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## INVITATION TO COMMENT SPR11-44

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Title	Action Requested
Family Law: Postjudgment Address Verification and Governmental Motions for Modifying or Enforcing Child Support	Review and comment
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Adopt form FL-686; revise forms FL-335, FL-640, FL-661, FL-662, FL-676, FL-677, FL-679, FL-680, and FL-685; and approve form FL-334	January 1, 2012
Proposed by	Contact
Family and Juvenile Law Advisory Committee	Anna L. Maves, Senior Attorney
Hon. Kimberly Nystrom-Geist, Cochair	916-263-8624
Hon. Dean Stout, Cochair	<a href="mailto:anna.maves@jud.ca.gov">anna.maves@jud.ca.gov</a>
	Gabrielle D. Selden, Attorney
	415-865-8085
	<a href="mailto:gabrielle.selden@jud.ca.gov">gabrielle.selden@jud.ca.gov</a>

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### Discussion

Effective January 1, 2011, Assembly Bill 939 (Assembly Committee on Judiciary; Stats. 2010, ch. 352) amended Family Code section 215 to allow a party to serve a postjudgment motion to modify a child custody, visitation, or child support judgment or permanent order on the other party or parties by first-class mail or airmail, postage prepaid. The law also provides that, for any party served by mail, the proof of service must include an address verification.

To implement the above statutory changes, the Family and Juvenile Law Advisory Committee recommends the following:

1. Revision of
  - *Proof of Service by Mail* (form FL-335);
  - *Notice and Motion to Cancel (Set Aside) Support Order Based on Presumed Income (Governmental)* (form FL-640);
  - *Notice of Motion and Declaration for Joinder of Other Parent in Governmental Action* (form FL-661);
  - *Responsive Declaration to Motion for Joinder of Other Parent—Consent Order of Joinder (Governmental)* (form FL-662);

*The proposals have not been approved by the Judicial Council and are not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee. These proposals are circulated for comment purposes only.*

- *Request for Judicial Determination of Support Arrearages or Adjustment of Arrearages Due to Incarceration or Involuntary Institutionalization (Governmental)* (form FL-676);
  - *Notice of Opposition and Notice of Motion on Claim of Exemption (Governmental)* (form FL-677);
  - *Request for Telephone Appearance (Governmental)* (form FL-679), *Notice of Motion (Governmental)* (form FL-680); and
  - *Response to Governmental Notice of Motion or Order to Show Cause* (form FL-685)
2. *Approval of Declaration Re Address Verification—Postjudgment Request to Modify a Child Custody, Visitation, or Child Support Order* (form FL-334); and
  3. *Adoption of Proof of Service by Mail (Governmental)* (form FL-686)

### **Family Law Forms**

*Proof of Service by Mail* (form FL-335) would be revised to include a new item with a check box to specify that service of a request to modify a child custody, visitation, or child support judgment or permanent order must include a declaration verifying the address of the party being served. The form would reference proposed new form *Declaration Re Address Verification—Postjudgment Request to Modify a Child Custody, Visitation, or Child Support Order* (form FL-334) as an optional declaration form that may be used and attached to the proof of service.

*Declaration Re Address Verification—Postjudgment Request to Modify a Child Custody, Visitation, or Child Support Order* (form FL-334) would serve as an optional address verification declaration that is required under Family Code section 215. Modeled after the existing form *Declaration in Support of Attorney’s Motion to Be Relieved as Counsel—Civil* (form MC-052), form FL-334 would require that the declarant verify the current address of the party being served within the 30 days immediately preceding the signing of the declaration and specify how he or she verified that address. Also, as with form MC-052, the declarant would be able to provide a service address that is the last known address of the party being served. Additional space would be provided for the declarant to state the efforts made to obtain the other party’s current address, and the form would also include a notice to the declarant that failure to diligently try to locate the other party’s current address may result in the court not hearing the motion.

Postjudgment motions filed by the local child support agency will have a different address verification procedure because of the automated verification process used by the local child support agency as discussed below. A proof of service for use by the local child support agency is discussed below.

### **Governmental Child Support Forms**

Currently there is no Judicial Council governmental proof of service form for motions filed by the local child support agency. The local child support agencies (LCSAs) provide services in over 1.5 million child support cases statewide. The LCSAs generate all pleadings from a federally certified statewide child support case management system. This case management system is programmed to verify addresses through interfaces with various state and federal data bases including the Federal Case Registry (FCR), National Directory of New Hires (NDNH), National Change of Address (NCOA), and New Employee Registry (NER from state

Employment Development Department). The process for verifying addresses is standard for all LCSAs and does not vary from case to case.

Given the highly automated process for address verifications for cases with services provided by the local child support agency, developing a governmental proof of service form with standardized language regarding the address verifications for these cases is the most effective way to comply with the requirements of Family Code section 215.

Thus, in order to implement the provision of AB 939, the Family and Juvenile Law Advisory Committee recommends that the Judicial Council adopt *Proof of Service by Mail (Governmental)* (form FL-686). This would serve as a mandatory form for use by the local child support agencies and would include a standard address verification declaration that references that the address was verified using the Department of Child Support Services' statewide automated child support enforcement system.

In addition to adopting a new governmental proof of service by mail form, a number of other governmental Judicial Council forms would be revised to comply with the requirements of AB 939. The Judicial Council has adopted a number of governmental forms that include a proof of service as part of the form. These governmental forms are routinely filed by parents whose support obligation is being enforced by the local child support agency. These forms would be revised to parallel the language and declaration process proposed for the family law forms.

*Notice and Motion to Cancel (Set Aside) Support Order Based on Presumed Income* (form FL-640) would be revised to include a section that specifies that the service of the motion included an address verification declaration and would reference the proposed new form, *Declaration Re Address Verification—Postjudgment Request to Modify a Child Custody, Visitation, or Child Support Order* (form FL-334).

*Notice of Motion and Declaration for Joinder of Other Parent in Governmental Action* (form FL-661) would be revised to include a section that specifies that the service of the motion included an address verification declaration and would reference the proposed new declaration, form FL-334.

*Responsive Declaration to Motion for Joinder of Other Parent—Consent Order of Joinder* (form FL-662) would be revised to include a section that specifies that the service of the motion included an address verification declaration and would reference the proposed new declaration, form FL-334.

*Request for Judicial Determination of Support Arrearages or Adjustment of Arrearages Due to Incarceration or Involuntary Institutionalization* (form FL-676) would be revised to include a section that specifies that the service of the motion included an address verification declaration and would reference the proposed new declaration, form FL-334.

*Notice of Opposition and Notice of Motion on Claim of Exemption* (form FL-677), which is a form only filed by the local child support agency, would be revised to delete the existing proof of service by mail. The LCSA will then be able to attach the new *Proof of Service by Mail (Governmental)* (form FL-686), which would meet the requirements of AB 939.

*Request for Telephone Appearance* (form FL-679) would be revised to include a section that specifies that the service of the motion included an address verification declaration and would reference the proposed new declaration, form FL-334.

*Notice of Motion (Governmental)* (form FL-680), which is only filed by the local child support agency, would be revised to include a standard address verification declaration that references the address was verified using the Department of Child Support Services' statewide automated child support enforcement system.

*Response to Governmental Notice of Motion or Order to Show Cause* (form FL-685) would be revised to include a section that specifies that the service of the motion included an address verification declaration and would reference the proposed new declaration, form FL-334.

The proposed new and revised forms are attached at pages 5–31.

AB 939 is attached at pages 32–47.



PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT:	CASE NUMBER:
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4. c.  I conducted a search (*describe; for example, Internet, telephone, tax assessor's office*):

d.  I tried other methods (*specify*):

e.  Additional information is contained in Attachment 4e.

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

Date:

\_\_\_\_\_

(TYPE OR PRINT NAME)



\_\_\_\_\_

(SIGNATURE OF PERSON COMPLETING THIS FORM)

### NOTICE AND SERVICE INFORMATION

If you want to change a child custody, visitation, or child support judgment or permanent order, a person at least 18 years of age or older must serve the request to modify the judgment or permanent order and other documents on the other party by (1) personal delivery or (2) first-class mail or airmail, postage prepaid. You cannot serve documents if you are a party to the action. The documents must be served on the other party; they must not be served on the other party's attorney.

**If your request to change a judgment or permanent orders for child custody, visitation, or child support is served by mail, you must:**

1. Complete this form to provide the current or last known address of the other party and indicate how you obtained the other party's current or last known address.
2. Attach a copy of this completed form to the proof of service by mail when the request for a postjudgment modification of child custody, visitation, or child support is served on the other party; and
3. File with the clerk of the court the original form FL-334.

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, State Bar number, and address):</i>    TELEPHONE NO.: _____ FAX NO. <i>(Optional):</i> _____ E-MAIL ADDRESS <i>(Optional):</i> _____ ATTORNEY FOR <i>(Name):</i> _____	<b>FOR COURT USE ONLY</b>   <b>DRAFT Not Approved by the Judicial Council</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT:	CASE NUMBER:  HEARING DATE: HEARING TIME: DEPT.:
<b>PROOF OF SERVICE BY MAIL</b>	

**NOTICE: To serve temporary restraining orders you must use personal service (see form FL-330).**

1. I am at least 18 years of age, not a party to this action, and I am a resident of or employed in the county where the mailing took place.
2. My residence or business address is:
  
3. I served a copy of the following documents *(specify):*

by enclosing them in an envelope AND

- a.  **depositing** the sealed envelope with the United States Postal Service with the postage fully prepaid.
- b.  **placing** the envelope for collection and mailing on the date and at the place shown in item 4 following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

4. The envelope was addressed and mailed as follows:
  - a. Name of person served:
  - b. Address:
  
  - c. Date mailed:
  - d. Place of mailing *(city and state):*

5.  I served a request to modify a child custody, visitation, or child support judgment or permanent order, which included an address verification declaration. *(Declaration Re Address Verification—Postjudgment Request to Modify a Child Custody, Visitation, or Child Support Order (form FL-334) may be used for this purpose.)*

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

Date:

\_\_\_\_\_  
(TYPE OR PRINT NAME)



\_\_\_\_\_  
(SIGNATURE OF PERSON COMPLETING THIS FORM)

## INFORMATION SHEET FOR PROOF OF SERVICE BY MAIL

Use these instructions to complete the *Proof of Service by Mail* (form FL-335).

