are unknown or cannot be ascertained, or if he has waived his rights in writing.” [Cal. Fam. Code § 7666(b).]

IX. Child support: how can I pay when I don’t have any money?

What can I do about paying child support while I am incarcerated?

Passed in 2010, California Family Code section 4007.5 allows for child support orders to be suspended while a parent is incarcerated. When a parent who owes child support is incarcerated for more than 90 days, the court shall suspend this obligation, to be resumed only after release. The law also allows for the reduction of back due child

support (arrearages) that built up during incarceration. **Please be aware that this law will expire on July 1, 2015, unless it is extended by the state legislature.**

What do I do if I am served with child support papers while incarcerated?

If you are served with a summons and complaint from the Department of Child Support Services (DCSS) and you are *not the father of the child*, you should act quickly. This may be your only chance to contest paternity. You can request that the court appoint you an attorney.

If you *are the father*, or if you are the mother, you will need to make the DCSS and the court aware that you are incarcerated and have no source of income.

In any case, it is very important that you do not ignore these papers, because if you fail to file an “answer” to the complaint (or make an appearance in court), the court can enter a default judgment against you.

The answer must be filed within 30 days from the date you were served with the complaint. Your answer should be sent directly to the court having jurisdiction in your case as well as to the DCSS. The instructions and proper form for answering the complaint will be attached to the summons and complaint. If you need assistance you should contact/write to the Family Law Facilitator in the county in which the complaint was filed. (See “Family Law Facilitators in California” at page 37.) You can use sample letters #4 and #5 to write to the Family Law Facilitator or the court clerk.

- ▶ Letter to Family Law Facilitator (seeking legal forms and assistance) – Attachment #4
- ▶ Letter to court clerk (with forms to be filed) – Attachment #5

What do I do if there is a default judgment against me?

If you think the support order was entered against you inappropriately, you may be able to have the order “set aside” (reversed). There are four grounds (reasons) to set aside a support order, depending on the type of order and why you need it set aside:

1. **The judgment was issued due to fraud, perjury, or lack of notice:** If you can show the order was based on fraud or perjury, you must bring an action to set it aside within *six months* after you learned of the fraud or perjury. If you want to set it aside based on lack of notice, the action must be brought within *six months* after you knew or should have known of the order. [Cal. Fam. Code §§ 3690-3691.] Use FL 360.
2. **The judgment was issued based on presumed income:** If box number 3 on the Judgment Regarding Parental Obligations was checked, then the court did not have information about your actual income or your income history and presumed you make enough money to meet your child(ren)’s minimum basic needs. There is an easy way to set aside a default judgment based on

presumed income. File a Notice and Motion to Cancel (Set-Aside) Support Order Based on Presumed Income (FL 640). FL 640-INFO provides additional information and states that this form and attachments must be filed within one year of the date of the first collection of support. Tell the court that you are incarcerated. If you have been incarcerated for more than 90 days, and you have no independent income, the court should set aside the judgment and suspend your duty to pay child support.

3. **The judgment was issued based on mistaken identity:** You must file a claim with the county DCSS along with supporting documents. *They must investigate and resolve your claim within 30 days.* If they think your claim has merit, they must immediately terminate enforcement proceedings and ask the court to set aside the support order. If DCSS rejects the claim or fails to follow the required steps to terminate the order, you may file an action in the Superior Court to establish your mistaken identity. [Cal. Fam. Code §§ 17433, 17530, 17800.]
4. **The judgment was issued because of your mistake, inadvertence, surprise or excusable neglect:** You have up to six months after the entry of a default judgment to ask that it be set aside because of your mistake, inadvertence, surprise, or excusable neglect. [Cal. Code Civ. Pro. § 473(b).]

What do I do if I know that I have a current child support order?

In general, a court cannot make retroactive changes in a child support order. However, in the case of incarceration, it can, under Family Code section 4007.5. See note above on page 23 about the expiration of this law. The court can reduce to zero the amount of child support that had been ordered during your incarceration. This means that the court can eliminate your past due child support that built up while you were incarcerated, and reduce your current payment to zero while you remain incarcerated.

There are two modification procedures available to you: (1) ask the county DCSS modify the order, or (2) file the *motion for modification* yourself. It would be helpful to do both. It may take more time for DCSS to modify the order than for you do it yourself. However, if you do file, you might ask DCSS to modify the order also, in case the court process for your motion stalls.

How do I have the county DCSS do the modification?

If the county DCSS was involved in getting the original child support order, you can write their office directly. Tell them that you are in custody, how long you expect to be incarcerated, and that you need to have the order modified. The DCSS must get a modification for you within 6 months if your case meets certain requirements. The DCSS services are free to you.

How do I file a request for modification on my own?

You obtain and fill out the proper forms for modification. You can get them from your prison law library or by writing to the Family Law Facilitator in the county in which

you owe the child support (see sample letter #4) or to LSPC (ask for the child support modification packet). The forms you will need are:

1. Notice of Motion (Form FL 300)
2. Application for Order and Supporting Declaration (Form FL 310)
3. Financial Statement (Simplified) (Form FL 155)

After you have the forms filled out, make three (3) copies of everything. Send the originals and two copies to the facilitator. Ask the facilitator to file the papers for you and send you a “stamped” copy (be sure to enclose a self-addressed stamped envelope for the facilitator to return the stamped copy to you). See letter to court clerk (**Attachment #5**).

► *Letter to court clerk (with forms to be filed) – Attachment #5*

When you receive the “stamped” copy from the court, you must find someone over the age of 18 to serve the papers. You may not serve the papers yourself. The documents can be served in two ways: (1) by personal delivery, or (2) by first-class mail. The person who serves the documents must complete a Proof of Service and file it with the court clerk. The county DCSS office and the other parent must be served no later than 26 days before the hearing if service is by mail or no later than 21 days if service is by personal delivery.

If the child support order was obtained in family court with no DCSS involvement, you will also need the following forms to avoid having to pay a filing fee:

- Application for Waiver of Court Fees and Costs (Form FW-001), and
- Order on Application for Waiver of Court Fees and Costs (Form FW-003).

What do I do if my current order is zero but I have arrearages (owe a past due amount)?

As described above, you can ask the court to reduce to zero the past due amounts for months that you were incarcerated. For other arrearages, you may get assistance from DCSS through these programs:

The *Compromise of Arrears Program (COAP)* is available to parents who owe arrearages of at least \$501 to the government because the state provided support to their children through public assistance or while in foster care. There are additional criteria to be eligible for COAP.

The *Family Reunification Compromise of Arrears Program (FR-COAP)* is for low income parents who now have custody of their minor child, but owe past due child support because, in the past, government aid had supported their children while in foster care or living with a legal guardian or relative caregiver.

You can contact the county DCSS for more information on both of these programs.

X. Special Immigrant Juvenile Status: What is it? Who is it for?

What is Special Immigrant Juvenile Status?

Special Immigrant Juvenile Status (SIJS) is a way for a minor to become a permanent resident of the United States (get a “green card”). If the minor applies for this status and is successful, the minor may remain in the US, work legally, qualify for in-state tuition at college, and in five years apply for U.S. citizenship. However, if the application is denied, the child might be deported.

Who qualifies for SIJS?

To qualify for SIJS, the child *must* have been declared to be a dependent of a U.S. juvenile dependency court, OR the child must have been legally committed to, or placed under the custody of, a state agency or department, or an individual or entity appointed by a state (such as a guardian), by a juvenile dependency court. The juvenile court must have found the child “eligible for long-term foster care” (which in this context means parental reunification is not possible), and it is not in the child’s best interest to be returned to the home country. The court must have made its findings based on abuse, neglect, abandonment, or a similar basis found under state law. A child who is the subject of a probate court guardianship also qualifies for SIJS.

Who can complete the application?

The child, a caseworker, or an attorney can complete the application for SIJS, which is then submitted to the Citizen and Immigration Service (CIS) bureau of the Department of Homeland Security (DHS). The child must complete CIS forms, obtain a special medical exam, and provide fingerprints, a photograph, and proof of age. The application must include an order from the dependency or probate court that the child is eligible for long-term foster care or guardianship due to abuse, neglect, or abandonment. There is a fee for the application process, but a fee waiver is available. The CIS will grant the applicant employment authorization as soon as the application is filed, and schedule a date for the SIJS interview. Generally, the CIS will decide the case at the time of the SIJS interview.