A person at least 18 years of age or older must serve the documents. There are two ways to serve documents: (1) personal delivery and (2) by mail. See the *Proof of Personal Service* (form FL-330) if the documents are being personally served. The person who serves the documents must complete a proof of service form for the documents being served.

**You cannot serve documents if you are a party to the action.**

### INSTRUCTIONS FOR THE PERSON WHO SERVES THE DOCUMENTS (TYPE OR PRINT IN BLACK INK)

You must complete a proof of service for each package of documents you serve. For example, if you serve the respondent and the other parent, you must complete two proofs of service, one for the respondent and one for the other parent.

*Complete the top section of the proof of service forms as follows:*

First box, left side: In this box print the name, address, and phone number of the person for whom you are serving the documents.

Second box, left side: Print the name of the county in which the legal action is filed and the court's address in this box. Use the same address for the court that is on the documents you are serving.

Third box, left side: Print the names of the petitioner/plaintiff, respondent/defendant, and other parent in this box. Use the same names listed on the documents you are serving.

First box, top of form, right side: Leave this box blank for the court's use.

Second box, right side: Print the case number in this box. This number is also stated on the documents you are serving.

Third box, right side: Print the hearing date, time, and department. Use the same information that is on the documents you are serving.

**You cannot serve a temporary restraining order by mail. You must serve those documents by personal service.**

1. You are stating that you are at least 18 years old and that you are not a party to this action. You are also stating that you either live in or are employed in the county where the mailing took place.
2. Print your home or business address.
3. List the name of each document that you mailed (the exact names are listed on the bottoms of the forms).
  - a. Check this box if you put the documents in the regular U.S. mail.
  - b. Check this box if you put the documents in the mail at your place of employment.
4.
  - a. Print the name you put on the envelope containing the documents.
  - b. Print the address you put on the envelope containing the documents.
  - c. Write in the date that you put the envelope containing the documents in the mail.
  - d. Write in the city and state you were in when you mailed the envelope containing the documents.
5. Check this box if you are serving an address verification form (required for service by mail of a postjudgment request to change a child custody, visitation, or child support order).
6. You are stating under penalty of perjury that the information you have provided is true and correct.

**Print your name, fill in the date, and sign the form.**

*If you need additional assistance with this form, contact the family law facilitator in your county.*

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):  TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	<p style="text-align: center;">FOR COURT USE ONLY</p> <p style="text-align: center; font-size: 24pt; font-weight: bold;">DRAFT Not Approved by the Judicial Council</p>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b>  STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER/PLAINTIFF:  RESPONDENT/DEFENDANT:  OTHER PARENT:	
<p style="text-align: center;"><b>NOTICE AND MOTION TO CANCEL (SET ASIDE) SUPPORT ORDER BASED ON PRESUMED INCOME</b></p>	CASE NUMBER: _____

If the support order is based on presumed income, you may file this motion and ask the court to cancel (set aside) the support order. If the court agrees with you, the court will issue another order based on the actual income, earning capacity, or income allowable by law. *You must file the original of this motion and the attachments specified in item 4 below with the court clerk within one year from the date the first collection of support was made and serve a copy on the local child support agency and any other party. Keep a copy of this motion for your records.*

1. To:  Petitioner  Respondent  Local Child Support Agency  Other (specify):

A hearing on this motion will be held as follows (see instructions on how to get a hearing date):

a. Date:	Time:	<input type="checkbox"/> Dept.:	<input type="checkbox"/> Div.:	<input type="checkbox"/> Room:
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b. Address of court:  same as noted above  other (specify):

2. I am asking the court to cancel (set aside) the child support order in this case.
3. I am asking the court to issue another order because the current order is based on a presumed income that is different from the actual income.
4.  Attached is an *Income and Expense Declaration* (form FL-150) or a *Financial Statement (Simplified)* (form FL-155), or other information concerning income for any relevant years.
5.  Attached is my *Answer to Complaint or Supplemental Complaint Regarding Parental Obligations (Governmental)* (form FL-610).
6.  My address and telephone number for receipt of all notices and court dates are as follows:

Address:  
 City, state, and zip code:  
 Home telephone:  
 Work telephone:

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

Date:

\_\_\_\_\_ \_\_\_\_\_  
 (TYPE OR PRINT NAME) (SIGNATURE)

**This case may be referred to a court commissioner for hearing. By law, court commissioners do not have the authority to issue final orders and judgments in contested cases unless they are acting as temporary judges. The court commissioner in your case will act as a temporary judge unless, before the hearing, you or any other party objects to the commissioner acting as a temporary judge. The court commissioner may still hear your case to make findings and recommendations to a judge. However, if you object to the commissioner acting as a temporary judge, an order will not be made until a judge reviews your case.**

PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT:	CASE NUMBER:
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**PROOF OF SERVICE**

1. At the time of service I was at least 18 years of age and not a party to the legal action.
2. My residence or business address is *(specify)*:
3. I served a copy of the foregoing *Notice and Motion to Cancel (Set Aside) Support Order Based on Presumed Income (Governmental)* and all attachments as follows *(check either a, b, or c for each person served)*:

a.  **Personal delivery.** I personally delivered a copy and all attachments as follows:

- |  |   |
|--|---|
| (1) <input type="checkbox"/> Name of party or attorney served: | (2) <input type="checkbox"/> Name of local child support agency served: |
| (a) Address where delivered:                                   | (a) Address where delivered:  |
| (b) Date delivered:  | (b) Date delivered:   |
| (c) Time delivered:  | (c) Time delivered:   |

b.  **Mail.** I am a resident of or employed in the county where the mailing occurred.

- (1) I enclosed a copy in an envelope and
  - (a)  **deposited** the sealed envelope with the United States Postal Service with the postage fully prepaid.
  - (b)  **placed** the envelope for collection and mailing on the date and at the place shown below, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.
- (2)  Name of party or attorney served:                      (3)  Name of local child support agency served:
 

(a) Address:	(a) Address:
(b) Date mailed:	(b) Date mailed:
(c) Place of mailing <i>(city and state)</i> :	(c) Place of mailing <i>(city and state)</i> :

(3) I served this motion/request, which included an address verification declaration (*Declaration Re Address Verification—Postjudgment Request to Modify a Child Custody, Visitation, or Child Support Order (form FL-334)* may be used for this purpose.)

c.  **Other** *(specify code section)*:  
 Additional page is attached.

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

Date:

\_\_\_\_\_  
 (TYPE OR PRINT NAME)

▶

\_\_\_\_\_  
 (SIGNATURE OF PERSON WHO SERVED MOTION)

## INFORMATION SHEET FOR NOTICE AND MOTION TO CANCEL (SET ASIDE) SUPPORT ORDER BASED ON PRESUMED INCOME

These instructions are for parties other than the local child support agency. Please follow these instructions to complete the *Notice and Motion to Cancel (Set Aside) Support Order Based on Presumed Income* (form FL-640) if you do not have a lawyer to represent you. If you have a lawyer, he or she will complete this form.

**WARNING: Do not wait to file your motion. See a lawyer or the family law facilitator for help.**

**This form should be used only if your support order was based on presumed income and the presumed income is different from your actual income.** If you are not sure whether your order is based on presumed income, look at your copy of the *Judgment Regarding Parental Obligations* (form FL-630). If the box for item 3 on the front of the judgment is checked, your support amount is based on presumed income. If it is not checked, your support amount is based on income information that was available then, and you should not use this form (FL-640). If you do not have a copy of the judgment, you can get one from either the court clerk or the local child support agency office.

You must file the completed motion form and attachments with the court clerk within one year of the date of the first collection of support. The address of the court clerk is the same as the one shown for the superior court on the *Judgment Regarding Parental Obligations* (form FL-630). You may have to pay a filing fee. If you cannot afford to pay the filing fee, the court may waive it. For more information about the filing fee and waiver of the filing fee, contact the court clerk. **Keep three copies of the filed motion form and its attachments. Serve one copy on the local child support agency and one copy on the other party.** (See *Information Sheet for Service of Process*, form FL-611.) **The third copy is for your records.**

### INSTRUCTIONS FOR COMPLETING THE NOTICE AND MOTION TO CANCEL (SET ASIDE) SUPPORT ORDER BASED ON PRESUMED INCOME FORM (TYPE OR PRINT FORM IN BLACK INK)

Page 1, first box, top of form, left side: Print your name, address, and telephone number in this box if they are not already there.

Page 1, second box, left side: Print your county's name and the court's address in this box. Use the same address for the court that is on the *Judgment Regarding Parental Obligations* (form FL-630).

Page 1, third box, left side: Print the names of the petitioner/plaintiff, respondent/defendant, and other parent in this box. Use the same names listed on the *Judgment Regarding Parental Obligations* (form FL-630).

Page 1, first box, top of form, right side: Leave this box blank for the court's use.

Page 1, second box, right side: Print your case number in this box. This number is also on the *Judgment Regarding Parental Obligations* (form FL-630).

1. You must contact the court clerk's office and ask that a hearing date be set for this motion. The court clerk will give you the information you need to complete this section.
- 2-3. These sections are asking the court to cancel your child support order and issue another one based on your actual income.
4. **Attach a completed *Income and Expense Declaration* (form FL-150) or *Financial Statement (Simplified)* (form FL-155), or other information concerning income for any relevant years. Also, check the local rules of court for any local requirements.**
5. You may file a completed *Answer to Complaint or Supplemental Complaint Regarding Parental Obligations (Governmental)* (form FL-610). Usually you must file an *Answer to Complaint* with the court clerk within 30 days from the date you are served with the complaint. Talk to a lawyer or the family law facilitator to understand your rights.
6. You must list the address and phone numbers where you can receive all notices and court dates. You must let the court know whenever your address changes. If the court does not have your current address, you may not receive important notices that affect you.