NOTE: It is important to apply for SIJS as soon as possible while the child is a juvenile or probate court dependent because it may take from 6 to 18 months after submitting the application to get an SIJS interview. If the child is emancipated before the interview takes place, the current policy is to deny the application. For more information on this issue, consult an attorney who specializes in immigration law or the Immigrant Legal Resource Center at 1663 Mission Street, San Francisco, CA 94103-2473, (415) 255-9499, www.ilrc.org.

Conclusion

We hope that this manual will aid attorneys in answering questions about what happens to a child when his or her parents are incarcerated and what parents can do to regain legal custody or reunify when they are released. In many cases, prisoners are not given access to information regarding their legal rights as parents and must struggle to do what they can from inside.

Our goals for this manual are to keep service providers and parents informed on current California family law, to highlight parents' legal rights, and help parents make a workable plan for their children while they are incarcerated. The information, forms, and resources in the manual should give legal service providers and parents a good start in advocating for the rights of parents. We encourage parents who are seeking custody of their children to get started as soon as possible.

To parents: We know that the process can be painful and discouraging. It helps to keep in mind the end result of your struggles – reuniting with your family! You must have the strength to endure and persevere in your efforts. We wish you the very best and support you in your efforts.

Definitions: what do these legal words mean?

26 hearing: a hearing held pursuant to Welfare & Institutions Code section 366.26 to terminate parental rights or establish guardianship of children who have been made dependents of the juvenile court.

Adoption: permanent legal custody of another's child; adoption takes place after the parents' rights have been terminated by the court or given up voluntarily by the parents.

Allegation: a declaration or claim concerning the behavior or actions of someone.

Alleged father: a man who may be the father of a child, but whose biological paternity has not been established.

CalWORKS: California Work Opportunity and Responsibility to Kids Act; a division of state government that provides aid and medical assistance.

Caregiver: the person who takes care of a child when the parents are incarcerated or unavailable.

Caregiver's Authorization Affidavit: a document that has the main purpose of declaring that an individual has assumed a certain amount of authority for a child.

Case plan: the court-approved plan written by the CPS social worker; it describes the parents' reunification requirements (including visitation, classes, counseling or treatment) that must be followed before the child is returned to the parent(s).

Child Protective Services (CPS): county office responsible for the welfare of children who have allegedly experienced abuse and/or neglect from their primary caretakers. We use this term generally throughout the manual to refer to the Department of Social Services (DSS), Department of Health Services (DHS), and Department of Family and Children Services (DFCS).

Clear and convincing evidence: a standard of proof that requires that "evidence be so clear as to leave no substantial doubt; sufficiently strong to command the unhesitating assent of every reasonable mind." [*In re Angelique C.*, 113 Cal. App. 4th 509, 519 (2003).]

Compromise of Arrearages-Family Reunification Program: a program through the Department of Child Support Services (DCSS) for parents who owe past due child support because aid was paid to a foster care family, a legal guardian or a relative caregiver. If the child is still a minor and is now living with a parent and the parent's

income is less than 250% of the federal poverty level, the parent can apply for relief under this program.

Compromise of Arrears Program (COAP): a program through the Department of Child Support Services (DCSS) available to parents who owe \$5,000 or more in past due child support. There are additional criteria for who is eligible for this program.

Court days: days when the judge is in the courtroom. This is usually Monday through Friday, except holidays and weekends.

Court order: a direction from the judge on some matter.

Custodian: the caregiver who has daily responsibility for a child, either temporarily or permanently (see legal custody and physical custody below).

Declaration of Paternity: a legal document that, when signed by both parents, says the man is the natural father of the child; signing the Declaration is voluntary.

Default judgment: a judgment entered against a civil court defendant when the defendant fails to respond to a plaintiff's action or fails to appear in court.

Dependent of the court: when the court finds the allegations in a dependency petition to be true at a jurisdictional hearing, the child is declared a dependent of the court.

Detained: the term for what happens to a child who has been temporarily removed from parent(s) through Child Protective Services.

Detention: removing a child temporarily from parent(s) by Child Protective Services (CPS) pursuant to Welfare & Institutions Code section 300.

Detention alternatives: a child detained in custody can be placed in any of the following: emergency shelter, a suitable licensed home or facility, a place exempt from licensure designated by the juvenile dependency court, a certified family home, or in the assessed home of a relative or nonrelative extended family member. [Cal. Welf. & Inst. Code § 319(f).]

Disposition hearing: the hearing held after the court has sustained the dependency petition and made a child a dependent of the court. At this hearing, the court will order a plan for the child.

Distant relative: any relative who is not the child's parent, sibling (brother or sister), aunt, uncle, or grandparent.

Emergency assessment: an evaluation of a child's relative by a social worker. The social worker will determine whether the relative's home is a proper placement for the child.

The assessment includes: an in-home visit to assess the safety of the home and the relative's ability to care for the child, a criminal records check, and an investigation of any allegations of prior child abuse or neglect by that relative or any adult living in the relative's home.

Emergency response: the actions taken by CPS immediately after it is told that a child is without a parent or other caregiver to make sure that someone is caring for the child.

Emergency shelter: temporary housing where CPS places a child while it locates relatives or arranges for a more permanent place for the child (and any siblings) to live.

Family Law Facilitator: a neutral office in the family courts which assists people through the court process when they do not have lawyers.

Family reunification services: services provided by CPS to the child and the parent(s) when the child is not living with them. It is designed to address the problems that led to Juvenile Dependency Court involvement.

Felony indicating parental unfitness: The 23 felonies listed in Penal Code section 667.5.

Foster care: out-of-home care provided to children whose parents cannot care for them and who need temporary or long-term substitute parenting; both the foster parents and their homes are licensed by the state or county and are monitored by licensing workers and/or social workers.

Foster parent: a person given temporary placement of a child from CPS.

Immediate relative: any relative who is one's parent, sibling, aunt, uncle, or grandparent.

Indian Child Welfare Act: a federal law that regulates Indian child custody cases.

Jurisdiction hearing: a hearing to determine whether a child should be made a dependent of the court based on allegations in the *juvenile dependency petition*.

Juvenile dependency court: a branch of the Superior Court which deals with children under the age of 18. The dependency court deals with abuse and neglect cases, usually because of the parent's behavior. (The court that deals with youths accused of crimes is the delinquency court.)

Juvenile dependency petition: a petition filed in the juvenile dependency court claiming that the child should be made a dependent of the court under Welfare & Institutions Code section 300.

Kin-GAP: Kinship Guardianship Assistance Payments; the aid provided on behalf of children in kinship care. “Kinship guardian” means a relative who has been appointed the legal guardian of a dependent child pursuant to section 366.26 of the Welfare & Institutions Code.

Legal custody: the right to make decisions about a child’s well-being including the child’s health, education and welfare.

Legal guardianship: court-ordered custody that gives a caregiver legal custody of a child under the age of 18.

Long-term foster care: long-term custody arrangement where Child Protective Services supervises a dependent child’s care with the foster parents.

Minor: anyone under the age of 18.

Motion for modification: (also known as a 388 Petition) is a paper that can be filed in the juvenile dependency court to ask the judge to change a court order based on changes in circumstances.

Natural father: a person who has a biological relationship with the child which was proven through paternity testing.

Non-custodial parent: the parent who does not have physical custody of the child.

Non-relative extended family: an adult caregiver who has an established familial relationship with either a relative of the child or a familial or mentoring relationship with the child. [Cal. Welf. & Inst. Code § 362.7.]

Notice: legal information about a court hearing: when and where it will take place.

Notarized: swearing that statements are true before an official Notary Public, or that a person signing a document has provided official documents showing identification to the Notary Public.

Parental rights: the legal rights of a parent to raise a child as s/he sees fit.

Permanent plan hearing: hearing in juvenile dependency proceedings to decide the best permanent situation for a child when a parent cannot raise the child.

Petition: a written request for specific court action and a hearing on the request.

Physical custody: the person the child lives with is the one with physical custody.

Power of Attorney (for child custody): a written and notarized statement by a parent which gives another adult the responsibility and authority over certain matters concerning the child (for example, medical needs, schooling, public assistance and Medi-Cal, legal matters, etc.).

Preponderance of the evidence: a legal standard of proof in which the existence of the contested fact is more probably true than not.

Presumed father: If a person who claims to be the father of a child and the child's mother are, or were, legally married, then it is "presumed" that he is the father of the child as long as the child was born during the marriage or within 300 days after the marriage ended due to death, divorce, or a judgment of separation. (Family Code Sec. 7611). Presumed father status can also be attained if both parties sign a Voluntary Declaration of Paternity.

Pro per/pro se: appearing on one's own behalf without an attorney.

Qualified relative: a family member who the court recognizes as able to take care of the child.

Relative: in general, an adult who is related to the child by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, all relatives whose status is preceded by the words "great," "great-great," or "grand," or the spouse of any of these persons, even if the marriage was terminated by death or dissolution. However, only the following relatives shall be given preferential consideration for placement of the child by the Juvenile Dependency Court: an adult who is a grandparent, aunt, uncle, or sibling of the child. (Welfare & Institutions Code sec. 319(f)(2).)

Removed: when the court takes the child from the parent's custody.

Rescind/rescission: to revoke or annul an agreement, law or judgment.

Reunify/reunification: the goal in dependency court to bring the child and the parent(s) together again.

Review hearing: hearing held to review past decisions made by the court and to decide whether to keep or to change these decisions.

Revoke: to cancel or repeal.

Rules of court: a set of rules that set forth certain procedures for the judge and lawyers to follow in a court case.

Section 388 petition: Refers to a Welfare & Institutions Code section 388 petition to try and change, modify or set aside an order of the court. See **Request to Change Court Order (Attachment #8, form JV 180)**.

Status review hearing: a hearing held every six months by the **juvenile dependency court** in order to review a dependent child's case and to order a CPS plan for the child.

Supervised visits: visits between a parent and child where a social worker or other responsible adult is present.

Sustain: when the court finds a petition to be true.

Temporary Assistance for Needy Families (TANF): a government financial benefit for low income families with dependent children. It succeeded "Aid to Families with Dependent Children."

Terminate: when the court cuts off or ends a course of action. Most often used with services, rights or visits.

Welfare & Institutions Code: The group of California laws dealing with dependency, delinquency, and CPS.

Family Law Facilitators in California (by County) (current as of December 2014)

Alameda:

1) 1225 Fallon Street, Room 250
Oakland, CA 94612

510-272-1393

2) 224 West Winton, Room 179
Hayward, CA 94544

3) 5672 Stoneridge Dr. 1st floor
Pleasanton, CA 94588

4) 39439 Paseo Padre Parkway
Fremont, CA 94538

Alpine: 1354 Johnson Blvd.
S. Lake Tahoe, CA 96150
530-573-3066

Amador: 500 Argonaut Lane
Jackson, CA 95642
209-754-1443

Butte: 1675 Montgomery St.
Oroville, CA 95965 (530) 532-7015

Calaveras: 400 Government Center Drive,
San Andreas, CA 95249
209-754-1443

Colusa: 547 Market Street
Courthouse Annex
Colusa, CA 95932
530-458-0602

Contra Costa:

1) 751 Pine Street, Martinez, CA 94553

2) 100 37th Street, Room #201
Richmond, CA 94805
925-957-7887

Del Norte: 625 F St., Suite B
Crescent City, CA 95531
707-465-3894

El Dorado locations:

1) 495 Main St., Placerville, CA 95667
530-621-6433

2) 1354 Johnson Blvd., First Floor
S. Lake Tahoe, CA 96150
530-573-3066

Fresno:

1130 "O" Street, First Floor
Fresno, CA 93721 (559) 457-2100

Glenn: 119 North Butte St
Willows, CA 95988
530-934-7304

Humboldt: 825 Fifth Street
Eureka, CA 95501
707-445-7256 ex. 1321

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

Inyo: 314 W. Line Street, Suite D
Bishop, CA 93514
760-872-4444

Kern: 1215 Truxtun Avenue
Bakersfield, CA 93301
661-868-4815

Kings locations:

1) 1426 South Drive
Hanford, CA 93230
559-582-1010 ext. 3093

2) 1000 Chittenden Ave
Corcoran, CA 93212
559-992-5193

3) 501 E. Kings St.
Avenal, CA 93204
559-582-1010

Lake: 7000-A South Center Drive
Clearlake, CA 95422
707-994-6598 Option 3

Lassen: 2610 Riverside Drive
Susanville, CA 96130
530-251-8205

Los Angeles locations:

1) 111 N. Hill St., Room 426
LA, CA 90012 (213) 974-5004

2) 600 S. Commonwealth Ave, #1602
LA, CA 90005 (213) 351-8113

3) 12720 Norwalk Blvd., Rm. 104
Norwalk, CA 90650
562-807-7504

4) 300 E. Olive Street, Room 113
Burbank, CA 91502
818-557-3583

5) 200 W. Compton Blvd.
200 W. Compton Rm. 200F, CA 90220
310-603-3218

6) 42011 Fourth St. West, #3575A
Lancaster, CA 93534
661-974-7348

7) 274 Magnolia Avenue, Room 3101
Long Beach, CA 90802
562-256-2319

8) 300 E. Walnut St, Rm. 300
Pasadena, CA 91101
626-356-5030

9) 400 Civic Center Plaza, #112
Pomona, CA 91766
909-620-3150

10) 900 Third Ave, #1026
San Fernando, CA 91340
818-898-2606

11) 825 Maple Ave., Room 310
Torrance, CA 90503
310-222-1714

12) 6230 Sylmar Ave, Room 350
Van Nuys, CA 91401
818-374-7108

Madera: 209 W. Yosemite Avenue
Madera, CA 93637
559 661-5161

Marin: Civic Center, Hall of Justice,
Room C-27 San Rafael, CA 94903
415-444-7130

Mariposa: 5088 Bullion Street
Mariposa, CA 95338
209-966-6599

Mendocino: 100 N. State St, #212
Ukiah, CA 95482
707-463-5666

Merced: 2260 N Street
Merced, CA 95340 (209) 725-4117

Modoc: 201 S. Court Street
Alturas, CA 96101
530-233-2008

Mono: 1914 Meridian Blvd.
Mammoth Lakes, CA 93546
760-258-7372

Monterey: 1200 Aguajito Road
Monterey, CA 93940
831-647-5800

Napa: 825 Brown Street
Napa, CA 94559
707-299-1137

Orange: 341 The City Drive
Orange, CA 92868
657-622-5500

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

Plumas: 89 Court Street
Quincy, CA 95971
530-283-4792

Riverside locations:

1) 880 North State Street
Hemet, CA 95243
No phone number listed

2) 4175 Main Street
Riverside, CA 92501
No phone number listed

Family Law Facilitators in California (by County) (current as of December 2014)

3) 46-200 Oasis Street
Indio, CA 92201
760-393-2617

Sacramento: 3341 Power Inn Rd, #113
Sacramento, CA 95826
916-875-3400

San Benito: 440 Fifth Street
Hollister, CA 95023
831-636-4057

San Bernardino:

1) 655 W. 2nd Street
San Bernardino, CA 92415

2) 351 N. Arrowhead Avenue
San Bernardino, CA 92415

3) 14455 Civic Drive
Victorville, CA 92392

4) 8303 Haven Ave.
Rancho Cucamonga, CA 91730

5) 6527 White Feather Road
Joshua Tree, CA 92252

San Diego:

1) 220 W. Broadway, Room 4001
San Diego, CA 92101
619-450-5200

2) 1555 - 6th Avenue
San Diego, CA 92101
619-450-5200

3) 250 E. Main Street
El Cajon, CA 92020
619-450-5200

4) 325 S. Melrose Drive
Vista, CA 92083
760-201-8200

5) 500 Third Ave, Rm. 300
Chula Vista, CA 91910
619-450-5200

6) 1409 Fourth Ave
San Diego, CA 92101, 619-450-5200

San Francisco: 400 McAllister St. #405
San Francisco, CA 94102
415-551-3990

San Joaquin: 540 E. Main St.,
Stockton, CA 95202
209-468-8280

San Luis Obispo:

1) 1120 Mill Street, Suite A
San Luis Obispo, CA 93408

2) 901 Park St., Room 111
Paso Robles, CA 93446
805-788-3418

San Mateo:

1) 400 County Center, Floor 2
Redwood City, CA 94063

2) 1050 Old Mission Road
South San Francisco, CA 94080

Santa Barbara:

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

2) 312 E. Cook Street, 2nd Floor
Santa Maria, CA 93454, (805) 614-6442

Santa Clara:

1) 99 Notre Dame Avenue
San Jose, CA 95113
408-882-2900

2) 605 W. El Camino Real
Sunnyvale, CA 94087
408-481-3500

3) 170 Park Avenue
San Jose, CA 95113

Santa Cruz: 1 Second St.
Watsonville, CA 95076

831-786-7200, press number 4
Shasta: 1500 Court St, Room 115
Redding, CA 96001
530-245-6900

Sierra:

1) 201 Church Street, Suite 10
Nevada City, CA 95959
530-470-2567

Siskiyou: (530) 842-0157

1) 311 Fourth St, Yreka, CA 96097

2) 550 Main St, Weed, CA 96094

3) 324 N. Pine St., Dorris CA 96023

Solano: 600 Union Avenue
Fairfield, CA 94533
707-207-7348 (closed Wed)

Sonoma: 3055 Cleveland Ave.
Santa Rosa, CA 95403
707-521-6545

Stanislaus: 800-11th St., Rm. 2
Modesto, CA 95354
209-530-3299

Sutter: 463 Second Street, Rm.
Yuba City, CA 95991
530-822-3305

Tehama: 633 Washington St. 2
Red Bluff, CA 96080
530-527-8649

Trinity: 11 Court Street
Weaverville, CA 96093
530-623-5641

Tulare: 8040 W. Doe Avenue
Visalia, CA 93291
866-901-3212

Tuolumne: 41 West Yaney
Sonora, CA 95370
209-533-6565

Ventura:

1) 800 S. Victoria Ave, Rm. 30
Ventura, CA 93009
805-289-8733

2) 3855-F Alamo St., 2nd floor
Simi Valley, CA 93065

3) 4353 E. Vineyard Ave., #206
Oxnard, CA 93036

Yolo:

1100 Main St., Ste. 300
Woodland, CA 95695
(530) 406-6794

Yuba: 120 Fifth Street
Marysville, CA 95901
530-749-7685

Friends Outside Visitor Centers

December 4, 2014

Northern Regional Director: Tanya Williams (209) 639-7773 Office: (209) 955-0701 FAX (209) 955-0734

Program Director	Inst	Phone/FAX	Admin Day/Hours	Visiting Days	Trans. & CPC
Kyrston Funkhouser	ASP Avenal	559-386-4370	Thursday 0800-1200	Sat & Sun: 0800 - 1600	Gracie Rodriguez (TC) Judy Smith (CPC)
Daisie Fain	CCC Susanville	530-257-2211	Thursday 1000-1400	Sat & Sun: 0730 - 1530	Patrick Robbins (TC) Carol Hall (CPC)
Jimmy Ruiz	CCWF Chowchilla	559-665-4617	Tuesday 0700-1100	Sat & Sun: 0800 - 1600	Jetzabel Gonzales de Fierros(T) Charlotte Cordova (CPC)
Nevin Sahota	CHCF Stockton	209-466-4557	Thursday 0700-1100	Sat & Sun: 0800 - 1600	Nicolette Mosby(CPC) Joaquin Marquez (TC)
Dawn McGee	CMF/SOL Vacaville	707-469-9345	Thursday 0900-1300	Sat & Sun: 0630 - 1630	J'Carroll Womack (TC) Ashley Mourlot (CPC)
Dominique Huddleston	CSP SAC/FOL Sacramento	F: 916-985-0544	Thursday 0800 - 1200	Sat & Sun: 0730 - 1530	Michael Jones (TC) Tiaira Lowe (CPC)
Aurora Alvarado	CTF/SVSP Soledad	831-678-1236	Thursday 0900 - 1300	Sat & Sun: 0800 - 1600	Candelaria Garcia (TC) Rebecca Mejorado (CPC)
Kineasha Warren	DVI Tracy	209-835-4141 ext. 5645 F: 209-830-3810	Thursday 0800 - 1200	Sat & Sun: 0800 - 1600	Theresa Fewell (TC) Jennifer Guevara (CPC)
Faye Sanchez	HDSP Susanville	530-257-5581	Thursday 1000 - 1400	Sat & Sun: 0730 - 1530	Dawn Ratkey (TC) Wendy Jacobs (CPC)
Alex DeLeon	MCSP Ione	209-274-4749	Wednesday 0900 - 1300	Sat & Sun: 0730-1530	Alex Moore (TC) Husain Nasir (CPC)
Annmarie Moreno	PBSP Crescent City	707-465-6269	Wednesday 0800-1200	Sat & Sun: 0800 - 1600	OPEN (TC) Jeannie Hanley (CPC)
Maria Alvarez	PVSP Coalinga	559-935-0660	Wednesday 0900 - 1300	Sat & Sun: 0800 - 1600	Maria DeMaciel (TC) Natalia Diaz(CPC)
Elizabeth Boyd	SCC Jamestown	209-984-5523	Thursday 1300-1700	Sat & Sun: 0800 - 1600	Joan Kahl (TC) Toni Hawks (CPC)
Gwen Brown	SQ San Quentin	415-482-8509	Wednesday 0800 - 1600	Thursday:0700-1500 Sat & Sun: 0700 - 1500	Camille Hankinson (TC) Cynthia Williams (CPC)
Jessica Runyan	VSP Chowchilla	559-665-1913	Wednesday 0800-1200	Sat & Sun: 0800 - 1600	Donald Woods (TC) Esbeidy Araujo(CPC)

Southern Regional Director: Debra Williams (209) 693-7774 Office: (661) 272-0351 FAX (661) 272-0360

Program Director	Inst	Phone/FAX	Admin Day/Hours	Days	Trans. & CPC
Marina Casillas	CAL Calipatria	760-348-2232	Thursday 0900-1300	Sat & Sun: 0730 - 1530	Juan Cornejo (TC) Ashley Ruvalcaba (CPC)
Robert Bilek	CMC San Luis Obispo	805-543-3888	Tuesday 0800-1200	Sat & Sun: 08:00 - 1600	Gary Weyer (TC) Meghan Sylvia (CPC)
Janey Felsoci	CCI Tehachapi	661-822-3407	None	Sat & Sun: 0715 - 1515	OPEN (TC) Alma Ventura (CPC)
Rebeca Lara	CEN Imperial	760-352-2466	Tuesday 0730-1130	Sat & Sun: 0730 - 1530	Cecil Guerrero(TC) Isamar Cazares(CPC)
Tracie McCartney	CIM Chino	909-597-5428	Tuesday 0800-1200	Sat & Sun: 0800 - 1530	Ruth Body (TC) OPEN (CPC)
Corina Contreras	CIW Corona	909-597-0234	Wednesday 0900 - 1300	Sat & Sun 0730 -1530	Brenda Gunder (TC) Celene Esquivas (CPC)
Christina Osorio	COR Corcoran	559-992-4499	Tuesday 0700-1100	Sat & Sun: 0730 - 1530	Maria Williams (TC) Crystal Aguilar(CPC)
Janice Plair	CRC Norco	951-737-7010	Tuesday 0900 - 1300	Sat & Sun: 0645 - 1445	Deborah Jenkins (TC) Wanda Williams (CPC)
Belen Espinoza	CSATF Corcoran	559-992-9756	Thursday 0900-1300	Sat & Sun: 0730 - 1530	Marlene Duran (TC) Betty Moore (CPC)
Joyce Sims	CVSP Blythe	760-921-8294	Wednesday 0800 - 1200	Sat & Sun: 0730 - 1530	Mary Sue Russell (TC) Marcela Rangel (CPC)
Jacquelyn Cochran	ISP Blythe	760-921-1964	Wednesday 0800-1200	Sat & Sun: 0730 - 1530	Maria Luna (TC) Crystal Obioha (CPC)
Beatrice Narvaez	KVSP Delano	661-725-3912	Tuesday 0900-1300	Sat & Sun: 0800 - 1600	Velma Rodriguez (TC) Marie Rodriguez (CPC)
Gyna Jones	LAC Lancaster	661-728-0844	Wednesday 0800-1200	Sat & Sun: 0800 - 1600	Sandra Monjaraz (TC) Deborah Merritt (CPC)
Dolores Palomo	NKSP Delano	661-725-3833	Thursday 1300 - 1700	Sat & Sun: 0800 - 1600	Henry Mancilla (TC) Lucy Salinas-Rodriguez (CPC)
Gloria Santiesteban	RJD San Diego	619-710-1645 F: (619) 671-7514	Tuesday 0800-1200	Sat & Sun: 0730 - 1530	Linda Barnett (TC) Cassandra Holden(CPC)
Manuela Agbalog	WSP Wasco	661-758-8332	Thursday 1100 - 1500	Sat & Sun: 0730 - 1530	Salvador Gutierrez (TC) Ana Castaneda (CPC)