You must date the form, print your name, and sign the form under penalty of perjury. When you sign the form, you are stating that the information you have provided is true and correct.

Top of second page, box on left side: Print the names of petitioner/plaintiff, respondent/defendant, and other parent in this box. Use the same names listed on page 1.

Top of second page, box on right side: Print your case number in this box. Use the same number as the one on page 1. Instructions for completing the *Proof of Service* on page 2 of this form are in the *Information Sheet for Service of Process* (form FL-611). The person who serves the motion and its attachments must fill out this section of the form. **You cannot serve your own motion.**



PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT:	CASE NUMBER:
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### NOTICE TO THE "OTHER PARENT"

If this motion is granted, the "Other Parent" will become a party to this action. Either parent may then raise issues concerning support, custody, visitation, and restraining orders. Other issues may not be raised in this action. Either parent can go to court to modify the support order, but the local child support agency must first be given notice of the hearing date.

You can also go to court to enforce your support order, but you must first give the local child support agency advance notice that you intend to file your own enforcement action. (See form FL-645.) If the local child support agency does not respond to your notice within 30 days, or if the local child support agency notifies you that you can proceed, you may then file your own enforcement action as long as all support is payable through the local child support agency office.

You should tell the local child support agency everything you know about the obligor's earnings and assets. If you receive welfare, the local child support agency may agree to settle any parentage or support issues. If you do not receive welfare, the local child support agency cannot settle any support issue without your consent. The local child support agency also cannot negotiate, settle, or contest any issues of custody, visitation, or restraining orders.

PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT:	CASE NUMBER:
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**PROOF OF SERVICE**

1. At the time of service I was at least 18 years of age and not a party to the legal action.

2. My residence or business address is (specify):

3. I served a copy of the foregoing *Notice of Motion and Declaration* as follows (check either a or b for each person served):

a.  **Personal delivery.** I personally delivered a copy and all attachments as follows:

(1)  Name of party or attorney served:

(2)  Name of local child support agency served:

(a) Address where delivered:

(a) Address where delivered:

(b) Date delivered:

(b) Date delivered:

(c) Time delivered:

(c) Time delivered:

b.  **Mail.** I am a resident of or employed in the county where the mailing occurred.

(1) I enclosed a copy in an envelope and

(a)  **deposited** the sealed envelope with the United States Postal Service with the postage fully prepaid.

(b)  **placed** the envelope for collection and mailing on the date and at the place shown below, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

(2)  Name of party or attorney served:

(3)  Name of local child support agency served:

(a) Address:

(a) Address:

(b) Date mailed:

(b) Date mailed:

(c) Place of mailing (city and state):

(c) Place of mailing (city and state):

(3) I served this motion/request, which included an address verification declaration (*Declaration Re Address Verification—Postjudgment Request to Modify a Child Custody, Visitation, or Child Support Order* (form FL-334) may be used for this purpose.)

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

Date:

\_\_\_\_\_  
(TYPE OR PRINT NAME)

\_\_\_\_\_  
(SIGNATURE OF PERSON WHO SERVED MOTION)

## INFORMATION SHEET FOR NOTICE OF MOTION AND DECLARATION FOR JOINDER OF OTHER PARENT IN GOVERNMENTAL ACTION

Please follow these instructions to complete the *Notice of Motion and Declaration for Joinder of Other Parent in Governmental Action* (form FL-661) if you do not have an attorney representing you. Your attorney, if you have one, should complete this form.

If this motion is granted, the “Other Parent” will become a party to this action. Either parent may then raise issues concerning support, custody, visitation, and restraining orders. Other issues may not be raised in this action. The local child support agency cannot assist you with or negotiate, settle, or contest any issues of custody, visitation, or restraining orders. Either parent can go to court to modify the support order, but the local child support agency must first be given notice of the hearing date. The other parent can also file an action to enforce the support order, but only after giving advance notice to the local child support agency.

**This form should be used if a parent is receiving child support services through the local child support agency’s office, but the parent is not listed as a party in the support order or judgment.** If both parents’ names are listed on your most recent support order or judgment as a petitioner/plaintiff, respondent/defendant, or other parent, you do not need to complete this motion. If you do not have a copy of your most recent support order or judgment, you can get one from either the court clerk or the local child support agency.

You must file the completed motion with the court clerk. The address of the court clerk is the same as the one shown for the superior court on your most recent support order or judgment. You may have to pay a filing fee. If you cannot afford to pay the filing fee, contact the court clerk. **Keep three copies of the filed motion. Serve one copy on the Other Parent with a blank *Responsive Declaration to Motion for Joinder of Other Parent—Consent Order of Joinder* (form FL-662), serve the second copy of the motion on the local child support agency, and keep the third copy for your records. (See *Information Sheet for Service of Process*, form FL-611.)**

### INSTRUCTIONS FOR COMPLETING THE NOTICE OF MOTION AND DECLARATION FOR JOINDER OF OTHER PARENT (TYPE OR PRINT ON FORM IN BLACK INK)

Front page, first box, top of form on left side: Print your name, address, and phone number in this box.

Front page, second box on left side: Print the name of the county in which the legal action is filed and the court’s address in this box. Use the same address for the court that is on your most recent support order or judgment.

Front page, third box on left side: Print the names of the petitioner/plaintiff, respondent/defendant, and other parent in this box. Use the same names listed on your most recent judgment or order. Print the name of the parent who is being joined as a party in the space for “Other Parent.”

Front page, first box, top of form on right side: Leave this box blank for the court’s use.

Front page, second box on right side: Print the case number in this box. This number is also stated on your most recent judgment or order.

1. Check the box for the defendant if you are not the defendant, or check the box for the other parent and print the other parent’s name in the space provided if you are not that parent.
2.
  - a. You must contact the court clerk’s office and ask that a hearing date be set for this motion. The court clerk will give you the information you need to complete this section.
  - b. Check the first box if the address of the court where the hearing will be held is the same as the one you put at the top of the notice. Check the second box if the address of the court where the hearing will be held is different from the one you put at the top of the notice. Print the different court address in the space.

Enter the date and your name, and sign the form.

3. **Print the name of the parent who is being joined as a party. This name should be the same as the “Other Parent” at the top of the notice.**

**Information Sheet (continued)**

4. You are stating that the other parent has not been a party and that he or she has applied for or is receiving services through the local child support agency.
5. Check this box if you are also filing an *Order to Show Cause* or *Notice of Motion* requesting support, custody, visitation, or restraining orders.
6.
  - a. Check this box if neither parent has filed a dissolution action against the other parent and, to the best of your knowledge, the parents are not both parties in any other family law case.
  - b. Check this box if the parents are both parties in another family law case, such as a dissolution action. Fill in the name of the court, the county where it is located, and court case number for any other family law cases involving both parents. You can get this information from the order or judgment from those actions. If you do not have a copy of the order or judgment, you may go to the court clerk's office to get a copy.
7. Check this box if you have other information to provide. In the space provided, explain what the information is.

You must date the form, print your name, and sign the form under a penalty of perjury. When you sign the form, you are stating that the information you have provided is true and correct.

Top of second page, box on left side: Print the names of petitioner/plaintiff, respondent/defendant, and other parent in this box. Use the same names listed on page 1.

Top of second page, box on right side: Print the case number in this box. Use the same number as on page 1.

The Notice to the "Other Parent" on this page explains what it means for the parent to be joined as a party.

Top of third page, box on left side: Print the names of petitioner/plaintiff, respondent/defendant, and other parent in this box. Use the same names listed on page 1.

Top of third page, box on right side: Print the case number in this box. Use the same number as on page 1.

Instructions for how to serve this motion are in the *Information Sheet for Service of Process* (form FL-611). The person who serves the motion and its attachment must fill out this section of the form. **You cannot serve your own motion.**

*If you need additional assistance with this form, contact the family law facilitator in your county.*

ATTORNEY OR PARTY WITHOUT ATTORNEY ( <i>Name, State Bar number, and address</i> ):    TELEPHONE NO.: _____ FAX NO. ( <i>Optional</i> ): _____ E-MAIL ADDRESS ( <i>Optional</i> ): _____ ATTORNEY FOR ( <i>Name</i> ): _____	<b>FOR COURT USE ONLY</b>    <b>DRAFT Not Approved by the Judicial Council</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b>  STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER/PLAINTIFF:  RESPONDENT/DEFENDANT:  OTHER PARENT:	
<p style="text-align: center;"><b>RESPONSIVE DECLARATION TO MOTION FOR JOINDER OF OTHER PARENT</b></p> <input type="checkbox"/> <b>CONSENT ORDER OF JOINDER</b>	CASE NUMBER:

1.  Local child support agency     Defendant     Other parent (*specify name*):
  - a.  agrees to an order joining the other parent as a party to this action.
  - b.  does not agree to the requested joinder of the other parent as a party to this action.
  
2. a.  There are no other cases where custody or visitation orders have been previously made in which both parents are parties.
  - b.  Both parents are parties in the following family law cases:
 

<u>Name and county of court</u>	<u>Case number</u>
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3.  The statements contained in the *Notice of Motion and Declaration for Joinder of Other Parent in Governmental Action (Governmental)* (form FL-661) are incorrect or insufficient as follows (*specify*):

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

Date:

_____ (TYPE OR PRINT NAME)		_____ (SIGNATURE OF DECLARANT)
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PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT:	CASE NUMBER:
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**CONSENT ORDER**

1.  Plaintiff  Defendant  Other parent having consented and good cause appearing,

IT IS ORDERED that

- a.  the other parent is joined as a party to this proceeding.
- b.  the hearing on the motion for joinder set on *(date)*: is taken off calendar.

Date:

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JUDICIAL OFFICER

PETITIONER/PLANTIFF: RESPONDENT/DEFENDANT: OTHER PARENT:	CASE NUMBER:
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**PROOF OF SERVICE**

1. At the time of service I was at least 18 years of age and not a party to the legal action.

2. My residence or business address is (specify):

3. I served a copy of the foregoing *Responsive Declaration* as follows (check either a or b for each person served):

a.  **Personal delivery.** I personally delivered a copy and all attachments as follows:

(1)  Name of party or attorney served: (2)  Name of local child support agency served:

(a) Address where delivered: (a) Address where delivered:

(b) Date delivered: (b) Date delivered:

(c) Time delivered: (c) Time delivered:

b.  **Mail.** I am a resident of or employed in the county where the mailing occurred.