California Appellate Projects

District	Counties	Contact Information
First	Alameda Contra Costa Del Norte Humboldt Lake Marin	Mendocino Napa San Francisco San Mateo Solano Sonoma
Second	Los Angeles San Luis Obispo Santa Barbara Ventura	California Appellate Project - Los Angeles 520 S. Grand Avenue, 4th Floor Los Angeles, CA 90071 213-243-0300 213-243-0303 (fax) www.lacap.org
Third	Alpine Amador Butte Calaveras Colusa El Dorado Glenn Lassen Modoc Mono Nevada Placer	Plumas Sacramento San Joaquin Shasta Sierra Siskiyou Sutter Tehama Trinity Yolo Yuba
Fourth	Imperial Inyo Orange Riverside San Bernardino San Diego	Appellate Defenders, Inc. 555 West Beach Street, Suite 300 San Diego, CA 92101 619-696-0282 619-696-7789 (fax)
Fifth	Fresno Kern Kings Madera Mariposa	Merced Stanislaus Tulare Tuolumne
Sixth	Monterey San Benito Santa Clara Santa Cruz	Central California Appellate Program 2407 J Street, Suite 301 Sacramento, CA 95816 916-441-3792 916-442-0330 (fax)
		Sixth District Appellate Project 100 N. Winchester Blvd, Suite 310 Santa Clara, CA 95050 408-241-6171 408-241-2877 (fax) www.sdap.org

List of forms and sample letters

Attachment #1 – Letter to judge (seeking reunification, transportation to court)

Attachment #2 – Letter to social worker (seeking reunification, transportation to court)

Attachment #3 – Letter to dependency court attorney (seeking reunification, transport to court)

Attachment #4 – Letter to family law facilitator (seeking forms and assistance)

Attachment #5 - Letter to court clerk (with forms to be filed)

Attachment #6 - Caregiver's Authorization Affidavit

Attachment #7 - Power of Attorney to Provide Care for Child

Attachment #8 – Request to Change Court Order (JV 180) (Dependency Court)

Attachment #9 - Notice of Intent to File Writ Petition (JV 820) (Dependency Court)

Attachment # 10 -Petition for Extraordinary Writ (JV 825) (Dependency Court)

Attachment # 11 - Consent for Contact (AD 904) (to reunite adult adoptee with birth parent)

Attachment # 12 - Statement Regarding Parentage (JV 505) (Dependency Court)

SAMPLE LETTER TO THE JUDGE

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

(Date)

Honorable (name of judge)
Superior Court of California
County of _____
(Address of court)
(City, CA zip code)

Re: Case number _____

Dear Judge (Name):

I am writing this letter to introduce myself and to request that the court issue an order allowing me to attend court hearings concerning my child pursuant to Penal Code Section 2625. The next hearing is scheduled for (date of hearing).

I would also like to request that the court appoint an attorney to represent me at these hearings because I am an indigent and cannot afford an attorney.

My child's name is _____, (his/her) date of birth is _____. I am very concerned about the welfare of my child, and I believe that it is in my child's best interest to return to my custody. (Add your reasons here).

My release date is _____, and I want very much to be reunited with my child upon my release from (name of institution).

Please send a copy of the Order for Prisoner's Appearance to the director at (name of your institution).

Thank you for your attention to this matter.

Sincerely,

(Your signature)
(Your printed name)

cc: (List names of other persons you sent this letter to)

[NOTE: Remember to send a copy of this letter to the other parent and/or any other persons who are parties to this action. If you fail to send copies to the other parties or their attorneys, the court will consider this an *ex parte* (one-sided) communication and may not consider the information.]

SAMPLE LETTER TO YOUR SOCIAL WORKER

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

(Date)

Ms./Mr. (Name of social worker)
(Address of social worker)
(City, State zip code)

Re: Case no. _____

Dear Ms./Mr. (Name):

My name is _____ and my child's name is _____.
(His/her) date of birth is _____.

I am writing to let you know that I wish to regain custody of my child. I hope to be reunited with (him/her) upon my release from (name of institution) on (release date). I am very concerned about the welfare of my child. I believe it is in my child's best interest to be reunited with me when I am released. (Add reasons why they should be with you.)

I am serving a (length of sentence) sentence, which means that I will be away from my child for (months/years). Please let me know what steps I must take to be reunited with my child when I am released. It is important to me that I have visits with my child while I am away from (him/her).

I have written to the court to ask that I be transported to the hearing scheduled for (date of hearing). If I am not granted custody of my child, I would like my relative, (name of relative), who is my (relationship), to be given custody.

Thank you for your attention to this matter.

Sincerely,

(Your signature)
(Your printed name)

SAMPLE LETTER TO YOUR LAWYER

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

(Date)

Ms./Mr. (Lawyer's name)
(Address of the lawyer)
(City, State zip code)

Dear Ms./Mr. (Lawyer's name):

Re: Case number _____

I am writing to introduce myself and to let you know that I would like to attend the court proceedings regarding the custody of my child. The next hearing is scheduled for (date of hearing).

I understand that you have been appointed to represent me and help me retain custody of my child, (name of your child). (His/her) date of birth is _____. I intend to be reunited with (him/her) upon my release from (name of institution). If I am not granted physical and/or legal custody of (child's name), I would like (name of relative), who is my (relationship), to be given custody.

I understand that I have a right to attend any hearings held under Welfare & Institutions Code section 300 where my child may be made a dependent of the court or under section 366.26 where my parental rights may be terminated. I am requesting that you request the court to have me transported from (name of institution) to the hearing.

I look forward to speaking with you about my case. I need to know how I can work to reunite with my child(ren) and to prevent the court from terminating my parental rights.

Thank you for your attention to this matter.

Sincerely,

(Your signature)
(Your printed name)

SAMPLE LETTER TO THE FAMILY LAW FACILITATOR

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

(Date)

Family Law Facilitator
Superior Court of California
County of _____
(Address)
(City, CA zip code)

Re: (child support, custody, visitation, etc.)
Case number _____ (if you have one)

Dear Family Law Facilitator:

I am incarcerated and do not have an attorney to assist me. I would like your help with this _____ (child support, custody, visitation) matter. Please send me the forms I need to respond to the court (or the information you need about the proceeding).

I will also need your help in filing the paperwork so please tell me what I need to do.

Thank you for your attention to this matter.

Sincerely,

(Your signature)
(Your printed name)

[Note: Be sure to include a stamped, self-addressed envelope so that the facilitator can send you what you've requested. Many of the family law facilitators can only provide information and forms for child support-related matters. You may have to write to the "forms clerk" to request forms for child custody, visitation, and other matters. See sample letter to the court clerk that follows.]

SAMPLE LETTER TO THE COURT CLERK

Your name, with prison/jail number)

(Your address)

(City, CA zip code)

(Date)

Clerk of the Court
Superior Court of California
County of _____
(Address of court)
(City, State, zip code)

Re: (Child support, child custody, visitation, dissolution of marriage, etc.)
Case No. _____

Dear Clerk:

I am incarcerated and do not have an attorney to assist me with this paperwork. I am asking for your assistance with these documents.