(1) I enclosed a copy in an envelope and

(a)  **deposited** the sealed envelope with the United States Postal Service with the postage fully prepaid.

(b)  **placed** the envelope for collection and mailing on the date and at the place shown below following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

(2) The envelope was addressed and mailed as follows:

(a)  Name of party or attorney served: (b)  Name of local child support agency served:

(i) Address: (i) Address:

(ii) Date mailed: (ii) Date mailed:

(iii) Place of mailing (city and state): (iii) Place of mailing (city and state):

**(3)** I served this *Responsive Declaration*, which included an address verification declaration (*Declaration Re Address Verification—Postjudgment Request to Modify a Child Custody, Visitation, or Child Support Order* (form FL-334) may be used for this purpose.)

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

Date:

\_\_\_\_\_

(TYPE OR PRINT NAME)



\_\_\_\_\_

(SIGNATURE OF PERSON WHO SERVED MOTION)

**INFORMATION SHEET FOR RESPONSIVE DECLARATION TO MOTION FOR JOINDER OF OTHER PARENT—CONSENT ORDER OF JOINDER**

Please follow these instructions to complete the *Responsive Declaration to Motion for Joinder of Other Parent—Consent Order of Joinder* (form FL-662) if you do not have an attorney representing you. Your attorney, if you have one, should complete this form. **This form should be used if a parent wants to respond to a Notice of Motion and Declaration for Joinder of Other Parent in Governmental Action (form FL-661).** This form must be used if a parent does not agree to the joinder of the “other parent.” This form may also be used if a parent agrees to the joinder of the other parent but does not want to go to the scheduled court hearing.

You must file with the court clerk the completed *Responsive Declaration* and serve copies on all parties at least **nine court days before the hearing date. Add five calendar days** if you serve by mail within California. (See Code of Civil Procedure section 1005 for other situations.) To determine court and calendar days, go to [www.courts.ca.gov/12618.htm](http://www.courts.ca.gov/12618.htm). The address of the court clerk is the same as the one shown for the superior court on the *Notice of Motion and Declaration for Joinder of Other Parent in Governmental Action* (form FL-661). You may have to pay a filing fee. If you cannot afford to pay the filing fee, contact the court clerk. **Make three copies of your filed response. Serve one copy on the other parent, serve the second copy on the local child support agency, and keep the third copy for your records. (See Information Sheet for Service of Process, form FL-611.)**

**INSTRUCTIONS FOR COMPLETING THE RESPONSIVE DECLARATION TO MOTION FOR JOINDER OF OTHER PARENT—CONSENT ORDER OF JOINDER (TYPE OR PRINT IN BLACK INK)**

Page 1, first box, top of form, left side: Print the name, address, and phone number in this box.

Page 1, second box, left side: Print the name of the county in which the legal action is filed and the court’s address in this box. Use the same address for the court that is on the *Notice of Motion and Declaration for Joinder of Other Parent in Governmental Action* (form FL-661).

Page 1, third box, left side: Print the names of the petitioner/plaintiff, respondent/defendant, and other parent in this box. Use the same names listed on the *Notice of Motion and Declaration for Joinder of Other Parent in Governmental Action* (form FL-661).

1. Unless you are the local child support agency, check the box for the defendant if you are the defendant, or check the box for the other parent if you are the other parent. **Leave this space blank for the court to use.**  
Page 1, fourth box, right side: Print the case number in this box if you are a party to this action on the *Notice of Motion and Declaration for Joinder of Other Parent in Governmental Action* (form FL-661) to this action. If you do not agree, you should complete paragraph 3 below.
2. a. Check this box if neither parent has filed a dissolution action against the other parent or any other action, such as a restraining order involving custody or visitation of the children, and to the best of your knowledge the parents are not both parties in any other family law case.  
 b. Check this box if the parents are both parties in another case that involves custody or visitation of the children, such as a dissolution action. Fill in the name and county of the court and the court case number for any other family law cases involving both parents. You can get this information from the order or judgment from those actions. If you do not have a copy of the order or judgment, you may go to the court clerk’s office in the county in which the legal action is filed to get a copy.
3. Check this box if you do not agree to joining the other parent to this action. Explain why you disagree in the space provided.

You must date the form, print your name, and sign the form under a penalty of perjury. When you sign the form, you are stating that the information you have provided is true and correct.

Top of second page, box on left side: Print the names of petitioner/plaintiff, respondent/defendant, and other parent in this box. Use the same names listed on page 1.

Top of second page, box on right side: Print the case number here. Use the same number as that on page 1.

**Leave the rest of the page blank for the court to complete.**

When you file the responsive declaration, ask the court clerk how to obtain a copy once it is signed by the judicial officer. You are responsible for mailing signed copies of the consent order to the petitioner/plaintiff, respondent/defendant, and other parent. Instructions for how to serve this response are in *Information Sheet for Service of Process* (form FL-611). The person who serves the response must fill out this section of the form. **You cannot serve your own response.**

*If you need additional assistance with this form, contact the family law facilitator in your county.*



PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT:	CASE NUMBER:
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Number of pages attached:

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

Date:

\_\_\_\_\_ \_\_\_\_\_  
 (TYPE OR PRINT NAME) (SIGNATURE)

**An adult other than you must complete the Proof of Service below.**

**PROOF OF SERVICE**

1. At the time of service I was at least 18 years of age and not a party to the legal action.
2. My residence or business address is (*specify*):

3. I served a copy of the foregoing *Request for Judicial Determination of Support Arrearages or Adjustment of Arrearages Due to Incarceration or Involuntary Institutionalization* (form FL-676) and all attachments as follows (*check either a, b, or c for each person served*):

a.  **Personal delivery.** I personally delivered a copy and all attachments as follows:

- |  |   |
|--|---|
| (1) <input type="checkbox"/> Name of party or attorney served: _____<br>(a) Address where delivered: _____<br>(b) Date delivered: _____<br>(c) Time delivered: _____ | (2) <input type="checkbox"/> Name of local child support agency served: _____<br>(a) Address where delivered: _____<br>(b) Date delivered: _____<br>(c) Time delivered: _____ |
|--|---|

b.  **Mail.** I am a resident of or employed in the county where the mailing occurred. I deposited this request with the United States Postal Service, in a sealed envelope with postage fully prepaid. I used first-class mail. The envelope was addressed and mailed as follows:

- |   |  |
|---|--|
| (1) <input type="checkbox"/> Name of party or attorney served: _____<br>(a) Address: _____<br>(b) Date mailed: _____<br>(c) Place of mailing ( <i>city and state</i> ): _____ | (2) <input type="checkbox"/> Name of local child support agency served: _____<br>(a) Address: _____<br>(b) Date mailed: _____<br>(c) Place of mailing ( <i>city and state</i> ): _____ |
|---|--|

(3) I served this motion/request, which included an address verification declaration (*Declaration Re Address Verification—Postjudgment Request to Modify a Child Custody, Visitation, or Child Support Order* (form FL-334) may be used for this purpose.)

c.  **Other** (*specify code section*): \_\_\_\_\_

Additional page is attached.

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

Date:

\_\_\_\_\_ \_\_\_\_\_  
 (TYPE OR PRINT NAME) (SIGNATURE OF PERSON WHO SERVED REQUEST)

GOVERNMENTAL AGENCY (under Family Code, §§ 17400, 17406):  <hr/> <p style="text-align: center;">TELEPHONE NO.: <span style="float: right;">FAX NO. (Optional):</span></p> <p>E-MAIL ADDRESS (Optional):</p> <p>ATTORNEY FOR (Name):</p>	<b>FOR COURT USE ONLY</b>   <b>DRAFT Not Approved by the Judicial Council</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b>  STREET ADDRESS:  MAILING ADDRESS:  CITY AND ZIP CODE:  BRANCH NAME:	
PETITIONER/PLAINTIFF:  RESPONDENT/DEFENDANT:  OTHER PARENT:	
<b>NOTICE OF OPPOSITION AND NOTICE OF MOTION ON CLAIM OF EXEMPTION</b>	LEVYING OFFICER FILE NO.: <span style="float: right;">COURT CASE NO.:</span>

— DO NOT USE THIS FORM FOR WAGE GARNISHMENTS —

The original of this form must be filed with the court, and a copy must be served on the judgment debtor and other claimant at least 10 days before the hearing.

TO THE JUDGMENT DEBTOR OR OTHER CLAIMANT:

1. A hearing to determine the claim of exemption of  judgment debtor  other claimant will be held as follows:

a. Date: \_\_\_\_\_ Time: \_\_\_\_\_  Dept.: \_\_\_\_\_  Div.: \_\_\_\_\_  Room: \_\_\_\_\_

b. Address of court:  same as noted above  other (specify): \_\_\_\_\_

***If you do not attend the hearing, the court may determine your claim based on the Claim of Exemption, Financial Statement (when one is required), this form, and other evidence that may be presented.***

2. Name and address of judgment debtor: \_\_\_\_\_

3.  Name and address of claimant (if other than judgment debtor): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Social security number (if known): \_\_\_\_\_

4. The Notice of Filing Claim of Exemption states it was mailed on (date): \_\_\_\_\_
5. The item or items claimed as exempt are
- a.  not exempt under the statutes relied upon in the *Claim of Exemption*.
  - b.  not exempt because the judgment debtor's equity is greater than the amount provided in the exemption.
  - c.  other (specify): \_\_\_\_\_
6.  The local child support agency requests any property found to be exempt be applied to the satisfaction of the judgment under Code of Civil Procedure section 703.070.
7. The facts necessary to support item 5 are
- continued on the attachment labeled Attachment 7.
  - as follows (specify): \_\_\_\_\_

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

Date: \_\_\_\_\_

(TYPE OR PRINT NAME)
(SIGNATURE OF DECLARANT)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):    TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	<b>FOR COURT USE ONLY</b>   <h2 style="margin: 0;">DRAFT Not Approved by the Judicial Council</h2>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b>  STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT:	
<b>REQUEST FOR TELEPHONE APPEARANCE</b>	CASE NUMBER:
HEARING DATE: _____ TIME: _____ DEPT., ROOM, OR DIVISION: _____	

**NOTICE: See form FL-679-INFO, Information Sheet—Request for Telephone Appearance, for deadlines for filing this request, filing any opposition, and service.**

1. I, (name): \_\_\_\_\_, am the  
 petitioner/plaintiff  respondent/defendant  other parent  attorney for (name): \_\_\_\_\_  
 local child support agency (LCSA) representative  other (specify): \_\_\_\_\_ in this case.

**If there are domestic violence or other confidentiality issues in this case and you do not want your home or work phone number made publicly available, provide another phone number in item 2 below. You will need to participate from this phone number, unless other options are available under local rules or procedures. Check with your court clerk.**

2. I ask the court to allow  me  \_\_\_\_\_ to appear from telephone number ( ) set on (date) \_\_\_\_\_ (time) \_\_\_\_\_ in Department \_\_\_\_\_ of the above-named court.
3. I would like the court to consider the following information in making its decision whether to allow a telephone appearance (check all that apply). (Note: The court can still deny your request, even though boxes are checked.)
- a.  I live or work outside the state of California in (specify location): \_\_\_\_\_
  - b.  I live in \_\_\_\_\_ County in California, which is \_\_\_\_\_ miles from the above courthouse where the hearing is set.
  - c.  I am disabled.
  - d.  I am asking not to appear personally because of domestic violence.
  - e.  I will be incarcerated or confined in (specify): \_\_\_\_\_ prison, jail, or other institution at the time of the hearing.
  - f.  The LCSA makes this request on behalf of \_\_\_\_\_ (insert reason for request at g)
  - g.  Other (specify): \_\_\_\_\_
4. a.  I have filed this request at least **12 court days** before the hearing and have served or will serve all parties (the local child support agency and other parent) and attorneys, if any, with this form by personal delivery, fax, express mail, or other reasonable means to ensure delivery by the close of the **next court day** after filing this form.
- b.  If there are financial issues to be decided, a current *Income and Expense Declaration* (form FL-150) or a *Financial Statement (Simplified)* (form FL-155) has been filed and served on all parties along with the request or response to the hearing. (Read page 2 of form FL-155 to determine which form to use.)
- c.  I have complied with all requirements of the local rules of court for other supporting proof.
5. I agree to be responsible for the costs and arrangements of this telephone appearance if required by the court. If this telephone appearance request is made by an LCSA on behalf of a party, parent, or witness, that person may be responsible for costs of the telephone appearance as may be required by the court.
6.  Number of pages attached: \_\_\_\_\_

I declare under penalty of perjury under the laws of the State of California that the foregoing and all attachments are true and correct.  
 Date: \_\_\_\_\_

\_\_\_\_\_  
 (TYPE OR PRINT NAME) } \_\_\_\_\_  
 (SIGNATURE)

PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT:	CASE NUMBER:
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**ADVISEMENT REGARDING TELEPHONE APPEARANCE**

1. I know that I can personally appear at this hearing, and I give up that right. I agree to be duly sworn upon request by the court clerk, holding up my right hand and agreeing under penalty of perjury under the laws of the State of California to tell the truth and nothing but the truth.
2. I will provide my driver's license number, social security number, or other information to verify my identity when asked by the court staff or conference call provider.
3. I understand that the court may not have videoconferencing capabilities. I understand and assume the risk that I may not be able to personally see or inspect the pleadings, documents, or evidence; the witnesses' facial reactions, demeanors, or hand gestures; or other visual or nonverbal aspects of the hearing.
4. I understand that if I do not make the proper arrangements for a telephone appearance as set out in local rules or in directions provided by the court, the matter may proceed without my personal or telephone appearance and the court may decide my case based on the documents I filed for this hearing.
5. I understand that the court, in its discretion, may decide to terminate the telephone appearance if it determines during the hearing that a personal appearance would materially assist in the determination of the proceedings. Other reasons for terminating the telephone appearance could include my not being available at the calendar call, delay, questions about credibility, disruption, noise, misconduct, a communication problem, a technical problem, and other problems.
6. I understand that the court may decide at any time to require my personal appearance and continue my hearing.
7. I assume the risks of cost, time, delay, repeated telephone calls, technical failure, a wrong number, and other problems that could arise out of this telephone appearance. I understand that if problems occur, the matter may proceed without my personal or telephone appearance and the court may decide my case based on the documents I filed for this hearing.
8. I understand that if I need to present documents, present witnesses, cross-examine witnesses, or provide information that is not available at the hearing, it is my responsibility to ask the court to continue the hearing. The court may decide to grant or deny my request. I understand that any arguments or supporting proof should be served and filed on time before the hearing so that the court, the local child support agency, and the other parent have an opportunity to know about my case.
9. I understand that the court may require me to make all arrangements for the telephone appearance at my own expense.
10. I understand that if I have low income or no income, I may apply for a waiver of any filing fees and a possible waiver of conference call vendor fees. If the court makes collect calls for telephone appearances and so orders me, I will be available to receive a collect call from the court at the date and time specified. The telephone number will not be one that is blocked from receiving collect calls. If there are domestic violence or other confidentiality issues in the case and I do not wish my home or work phone number to be made publicly available, I may provide a number other than my home and work numbers at which the court can call me collect. I understand that I can check with the local court clerk or local rules of court regarding any additional local procedures that may be available to protect my confidentiality.
11. If there are financial issues to be decided, I understand that it is my responsibility to timely file with the court and serve on the local child support agency and the other parent all necessary and appropriate pleadings and documents, including:
  - a. *Income and Expense Declaration* (form FL-150) or *Financial Statement (Simplified)* (form FL-155), whichever is appropriate.
  - b. My pay stubs from the last two months or other proof of income.
  - c. The proposed guideline support calculation (optional unless required by local court rule).

This case may be referred to a court commissioner for hearing. By law, court commissioners do not have the authority to issue final orders and judgments in contested cases unless they are acting as temporary judges. The court commissioner in your case will act as a temporary judge unless, *before the hearing*, you or any other party objects to the commissioner's acting as a temporary judge. If you or the other party objects, the court commissioner may still hear your case to make findings and a recommended order to a judge. If you do not like the recommended order, you must object to it within **10 court days** in writing (use *Notice of Objection (Governmental)* (form FL-666)); otherwise, the recommended order will become a final order of the court. If you object to the recommended order, a judge will make a temporary order and set a new hearing.

**I have read the Advisement Regarding Telephone Appearance section of this form and I understand that the terms apply to me. If the LCSA is making this request, it verifies this advisement was provided to the party, parent, or witness, and he or she indicated that he or she understands that the terms apply to him or her.**

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

Date:

\_\_\_\_\_

(TYPE OR PRINT NAME)

}

\_\_\_\_\_

(SIGNATURE)

PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT:	CASE NUMBER:
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**PROOF OF SERVICE**

1. At the time of service I was at least 18 years of age and not a party to the legal action.
2. My residence or business address is *(specify)*:
  
3. I served a copy of the foregoing *Request for Telephone Appearance (Governmental)* and all attachments as follows *(check a, b, or c for each person served)*:

a.  **Personal delivery.** I personally delivered a copy and all attachments as follows:

- |  |   |
|--|---|
| (1) <input type="checkbox"/> Name of party or attorney served: | (2) <input type="checkbox"/> Name of local child support agency served: |
| (a) Address where delivered:                                   | (a) Address where delivered:  |
| (b) Date delivered:  | (b) Date delivered:   |
| (c) Time delivered:  | (c) Time delivered:   |

b.  **Mail.** I am a resident of or employed in the county where the mailing occurred.

(1) I enclosed a copy in an envelope and

(a)  **deposited** the sealed envelope with the United States Postal Service with the postage fully prepaid.

(b)  **placed** the envelope for collection and mailing on the date and at the place shown below, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

(2) <input type="checkbox"/> Name of party or attorney served:	(3) <input type="checkbox"/> Name of local child support agency served:
--	---

(a) Address:

(a) Address:

(b) Date mailed:

(b) Date mailed:

(c) Place of mailing *(city and state)*:

(c) Place of mailing *(city and state)*:

(3)  I served this motion/request, which included an address verification declaration (*Declaration Re Address Verification—Postjudgment Request to Modify a Child Custody, Visitation, or Child Support Order* (form FL-334) may be used for this purpose.)

c.  **Other** *(specify)*:

Additional page is attached.

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

Date:

\_\_\_\_\_

(TYPE OR PRINT NAME)

}

\_\_\_\_\_

(SIGNATURE OF PERSON WHO SERVED REQUEST)



PETITIONER/PLANTIFF: RESPONDENT/DEFENDANT: OTHER PARENT:	CASE NUMBER:
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**NOTICE**

This case may be referred to a court commissioner for hearing. By law court commissioners do not have the authority to issue final orders and judgments in contested cases unless they are acting as temporary judges. The court commissioner in your case will act as a temporary judge unless, *before the hearing*, you or any other party objects to the commissioner acting as a temporary judge. The court commissioner may still hear your case to make findings and a recommended order. If you do not like the recommended order, you must object to it within 10 court days; otherwise, the recommended order will become a final order of the court. If you object to the recommended order, a judge will make a temporary order and set a new hearing.

Child support is based on your ability to pay, which may include your income, earning capacity, lifestyle, or presumed income set by statute. The amount of child support can be large and can continue until the children reach age 18. You should give the court information about your income and expenses. If you do not, the support order will be based on other information given to the court or presumed income set by statute.