Enclosed please find:

1. One original and two (2) copies of the following:
List the documents you are sending, using all upper case letters [for example: PETITION TO ESTABLISH PARENTAL RELATIONSHIP; RESPONSE; APPLICATION FOR FEE WAIVER]
2. A self-addressed, stamped envelope

Please file and stamp these documents and return one copy to me in the envelope enclosed with this letter. I am also requesting that you provide me with a hearing date on this matter at least six (6) weeks after the date of this letter ***[only include this if you are the petitioner and there is no scheduled hearing in the case].***

Thank you for your attention and assistance.

Sincerely,

(Your signature)

(Your printed name)

[Note: keep a copy of this letter until you receive a stamped copy of your paperwork back from the clerk.]

Caregiver's Authorization Affidavit

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

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

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

1. Name of minor: _____

2. Minor's birth date: _____

3. My name (adult giving authorization): _____

4. My home address: _____

5. I am a grandparent, aunt, uncle, or other qualified relative of the minor (see back of this form for a definition of "qualified relative").

6. Check one or both of the following boxes (for example, if one parent was advised and the other cannot be located, you check both boxes).

I have advised the parent(s) or other person(s) having legal custody of the minor of my intent to authorize medical care, and have received no objection.

I am unable to contact the parent(s) or other person(s) having legal custody of the minor at this time, to notify them of my intended authorization.

7. My date of birth: _____

8. My California driver's license or identification number: _____

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

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

Dated: _____

Signed: _____

NOTICES

1. This declaration does not affect the rights of the minor's parents or legal guardian regarding the care, custody, and control of the minor, and does not mean that the caregiver has legal custody of the minor.
2. A person who relies on this affidavit has no obligation to make any further inquiry or investigation.

ADDITIONAL INFORMATION

TO CAREGIVERS

1. "Qualified relative," for purposes of item 5, means a spouse, parent, stepparent, brother, sister, stepbrother, stepsister, half-brother, half-sister, uncle, aunt, niece, nephew, first cousin, or any person denoted by the prefix "grand" or great," or the spouse of any of the persons specified in this definition, even after the marriage has been terminated by death or dissolution.
2. The law may require you, if you are not a relative or a currently licensed foster parent, to obtain a foster home license in order to care for a minor. If you have any questions, please contact your local department of social services.
3. If the minor stops living with you, you are required to notify any school, health care provider, or health care service plan to which you have given this affidavit. The affidavit is invalid after the school, health care provider, or health care service plan receives notice that the minor no longer lives with you.
4. If you do not have the information requested in item 8 (California driver's license or I. D.), provide another form of identification such as your social security number or Medi-Cal number.

TO SCHOOL OFFICIALS

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

TO HEALTH CARE PROVIDERS AND HEALTH CARE SERVICE PLANS

1. A person who acts in good faith reliance upon a caregiver's authorization affidavit to provide medical or dental care, without actual knowledge of facts contrary to those stated on the affidavit, is not subject to criminal liability or to civil liability to any person, and is subject to professional disciplinary action, for that reliance if the applicable portions of the form are completed.
2. This affidavit does not confer dependency for health care coverage purposes.

POWER OF ATTORNEY TO PROVIDE CARE FOR CHILD

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

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

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

Signature of parent

State of California

County of _____

On this _____ day of _____, in the year _____ before me, _____

_____ [name and title of officer], personally appeared _____

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

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

WITNESS my hand and official seal.

_____ [Notary Public Signature]

Clerk stamps date here when form is filed.

This form can be used to ask the court to change an order, to ask the court to dismiss your case, to ask the court to terminate reunification services, or to ask the court to recognize your relationship with your sister or brother. After filling out this form, take it to the clerk of the court.

1 Your information:

a. I am the:

- child or youth mother father legal guardian
 foster parent sibling or other relative (specify): _____
 social worker probation officer attorney
 other _____

b. My name: _____

c. My address: _____

d. My city, state, zip code: _____

e. My telephone number: _____

f. *If you are an attorney:*

My client's name: _____
 My client's address (if confidential, see item 3): _____

My client's relationship to the child or youth: _____

My State Bar number: _____

Fill in court name and street address:

Superior Court of California, County of

Fill in child's name and date of birth:

Name of Child or Youth:

Clerk fills in case number when form is filed.

Case Number:**2** Type of request (check the appropriate box below and add specific details in items 6–9, as applicable):

- a. I am asking the court to change an order.
 b. I am asking the court to terminate its jurisdiction.
 c. I am asking the court to terminate reunification services.
 d. I am asking the court to recognize my relationship with my brother or sister.
 (1) I am related to him or her on our mother's side on our father's side.
 (2) I am related to him or her by blood or adoption by marriage.

3 *If you want to keep your address or your client's address confidential, fill out Confidential Information (Request to Change Court Order) (form JV-182) and do not write the address on this form.* Check here if form JV-182 is attached.**4** Child's or youth's information:

a. Name: _____

b. Date of birth: _____

c. Attorney (if known): _____

d. The child or youth lives with or in a (check all that apply):

- parent legal guardian relative
 foster home group home I don't know

e. Name of the person the child or youth lives with or the place where he or she lives: _____

Address: _____

 Check here if unknown.

Name of child or youth: _____

5 Information about parents, legal guardians, and others:

a. Names of parents or legal guardians:

Check here if unknown.)

b. Address of parent/legal guardian: _____

Check here if unknown.)

c. Address of parent/legal guardian: _____

Check here if unknown.)

d. Indian tribe (if applicable and known): _____

e. CASA volunteer (if applicable and known): _____

f. Educational rights holder (if applicable and known): _____

g. Social worker or probation officer (if applicable and known): _____

If you are asking the court to recognize your relationship with your brother or sister but not asking the court to change an order, you may skip to item 8.

6 On (date, if known): _____ the judge made the following order that I think should be changed:

7 What has happened since that order that might change the judge's mind? (Give new information that the judge did not have when the order was made):

8 What new order or orders do you want the judge to make now?

9 Why would the requested order or action be better for the child or youth?

10 Check here if you need more space for any of the answers. Attach a sheet of paper and write "JV-180" at the top of the page. Number of pages attached: _____



Case Number: _____

Name of child or youth: _____

11 I have had a copy of my request sent to the people listed below, as applicable. I have checked the correct box to the right of each name to show whether, as far as I know, that person agrees with my request.

If you do not have an attorney, the clerk will send notice and copies of your request to all persons required to receive notice under Welfare and Institutions Code sections 297 and 386 and rules 5.524 and 5.570 of the California Rules of Court.

Name	Agree	Disagree	Don't Know	Not Applicable
Child (if 10 years old, or older) or youth: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Child's or youth's attorney: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Parent: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Parent: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Legal guardian: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Legal guardian: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Social worker: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Probation officer: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Current caregiver/foster parent: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Preadoptive parent: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
CASA volunteer: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Educational rights holder: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Indian tribe: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Indian custodian: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sibling (if petition filed & 10+ years old:) _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sibling's caregiver: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sibling's attorney: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Attorney for parent/legal guardian: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Attorney for parent/legal guardian: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
County counsel: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
District attorney: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

12 You can ask the judge to make a decision without a court hearing if all the people named above agree with your request. Check here if you want a decision without a hearing.

13 If anyone disagrees with your request, please explain why (if known):

14 I declare under penalty of perjury under the laws of the State of California that the information in this form is true and correct to the best of my knowledge.

Date: _____

Type or print name



Signature

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): <hr/>	FOR COURT USE ONLY
TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____ STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
CASE NAME: _____	
NOTICE OF INTENT TO FILE WRIT PETITION AND REQUEST FOR RECORD TO REVIEW ORDER SETTING A HEARING UNDER WELFARE AND INSTITUTIONS CODE SECTION 366.26 (California Rules of Court, Rule 8.450)	CASE NUMBER: _____

NOTICE

The juvenile court has decided it will make a permanent plan for this child that may result in the termination of your parental rights and adoption of the child. If you want an appeals court to review the juvenile court's decision, you must first tell the juvenile court by filing a Notice of Intent. You may use this form as your Notice of Intent. In most cases, you have only 7 days from the court's decision to file a Notice of Intent. Please see page 2 for your specific deadline for filing this form.

1. Petitioner's name: _____
2. Petitioner's address: _____
3. Petitioner's phone number: _____
4. Petitioner is
 - a. parent (name): _____
 - b. guardian _____
 - c. county welfare agency _____
 - d. child _____
 - e. other (state relationship to child or interest in the case): _____
5. Child's name: _____ Child's date of birth: _____
6. a. On (date): _____ the juvenile court made an order setting a hearing under Welfare and Institutions Code section 366.26. Petitioner intends to file a writ petition to challenge the findings and orders made by the court on that date and requests that the clerk assemble the record.
- b. List all known dates of the hearing that resulted in the order: _____
7. The hearing under Welfare and Institutions Code section 366.26 is set for (date, if known): _____

Date: _____

(TYPE OR PRINT NAME)
(SIGNATURE OF PETITIONER ATTORNEY)

The Notice of Intent to File Writ Petition must be signed by the person who intends to file the writ petition or by the attorney of record.

PLEASE READ THE BACK OF THIS FORM FOR IMPORTANT INFORMATION AND DEADLINES

APPELLATE CASE TITLE:	APPELLATE CASE NUMBER:
-----------------------	------------------------

WHAT WILL HAPPEN AT THE HEARING TO MAKE A PERMANENT PLAN?

- The court may order the termination of parental rights and adoption of the child.
- The court may order a legal guardianship for the child.
- The court may order a permanent plan of placement of the child with a fit and willing relative.
- The court may order a permanent plan of placement of the child in a foster home.

The above options are listed in the normal order of preference, because the main goal is to give the child a stable and permanent living situation.

SEE WELF. & INST. CODE, § 366.26 FOR MORE INFORMATION

HOW DO I CHALLENGE THE COURT'S DECISION TO SET A HEARING TO MAKE A PERMANENT PLAN?

- File this Notice of Intent to File Writ Petition and Request for Record in the juvenile court within the time specified below in the next box. This will let the court know you intend to file a writ petition, and the court will prepare the record.
- You will be notified after the record is filed in the Court of Appeal, and you will get copies of the record. **You have 10 days after the record is filed in the Court of Appeal to file and serve your writ petition.**
- You may use the optional Judicial Council form JV-825 to complete your writ petition, or, if you have an attorney, your attorney can write the writ petition for you.
- After you file a writ petition in the Court of Appeal, you must send copies of the petition to all of the parties in the case, to the child's CASA volunteer, to the child's present caregiver, and to any de facto parent who has standing to participate in the juvenile court proceedings. With your writ petition, you must file a Proof of Service confirming you have sent a copy of the petition to these people.

SEE WELF. & INST. CODE, § 366.26(l); CAL. RULES OF COURT, RULES 8.450-8.452

WHEN DO I HAVE TO FILE MY NOTICE OF INTENT TO FILE WRIT PETITION AND REQUEST FOR RECORD?

- If you were present when the court set the hearing to make a permanent plan, you must file the Notice of Intent within 7 days from the date the court set the hearing.
- If you were not present in court but were given notice by mail of the court's decision to set a hearing to make a permanent plan and you live in California, you must file the Notice of Intent within 12 days from the date the clerk mailed the notification.
- If you were not present in court but were given notice by mail of the court's decision to set a hearing to make a permanent plan and you live in a state other than California, you must file the Notice of Intent within 17 days from the date the clerk mailed the notification.
- If you were not present in court but were given notice by mail of the court's decision to set a hearing to make a permanent plan and you live outside the United States, you must file the Notice of Intent within 27 days from the date the clerk mailed the notification.
- If you are a party in a custodial institution you must give the Notice of Intent to custodial officials for mailing within the time specified in this box.

SEE CAL. RULES OF COURT, RULES 8.450, 5.540(c)

- If the order setting the hearing was made by a referee not acting as a temporary judge, you have an additional 10 days to file the Notice of Intent.

SEE WELF. & INST. CODE, §§ 248-252; CAL. RULES OF COURT, RULES 5.538, 5.540

SIGNATURE ON NOTICE OF INTENT

- Must be signed by the person who intends to file the writ petition, or
- By the attorney of record

COURT OF APPEAL, _____ APPELLATE DISTRICT, DIVISION _____	Court of Appeal Case Number (court will provide): _____
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In re the Matter of: _____ (Name and date of birth of subject child or children)
Petitioners
v.
Superior Court of California, County of _____
Respondent
Real Party in Interest

(FILE STAMP)

Superior Court No. _____

Superior Court No. _____

Related Appeal Pending
 Appellate Court No. _____

PETITION FOR EXTRAORDINARY WRIT
 (California Rules of Court, Rules 8.452, 8.456)

STAY REQUESTED (see item 11).

INSTRUCTIONS—READ CAREFULLY

- Read the entire form *before* completing any items.
- This petition must be clearly handprinted in ink or typed.
- Complete all applicable items in the proper spaces. If you need additional space, add an extra page and mark the additional page box.
- If you are filing this petition in the Court of Appeal, file the original and 4 copies.
- If you are filing this petition in the California Supreme Court, file the original and 10 copies.
- Notify the clerk of the court in writing if you change your address after filing your petition.

Individual Courts of Appeal or the Supreme Court may require documents other than or in addition to this form. Contact the clerk of the reviewing court for local requirements.

CASE NAME:	CASE NUMBER:
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1. This *Petition for Extraordinary Writ (Juvenile Dependency)* is filed on behalf of petitioner.
 - a. Name:
 - b. Address:
 - c. Phone number:

2. Petitioner is the

<ol style="list-style-type: none"> a. <input type="checkbox"/> child b. <input type="checkbox"/> mother c. <input type="checkbox"/> father d. <input type="checkbox"/> guardian 	<ol style="list-style-type: none"> e. <input type="checkbox"/> de facto parent f. <input type="checkbox"/> county welfare department g. <input type="checkbox"/> district attorney h. <input type="checkbox"/> other (<i>state relationship to child or interest in the case</i>):
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3. The *Petition for Extraordinary Writ (Juvenile Dependency)* pertains to the following child or children (*specify number of children*): _____
 - a. Name of child:
Child's date of birth:
 - b. Name of child:
Child's date of birth:
 - c. Name of child:
Child's date of birth:
 - d. Name of child:
Child's date of birth:

Continued in Attachment 3.

4. This petition seeks extraordinary relief from the order of (*name*):
 - a. setting a hearing under Welfare and Institutions Code section 366.26 to consider termination of parental rights, guardianship, or another planned permanent living arrangement.
OR
 - b. designating a specific placement after a placement order under Welfare and Institutions Code section 366.28.
OR
 - c. *other (specify)*:

5. The challenged order was made on (*date of hearing*):

6. The order was erroneous on the following grounds (*specify*):

7.
 - a. Supporting documents are attached.
 - b. Because of exigent circumstances, supporting documents are not attached (*explain*):

8. Summary of factual basis for petition (*Petitioner need not repeat facts as they appear in the record. Petitioner must reference each specific portion of the record, its significance to the grounds alleged, and disputed aspects of the record*):

Additional pages attached.

CASE NAME: _____	CASE NUMBER: _____
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9. Points and authorities in support of the petition are attached (*number of pages attached*): _____

10. Petitioner requests that this court direct the trial court to (*check all that apply*):

- a. Vacate the order for hearing under section 366.26.
- b. Vacate the order designating a specific placement after termination of parental rights under section 366.28.
- c. Remand for hearing.
- d. Order that reunification services be
 provided continued.
- e. Order visitation between the child and petitioner.
- f. Return or grant custody of the child to petitioner.
- g. Terminate dependency.
- h. Other (*specify*):

11. Petitioner requests a temporary stay pending the granting or denial of the petition for extraordinary writ.

- a. Hearing date (*must specify*):
- b. Reasons for stay (*specify*):

Additional pages attached.

12. Total number of pages attached: _____

13. I am the petitioner attorney for petitioner.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, except for matters that are stated on my information and belief, and as to those matters, I believe them to be true.