You do not have to pay any fee to file your *Response to Governmental Notice of Motion or Order to Show Cause (Governmental)* (form FL-685) and your completed *Income and Expense Declaration* (form FL-150) or *Financial Statement (Simplified)* (form FL-155). You must file any documents with the court and serve copies at least nine court days before the hearing date to the local child support agency and the other party unless ordered otherwise. Add five calendar days if you serve by mail within California. (See Code of Civil Procedure section 1005 for other situations.) To determine court days and calendar days, go to [www.courts.ca.gov/12618.htm](http://www.courts.ca.gov/12618.htm).

**PROOF OF SERVICE BY MAIL**

1. I am at least 18 years of age, **not a party to this cause**, and a resident of or employed in the county where the mailing took place.
2. My residence or business address is:
3. I served a copy of this motion by enclosing it in a sealed envelope and depositing the envelope  directly in the United States mail with postage paid OR  at my place of business for same-day collection and mailing with the United States mail, following our ordinary business practices, with which I am readily familiar.
  - a. Date of deposit:
  - b. Place of deposit (*city and state*):
  - c. Addressed as follows:

4. I am employed by local child support agency and this motion was addressed to an address that was verified by the California Child Support Enforcement System (CSE) as the current primary mailing address on file for each party referenced on the Proof of Service.

5. I declare under penalty of perjury under the laws of the State of California that the foregoing and all attachments are true and correct.

Date:

\_\_\_\_\_ ▶ \_\_\_\_\_  
 (TYPE OR PRINT NAME) (SIGNATURE OF PERSON WHO SERVED MOTION)



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



PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT:	CASE NUMBER:
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**PROOF OF SERVICE BY MAIL**

- I am at least 18 years of age, not a party to this cause, and a resident of or employed in the county where the mailing took place.
- My residence or business address is *(specify)*:
- I served a copy of this response by enclosing it in a sealed envelope with postage fully prepaid and depositing it in the United States mail as follows:
  - (a) Date of deposit: [REDACTED]
  - (b) Place of deposit *(city and state)*: [REDACTED]
  - (c) Addressed as follows: [REDACTED]

4. I served this *Response*, which included an address verification declaration (*Declaration Re Address Verification—Postjudgment Request to Modify a Child Custody, Visitation, or Child Support Order* (form FL-334) may be used for this purpose.)

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

Date:

\_\_\_\_\_

(TYPE OR PRINT NAME)



\_\_\_\_\_

(SIGNATURE OF PERSON WHO SERVED RESPONSE)

PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT:	CASE NUMBER:
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**PROOF OF SERVICE BY MAIL**  
**(For Use Only by a Local Child Support Agency)**

- I am at least 18 years of age, not a party to this action, and I am a resident of or employed in the county where the mailing took place.
- My business address is *(specify)*:

- I served a copy of the following documents *(specify)*:

- Notice of Motion (Governmental) (form FL-680) and supporting attachments
- Responsive Declaration to Order to Show Cause or Notice of Motion (form FL-320)
- Response to Notice of Motion to Set Aside Judgment of Paternity (Family Law—Governmental) (form FL-276)
- Responsive Declaration to Application to Set Aside Voluntary Declaration of Paternity (Family Law—Governmental) (form FL-285)
- Notice of Opposition and Notice of Motion on Claim of Exemption (Governmental) (form FL-677)
- Other *(specify)*:

by enclosing them in an envelope AND

- depositing** the sealed envelope with the United States Postal Service with the postage fully prepaid.
- placing** the envelope for collection and mailing on the date and at the place shown in item 4 following our ordinary business practices. I am readily familiar with this business’s practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

- The envelope was addressed and mailed as follows:

<input type="checkbox"/> Name of party or attorney served: (a) Address:  (b) Date mailed: (c) Place of mailing <i>(city and state)</i> :	<input type="checkbox"/> Name of party or attorney served: (a) Address:  (b) Date mailed: (c) Place of mailing <i>(city and state)</i> :
<input type="checkbox"/> Name of party or attorney served: (a) Address:  (b) Date mailed: (c) Place of mailing <i>(city and state)</i> :	<input type="checkbox"/> Name of party or attorney served: (a) Address:  (b) Date mailed: (c) Place of mailing <i>(city and state)</i> :

- The address for each individual identified in item 4 was

- verified by the California Child Support Enforcement System (CSE) as the current primary mailing address on file.
- other *(specify)*:

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

Date:

\_\_\_\_\_

(TYPE OR PRINT NAME)



\_\_\_\_\_

(SIGNATURE OF PERSON COMPLETING THIS FORM)

## Assembly Bill No. 939

### CHAPTER 352

An act to amend Sections 215, 2030, 2032, 2034, 2330.3, 2400, 2403, 2450, 2451, 3027, 3121, 3150, 3151, 3183, 3557, 6323, and 6340 of, and to add Section 217 to, the Family Code, and to amend Section 328 of, and to add Section 827.10 to, the Welfare and Institutions Code, relating to family law proceedings.

[Approved by Governor September 25, 2010. Filed with Secretary of State September 27, 2010.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 939, Committee on Judiciary. Family law proceedings.

Existing law prohibits after entry of judgment in specified family law proceedings in which there was at issue the visitation, custody, or support of a child, modification of the judgment or order, and prohibits a subsequent order in the proceedings, unless notice is served upon the party, as specified.

This bill would authorize a postjudgment motion to modify a custody, visitation, or child support order to be served on the other party by first-class mail or airmail, as specified.

Existing law provides that all relevant evidence is admissible in an action before the court, including evidence relevant to the credibility of a witness or hearsay declarant, subject to specified exceptions.

This bill would require the court in a family law action to receive all live, competent, and relevant testimony at a hearing of an order to show cause or notice of motion, unless the parties stipulate otherwise or the court makes a finding of good cause to refuse to hear the testimony.

Existing law provides that a court in a dissolution of marriage proceeding may order one party to pay the other party an amount that is reasonably necessary for attorney's fees or costs in order to ensure that each party has access to legal representation. Under existing law, the court shall base this determination on the respective incomes and needs of the parties and any factors affecting the parties' respective abilities to pay.

This bill would provide that, when a request for attorney's fees and costs is made, the court shall make findings regarding whether an award of attorney's fees and costs is appropriate, whether there is a disparity in access to funds to retain counsel, and whether one party is able to pay for legal representation. The bill would require the court to make an order awarding attorney's fees and costs if the findings demonstrate disparity in access and ability to pay. The bill would require the Judicial Council, by January 1, 2012, to adopt a rule of court and develop a form to implement this provision.

Existing law provides for summary dissolution proceedings if certain conditions exist at the time the proceeding is commenced, including that

there are no children, as specified, neither party has any interest in real property, as specified, and the marriage is not more than 5 years in duration at the time the petition is filed. A proceeding for summary dissolution is commenced by filing a joint petition that is signed under oath by the husband and the wife, as specified.

This bill would revise the latter condition that must be met at the time a proceeding for summary dissolution is commenced to instead require that the marriage be not more than 5 years in duration as of the date of separation of the parties.

Existing law also provides that when 6 months have expired from the date of the filing of the joint petition for summary dissolution of marriage, the court may, upon application of either party, enter judgment dissolving the marriage. At any time before the filing of the application for judgment, however, either party to the marriage may revoke the joint petition and thereby terminate the proceeding for summary dissolution.

This bill would authorize the court to enter judgment dissolving the marriage when 6 months have expired without requiring the application of either party, unless a revocation of the joint petition has been filed.

Existing law provides that in an action for dissolution of marriage, the court, upon motion, is required to hold a preliminary status conference to determine whether a case management plan will be ordered. Existing law further provides that no case management plan may be ordered absent the stipulation of the parties. Existing law also sets forth the content of case management plans.

This bill would delete the requirement that the parties stipulate to the case management plan.

The bill would also delete references to case management plans and would instead refer to family centered case resolution plans. The bill would revise the content of those plans and require the Judicial Council to adopt a statewide rule of court to implement these provisions. The latter provisions would become operative on January 1, 2012.

Existing law provides that the court may appoint private counsel to represent the interests of a child in a custody or visitation proceeding if it determines that it would be in the best interest of the child. Existing law specifies the duties of a child's counsel, and grants the counsel the discretion to present the child's wishes to the court if he or she deems it appropriate.

This bill would require the court and counsel to comply with specified requirements if the court appoints private counsel pursuant to the provision described above. The bill would also require the child's counsel to present the child's wishes to the court if the child so desires.

Existing law authorizes a mediator to submit a recommendation to the court as to the custody of or visitation with a child, except as specified.

This bill would provide that the mediation and recommendation process shall be referred to as "child custody recommending counseling" and the mediator shall be referred to as a "child custody recommending counselor."

Under the Domestic Violence Prevention Act, the court in a protective order proceeding may issue an ex parte order granting temporary child

custody and visitation to a party who has established a parent and child relationship. Existing law provides that the court may not make a finding of paternity in this proceeding.

This bill would provide that the court in a protective order proceeding may accept a stipulation of paternity by the parties and, if paternity is uncontested, enter a judgment establishing paternity. The bill would provide that if the court in a protective order proceeding makes an order for custody, visitation, or support, the order shall survive the termination of the protective order.

Under existing law, if allegations of child sexual abuse arise during a child custody proceeding, the court may take reasonable, temporary steps to protect the child's safety, including requesting that the local child welfare services agency conduct an investigation of the allegations. Existing law provides that a social worker shall make an investigation of allegations of child abuse or neglect and shall determine whether it is appropriate to offer child welfare services to the family. Under existing law, juvenile case files are confidential, except as provided.

This bill would expand the scope of those provisions to apply to all allegations of child abuse. The bill would direct a social worker to draw no inference regarding the credibility of allegations of child abuse from the mere existence of a child custody or visitation dispute. The bill would also provide an exception to the confidentiality of child welfare agency records for certain participants in family law and probate guardianship cases by authorizing the child welfare agency to permit inspection of, and to provide copies of, its records, as specified.

*The people of the State of California do enact as follows:*

SECTION 1. The Legislature finds and declares all of the following:

(a) Family law touches the most central aspects of Californians' lives, such as where, when, and how often a parent will see his or her child, the personal safety of the parent and child, how much child and spousal support one person will receive and the other will pay, and how the assets that the family has accumulated will be divided between the separating parties. These decisions can have a dramatic and lasting impact on people's lives.

(b) Faced with crowded family law calendars and the rising numbers of self-represented litigants, as over 70 percent of litigants in family law are unrepresented, many courts have adopted local rules and procedures in an attempt to more efficiently process the high volume of family law cases. While some of these rules and procedures have been innovative, others have created barriers to litigants getting their day in court, particularly litigants who are unrepresented. These barriers include drastically reducing live testimony in family law, which the California Supreme Court found, in its landmark decision *Elkins v. Superior Court* (2007) 41 Cal.4th 1337, deprives family law litigants of due process protections. Access to justice requires that parties be able to appropriately address the court and present their cases.

(c) Family law cases involve an extraordinary range of issues, from the most simple, uncontested case with no children and no property to cases involving complex legal issues, highly personal and difficult conflicts over children, or serious issues of domestic violence and child safety. Unlike general civil, complex civil, juvenile, probate, and criminal cases, family law is the last general jurisdiction in California that does not provide a procedure for the fair, timely, and efficient disposition of a case. The courts cannot manage limited resources efficiently, nor serve the best interests of California's families and children, without the ability to manage the flow of cases through the courts. Under the current system, the parties, who are most often self-represented, must take the initiative to obtain appropriate orders and judgments in a complicated judicial process that very few litigants can understand, and they often fail to take the next step toward completing the case. As a result, it is not unusual for family law cases to linger in the court for years. By eliminating the current ability of one party to drag out a case for years, the Legislature intends that all parties participate in, and benefit from, family centered case resolution.

(d) A fundamental responsibility of judges in family law cases is to protect the safety and well-being of children. Family courts are confronted with allegations of child abuse or neglect and must respond to these accusations appropriately. In order to help ensure that allegations of child abuse, neglect, and violence are fully investigated and that children are protected from harm, child welfare services should be required to fully investigate all allegations of this type, regardless of the existence of a family law dispute involving the same parties. No inference regarding the credibility of the allegations or the need for child welfare services shall be drawn from the existence of a child custody or visitation dispute.

(e) Courts appoint minor's counsel to provide representation for a child and to meet the need the court may have for additional information on which to base a difficult child custody decision. To be responsive to the complexities inherent in the cases that involve minor's counsel and the challenges attorneys, parties, and children may face when these appointments are made, the role of minor's counsel must be more clearly delineated and the responsibilities of minor's counsel more clearly defined so that there is greater transparency and clarity in order to provide the best possible representation for children in these matters.

(f) Given the lifelong impact of family law matters, legal assistance in these cases is critical. Unfortunately, over 70 percent of litigants in family law cases are unrepresented by counsel. While many cases involve parties who are all unrepresented, in some of these cases one party can afford counsel but the other cannot. These cases pose significant difficulties for the unrepresented litigant, the attorney, and the judicial officer. Representation for parties can be significantly improved in some of these cases if courts make early need-based attorney's fee awards.

SEC. 2. Section 215 of the Family Code is amended to read:

215. (a) Except as provided in subdivision (b), after entry of a judgment of dissolution of marriage, nullity of marriage, legal separation of the parties,

or paternity, or after a permanent order in any other proceeding in which there was at issue the visitation, custody, or support of a child, no modification of the judgment or order, and no subsequent order in the proceedings, is valid unless any prior notice otherwise required to be given to a party to the proceeding is served, in the same manner as the notice is otherwise permitted by law to be served, upon the party. For the purposes of this section, service upon the attorney of record is not sufficient.

(b) A postjudgment motion to modify a custody, visitation, or child support order may be served on the other party or parties by first-class mail or airmail, postage prepaid, to the persons to be served. For any party served by mail, the proof of service must include an address verification.

SEC. 3. Section 217 is added to the Family Code, to read:

217. (a) At a hearing on any order to show cause or notice of motion brought pursuant to this code, absent a stipulation of the parties or a finding of good cause pursuant to subdivision (b), the court shall receive any live, competent testimony that is relevant and within the scope of the hearing and the court may ask questions of the parties.

(b) In appropriate cases, a court may make a finding of good cause to refuse to receive live testimony and shall state its reasons for the finding on the record or in writing. The Judicial Council shall, by January 1, 2012, adopt a statewide rule of court regarding the factors a court shall consider in making a finding of good cause.

(c) A party seeking to present live testimony from witnesses other than the parties shall, prior to the hearing, file and serve a witness list with a brief description of the anticipated testimony. If the witness list is not served prior to the hearing, the court may, on request, grant a brief continuance and may make appropriate temporary orders pending the continued hearing.

SEC. 4. Section 2030 of the Family Code is amended to read:

2030. (a) (1) In a proceeding for dissolution of marriage, nullity of marriage, or legal separation of the parties, and in any proceeding subsequent to entry of a related judgment, the court shall ensure that each party has access to legal representation, including access early in the proceedings, to preserve each party's rights by ordering, if necessary based on the income and needs assessments, one party, except a governmental entity, to pay to the other party, or to the other party's attorney, whatever amount is reasonably necessary for attorney's fees and for the cost of maintaining or defending the proceeding during the pendency of the proceeding.

(2) When a request for attorney's fees and costs is made, the court shall make findings on whether an award of attorney's fees and costs under this section is appropriate, whether there is a disparity in access to funds to retain counsel, and whether one party is able to pay for legal representation of both parties. If the findings demonstrate disparity in access and ability to pay, the court shall make an order awarding attorney's fees and costs. A party who lacks the financial ability to hire an attorney may request, as an in pro per litigant, that the court order the other party, if that other party has the financial ability, to pay a reasonable amount to allow the unrepresented

party to retain an attorney in a timely manner before proceedings in the matter go forward.

(b) Attorney's fees and costs within this section may be awarded for legal services rendered or costs incurred before or after the commencement of the proceeding.

(c) The court shall augment or modify the original award for attorney's fees and costs as may be reasonably necessary for the prosecution or defense of the proceeding, or any proceeding related thereto, including after any appeal has been concluded.

(d) Any order requiring a party who is not the spouse of another party to the proceeding to pay attorney's fees or costs shall be limited to an amount reasonably necessary to maintain or defend the action on the issues relating to that party.

(e) The Judicial Council shall, by January 1, 2012, adopt a statewide rule of court to implement this section and develop a form for the information that shall be submitted to the court to obtain an award of attorney's fees under this section.

SEC. 5. Section 2032 of the Family Code is amended to read:

2032. (a) The court may make an award of attorney's fees and costs under Section 2030 or 2031 where the making of the award, and the amount of the award, are just and reasonable under the relative circumstances of the respective parties.

(b) In determining what is just and reasonable under the relative circumstances, the court shall take into consideration the need for the award to enable each party, to the extent practical, to have sufficient financial resources to present the party's case adequately, taking into consideration, to the extent relevant, the circumstances of the respective parties described in Section 4320. The fact that the party requesting an award of attorney's fees and costs has resources from which the party could pay the party's own attorney's fees and costs is not itself a bar to an order that the other party pay part or all of the fees and costs requested. Financial resources are only one factor for the court to consider in determining how to apportion the overall cost of the litigation equitably between the parties under their relative circumstances.

(c) The court may order payment of an award of attorney's fees and costs from any type of property, whether community or separate, principal or income.

(d) Either party may, at any time before the hearing of the cause on the merits, on noticed motion, request the court to make a finding that the case involves complex or substantial issues of fact or law related to property rights, visitation, custody, or support. Upon that finding, the court may in its discretion determine the appropriate, equitable allocation of attorney's fees, court costs, expert fees, and consultant fees between the parties. The court order may provide for the allocation of separate or community assets, security against these assets, and for payments from income or anticipated income of either party for the purpose described in this subdivision and for the benefit of one or both parties. Payments shall be authorized only on

agreement of the parties or, in the absence thereof, by court order. The court may order that a referee be appointed pursuant to Section 639 of the Code of Civil Procedure to oversee the allocation of fees and costs.

SEC. 6. Section 2034 of the Family Code is amended to read:

2034. (a) On application of either party, the court may deny the family law attorney's real property lien described in Section 2033 based on a finding that the encumbrance would likely result in an unequal division of property because it would impair the encumbering party's ability to meet his or her fair share of the community obligations or would otherwise be unjust under the circumstances of the case. The court may also for good cause limit the amount of the family law attorney's real property lien. A limitation by the court is not to be construed as a determination of reasonable attorney's fees.

(b) On receiving an objection to the establishment of a family law attorney's real property lien, the court may on its own motion determine whether the case involves complex or substantial issues of fact or law related to property rights, visitation, custody, or support. If the court finds that the case involves one or more of these complex or substantial issues, the court may determine the appropriate, equitable allocation of fees and costs as provided in subdivision (d) of Section 2032.

(c) The court has jurisdiction to resolve any dispute arising from the existence of a family law attorney's real property lien.

SEC. 7. Section 2330.3 of the Family Code is amended to read:

2330.3. (a) All dissolution actions, to the greatest extent possible, shall be assigned to the same superior court department for all purposes, in order that all decisions in a case through final judgment shall be made by the same judicial officer. However, if the assignment will result in a significant delay of any family law matter, the dissolution action need not be assigned to the same superior court department for all purposes, unless the parties stipulate otherwise.

(b) The Judicial Council shall adopt a standard of judicial administration prescribing a minimum length of assignment of a judicial officer to a family law assignment.

(c) This section shall be operative on July 1, 1997.

SEC. 8. Section 2400 of the Family Code is amended to read:

2400. (a) A marriage may be dissolved by the summary dissolution procedure provided in this chapter if all of the following conditions exist at the time the proceeding is commenced:

(1) Either party has met the jurisdictional requirements of Chapter 3 (commencing with Section 2320) with regard to dissolution of marriage.

(2) Irreconcilable differences have caused the irremediable breakdown of the marriage and the marriage should be dissolved.

(3) There are no children of the relationship of the parties born before or during the marriage or adopted by the parties during the marriage, and the wife, to her knowledge, is not pregnant.

(4) The marriage is not more than five years in duration as of the date of separation of the parties.