Date:

(TYPE OR PRINT NAME)

▶ _____
(SIGNATURE OF PETITIONER ATTORNEY)

Address:

CONSENT FOR CONTACT**Distribution Instructions:**

Original: Agency/Department

Copy: Person Signing

1. Please complete both sides of this form.

2. **This form must be witnessed by either a representative of the California Department of Social Services (CDSS) or a California (CA) adoption agency licensed by CDSS, or notarized by a Notary Public.*** If the signing of this form is witnessed by a CDSS or adoption agency representative, photo identification of the person signing must be obtained and noted on this form. **THIS FORM WILL BE RETURNED TO YOU IF IT IS NOT WITNESSED OR NOTARIZED**

DESIGNATE ONE:

I am the

- Birth Parent
- Adult Adoptee
(age 18 or older)

PART A. To be completed by person signing consent BIRTH PARENT:

By signing this form, I voluntarily give my consent to the CDSS or licensed adoption agency to disclose my name and address to my adult biological child who was adopted so he/she may contact me.

 ADULT ADOPTEE:

By signing this form, I voluntarily give my consent to the CDSS or licensed adoption agency to disclose my name and address to my birth parent(s) so he/she may contact me.

I understand that the CDSS does not provide search services to locate birth parents or adoptees and that these parties must contact CDSS or the licensed adoption agency to request a Consent for Contact (AD 904) form.

I understand that the birth parent(s) and the adoptee must sign a consent before CDSS or the licensed adoption agency may disclose identifying information and that signing this consent does not necessarily ensure that a contact will be made pursuant to Family Code Section 9204. I understand that the law prohibits CDSS or the licensed adoption agency from soliciting, directly or indirectly, the execution of such a consent.

I understand that I should keep the CDSS or the licensed adoption agency informed of my current name and address.

I understand I have the right to rescind this consent at any time by notifying CDSS or the licensed adoption agency in writing.

NAME (PLEASE PRINT)			OTHER NAME(S) BY WHICH I HAVE BEEN KNOWN	
STREET ADDRESS	CITY	STATE	ZIP CODE	TELEPHONE NUMBER ()
SIGNATURE			DATE	

PART B. To be completed by a representative of CDSS or a CA licensed adoption agency. If Part B or C is completed, do not complete Part D.

SIGNATURE OF CDSS /ADOPTION AGENCY REPRESENTATIVE	DATE	TELEPHONE NUMBER ()
AGENCY/DEPARTMENT NAME	ADDRESS	

IDENTIFICATION OF BIRTH PARENT/ADULT ADOPTEE (SPECIFY, I.E., DRIVER'S LICENSE, PASSPORT, ETC.)

PART C. Check if applicable. Notarized signature has been previously submitted to CDSS or a CA licensed adoption agency.**PART D.** To be completed by a Notary Public ONLY IF Part B or C is not completed.*****COMPLETED BY Notary Public*******The Notary Public must staple the Acknowledgement document to this form and sign and date below.**

SIGNATURE OF NOTARY	DATE
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***Definition of Notary Public:** A Notary Public is a public officer authorized by law to certify documents and to confirm your identity. Notaries may be located at most banks and credit unions or listed in the yellow pages of your local phone directory.

In order to locate the correct adoption file, please assist us by completing the information below. If you do not know this information, please write "unknown".

Adoptee's name, birth date, city and state of birth

All names used by birth mother at the time of the adoption (include middle and maiden name(s) and name of birth father.)

Full names of both adoptive parents

Adoptees: Please check the box if you also want to receive nonidentifying background information about your birth parents.

Birth Parents: Please check the box if you also want to receive nonidentifying information about the family that adopted your child.

Refer to Family Code Sections 8706; 8817 for a full description of nonidentifying information.

What Happens to the Consent

The consent may be sent directly to the adoption agency which handled the adoption, if known, or to the Department's Central Office: Adoptions Support Unit, Department of Social Services, 744 P Street, M.S. 8-12-31, Sacramento, CA 95814. If the adoption was an independent (private) adoption, the consent will be acknowledged and placed in the adoption file and you will be sent any available information you requested. If the adoption was an agency adoption, the consent will be returned to you with the name and address of the correct agency so you may send it directly to that agency.

Clerk stamps date here when form is filed.

① Child's name: _____

- ② I am not the parent of this child. I do not wish to participate in juvenile court proceedings about this child. I understand that:
- I will receive no further notices of hearings in this matter.
 - I will not get a chance for custody of this child or court-ordered visitation with this child.
 - If the child cannot be returned to a custodial parent or guardian, it is possible that all parental rights will be terminated and the child will be adopted.
 - This denial applies only to the juvenile court proceedings and does not prevent the local child support agency from seeking to have another court determine that I am the child's parent for purposes of support of the child. If that occurs, I will have the right to a court trial, to confront and cross-examine witnesses and present evidence on my behalf, and to be represented by a lawyer who may be appointed if I cannot afford to hire one.

Fill in court name and street address:

Superior Court of California, County of _____

Fill in case number if known:

Case Number: _____

③ I know I can have an attorney for this.a. I want the judge to appoint an attorney for me.

or

b. I give up my right to an attorney.④ I do not know if I am the parent of the child and I consent to request blood or DNA testing to determine whether or not I am the biological parent. I understand that:

- If I am judged to be the parent of the child, I will have to support the child until the child reaches the age of 18 and has completed high school, or completes high school between the ages of 18 and 19, or reaches the age of 19, whichever comes first.
- If I do not support the child when I have the money to do so, I may be charged with a crime under Penal Code section 270 and, if convicted, could be sentenced to pay a fine of up to \$2,000 and spend up to one year in county jail, or one year and a day in state prison.

⑤ I believe I am the child's parent and request that the court enter a judgment of parentage. I understand that:

- If I am judged to be the parent of the child, I will have to support the child until the child reaches the age of 18 and has completed high school, or completes high school between the ages of 18 and 19, or reaches the age of 19, whichever comes first.
- If I do not support the child when I have the money to do so, I may be charged with a crime under Penal Code section 270 and, if convicted, could be sentenced to pay a fine of up to \$2,000 and spend up to one year in county jail or one year and a day in state prison.

IMPORTANT NOTICE ON PAGE 4. READ BEFORE SIGNING.

Case Number: _____

Your name: _____

- 6 I have already established parentage of the child by *(if known)*:
 - a. A voluntary declaration signed by me on *(date)*: _____
 - A copy is attached.
 - b. A court judgment of parentage on *(date)*: _____ in *(county)*: _____
 - A copy is attached.

- 7 I am married to the child's parent. Date of marriage: _____

- 8 I believe I am the parent of the child and request that the court find that I am the presumed parent of the child.
 - a. The child lived with me from _____ to _____ and from _____ to _____.
 - b. I have told the following people that the child is mine:

Check here if you need more space. Attach a sheet of paper and write "JV-505, Item 8b—People I Have Told the Child Is Mine" at the top. Number of pages attached: _____

- c. I have participated in the following activities with the child *(for example, school, daycare, sports)*:

Check here if you need more space. Attach a sheet of paper and write "JV-505, Item 8c—Child's Activities" at the top. Number of pages attached: _____

Case Number: _____

Your name: _____

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d. I have given the following money or things to the child:

Check here if you need more space. Attach a sheet of paper and write "JV-505, Item 8d—Things Given to Child" at the top. Number of pages attached: _____

e. The child has spent the following time with my family:

Check here if you need more space. Attach a sheet of paper and write "JV-505, Item 8e—Other Information" at the top. Number of pages attached: _____

f. Other information I want the court to know is:

Check here if you need more space. Attach a sheet of paper and write "JV-505, Item 8f—Other Information" at the top. Number of pages attached: _____

Date: _____

Type or print your name

▶ _____
Sign your name

Date: _____

Type or print your attorney's name

▶ _____
Signature of your attorney

Case Number:

Your name:

To the alleged parent of the child:

- As the child's alleged parent, you will not get services to help you get your child back. You will not automatically get the child to live with you or your relatives.
- If the judge finds that you are the child's parent, the judge may order services to help you get the child back, but does not have to order services for you.
- If you say that you are not the child's parent and will not take a test to find out if you are the parent, and do not want services to help you get the child back, you can fill out this form and not be a part of this case.
- You can have a trial and ask the judge to decide if you are the child's parent. You can pay a lawyer to be at the trial. If you cannot afford a lawyer, the judge may appoint one for you for free. At a trial, you can ask witnesses questions and give evidence to the judge.
- If you want the court to decide if you are the child's parent, fill out this form.