(5) Neither party has any interest in real property wherever situated, with the exception of the lease of a residence occupied by either party which satisfies the following requirements:

(A) The lease does not include an option to purchase.

(B) The lease terminates within one year from the date of the filing of the petition.

(6) There are no unpaid obligations in excess of four thousand dollars (\$4,000) incurred by either or both of the parties after the date of their marriage, excluding the amount of any unpaid obligation with respect to an automobile.

(7) The total fair market value of community property assets, excluding all encumbrances and automobiles, including any deferred compensation or retirement plan, is less than twenty-five thousand dollars (\$25,000), and neither party has separate property assets, excluding all encumbrances and automobiles, in excess of twenty-five thousand dollars (\$25,000).

(8) The parties have executed an agreement setting forth the division of assets and the assumption of liabilities of the community, and have executed any documents, title certificates, bills of sale, or other evidence of transfer necessary to effectuate the agreement.

(9) The parties waive any rights to spousal support.

(10) The parties, upon entry of the judgment of dissolution of marriage pursuant to Section 2403, irrevocably waive their respective rights to appeal and their rights to move for a new trial.

(11) The parties have read and understand the summary dissolution brochure provided for in Section 2406.

(12) The parties desire that the court dissolve the marriage.

(b) On January 1, 1985, and on January 1 of each odd-numbered year thereafter, the amounts in paragraph (6) of subdivision (a) shall be adjusted to reflect any change in the value of the dollar. On January 1, 1993, and on January 1 of each odd-numbered year thereafter, the amounts in paragraph (7) of subdivision (a) shall be adjusted to reflect any change in the value of the dollar. The adjustments shall be made by multiplying the base amounts by the percentage change in the California Consumer Price Index as compiled by the Department of Industrial Relations, with the result rounded to the nearest thousand dollars. The Judicial Council shall compute and publish the amounts.

SEC. 9. Section 2403 of the Family Code is amended to read:

2403. When six months have expired from the date of the filing of the joint petition for summary dissolution, the court shall, unless a revocation has been filed pursuant to Section 2402, enter the judgment dissolving the marriage. The judgment restores to the parties the status of single persons, and either party may marry after the entry of the judgment. The clerk shall send a notice of entry of judgment to each of the parties at the party's last known address.

SEC. 10. Section 2450 of the Family Code is amended to read:

2450. (a) The purpose of family centered case resolution is to benefit the parties by providing judicial assistance and management to the parties

in actions for dissolution of marriage for the purpose of expediting the processing of the case, reducing the expense of litigation, and focusing on early resolution by settlement. Family centered case resolution is a tool to allow the courts to better assist families. It does not increase the authority of the court to appoint any third parties to the case.

(b) The court may order a family centered case resolution plan as provided in Section 2451. If the court orders family centered case resolution, it shall state the family centered case resolution plan in writing or on the record.

SEC. 11. Section 2451 of the Family Code is amended to read:

2451. (a) A court-ordered family centered case resolution plan must be in conformance with due process requirements and may include, but is not limited to, all of the following:

- (1) Early neutral case evaluation.
- (2) Alternative dispute resolution consistent with the requirements of subdivision (a) of Section 3181.
- (3) Limitations on discovery, including temporary suspension pending exploration of settlement. There is a rebuttable presumption that an attorney who carries out discovery as provided in a family centered case resolution plan has fulfilled his or her duty of care to the client as to the existence of community property.
- (4) Use of telephone conference calls to ascertain the status of the case, encourage cooperation, and assist counsel in reaching agreement. However, if the court is required to issue an order other than by stipulation, a hearing shall be held.
- (5) If stipulated by the parties, modification or waiver of the requirements of procedural statutes.
- (6) A requirement that any expert witness be selected by the parties jointly or be appointed by the court. However, if at any time the court determines that the issues for which experts are required cannot be settled under these conditions, the court shall permit each party to employ his or her own expert.

(7) Bifurcation of issues for trial.

(b) This section does not provide any additional authority to the court to appoint experts beyond that permitted under other provisions of law.

(c) The Judicial Council shall, by January 1, 2012, adopt a statewide rule of court to implement this section.

(d) The changes made to this section by the act adding this subdivision shall become operative on January 1, 2012.

SEC. 12. Section 3027 of the Family Code is amended to read:

3027. (a) If allegations of child abuse, including child sexual abuse, are made during a child custody proceeding and the court has concerns regarding the child's safety, the court may take any reasonable, temporary steps as the court, in its discretion, deems appropriate under the circumstances to protect the child's safety until an investigation can be completed. Nothing in this section shall affect the applicability of Section 16504 or 16506 of the Welfare and Institutions Code.

(b) If allegations of child abuse, including child sexual abuse, are made during a child custody proceeding, the court may request that the local child welfare services agency conduct an investigation of the allegations pursuant to Section 328 of the Welfare and Institutions Code. Upon completion of the investigation, the agency shall report its findings to the court.

SEC. 13. Section 3121 of the Family Code is amended to read:

3121. (a) In any proceeding pursuant to Section 3120, and in any proceeding subsequent to entry of a related judgment, the court shall ensure that each party has access to legal representation, including access early in the proceedings, to preserve each party's rights by ordering, if necessary based on the income and needs assessments, one party, except a government entity, to pay to the other party, or to the other party's attorney, whatever amount is reasonably necessary for attorney's fees and for the cost of maintaining or defending the proceeding during the pendency of the proceeding.

(b) When a request for attorney's fees and costs is made, the court shall make findings on whether an award of attorney's fees and costs under this section is appropriate, whether there is a disparity in access to funds to retain counsel, and whether one party is able to pay for legal representation of both parties. If the findings demonstrate disparity in access and ability to pay, the court shall make an order awarding attorney's fees and costs. A party who lacks the financial ability to hire an attorney may request, as an in pro per litigant, that the court order the other party, if that other party has the financial ability, to pay a reasonable amount to allow the unrepresented party to retain an attorney in a timely manner before proceedings in the matter go forward.

(c) Attorney's fees and costs within this section may be awarded for legal services rendered or costs incurred before or after the commencement of the proceeding.

(d) The court shall augment or modify the original award for attorney's fees and costs as may be reasonably necessary for the prosecution or defense of a proceeding described in Section 3120, or any proceeding related thereto, including after any appeal has been concluded.

(e) Except as provided in subdivision (f), an application for a temporary order making, augmenting, or modifying an award of attorney's fees, including a reasonable retainer to hire an attorney, or costs, or both, shall be made by motion on notice or by an order to show cause during the pendency of any proceeding described in Section 3120.

(f) The court shall rule on an application for fees under this section within 15 days of the hearing on the motion or order to show cause. An order described in subdivision (a) may be made without notice by an oral motion in open court at either of the following times:

(1) At the time of the hearing of the cause on the merits.

(2) At any time before entry of judgment against a party whose default has been entered pursuant to Section 585 or 586 of the Code of Civil Procedure. The court shall rule on any motion made pursuant to this subdivision within 15 days and prior to the entry of any judgment.

(g) The Judicial Council shall, by January 1, 2012, adopt a statewide rule of court to implement this section and develop a form for the information that shall be submitted to the court to obtain an award of attorney's fees under this section.

SEC. 14. Section 3150 of the Family Code is amended to read:

3150. (a) If the court determines that it would be in the best interest of the minor child, the court may appoint private counsel to represent the interests of the child in a custody or visitation proceeding, provided that the court and counsel comply with the requirements set forth in Rules 5.240, 5.241, and 5.242 of the California Rules of Court.

(b) Upon entering an appearance on behalf of a child pursuant to this chapter, counsel shall continue to represent that child unless relieved by the court upon the substitution of other counsel by the court or for cause.

SEC. 15. Section 3151 of the Family Code is amended to read:

3151. (a) The child's counsel appointed under this chapter is charged with the representation of the child's best interests. The role of the child's counsel is to gather evidence that bears on the best interests of the child, and present that admissible evidence to the court in any manner appropriate for the counsel of a party. If the child so desires, the child's counsel shall present the child's wishes to the court. The counsel's duties, unless under the circumstances it is inappropriate to exercise the duty, include interviewing the child, reviewing the court files and all accessible relevant records available to both parties, and making any further investigations as the counsel considers necessary to ascertain evidence relevant to the custody or visitation hearings.

(b) Counsel shall serve notices and pleadings on all parties, consistent with requirements for parties. Counsel shall not be called as a witness in the proceeding. Counsel may introduce and examine counsel's own witnesses, present arguments to the court concerning the child's welfare, and participate further in the proceeding to the degree necessary to represent the child adequately.

(c) The child's counsel shall have the following rights:

- (1) Reasonable access to the child.
- (2) Standing to seek affirmative relief on behalf of the child.
- (3) Notice of any proceeding, and all phases of that proceeding, including a request for examination affecting the child.
- (4) The right to take any action that is available to a party to the proceeding, including, but not limited to, the following: filing pleadings, making evidentiary objections, and presenting evidence and being heard in the proceeding, which may include, but shall not be limited to, presenting motions and orders to show cause, and participating in settlement conferences, trials, seeking writs, appeals, and arbitrations.

(5) Access to the child's medical, dental, mental health, and other health care records, school and educational records, and the right to interview school personnel, caretakers, health care providers, mental health professionals, and others who have assessed the child or provided care to the child. The release of this information to counsel shall not constitute a

waiver of the confidentiality of the reports, files, and any disclosed communications. Counsel may interview mediators; however, the provisions of Sections 3177 and 3182 shall apply.

(6) The right to reasonable advance notice of and the right to refuse any physical or psychological examination or evaluation, for purposes of the proceeding, which has not been ordered by the court.

(7) The right to assert or waive any privilege on behalf of the child.

(8) The right to seek independent psychological or physical examination or evaluation of the child for purposes of the pending proceeding, upon approval by the court.

SEC. 16. Section 3183 of the Family Code is amended to read:

3183. (a) Except as provided in Section 3188, the mediator may, consistent with local court rules, submit a recommendation to the court as to the custody of or visitation with the child, if the mediator has first provided the parties and their attorneys, including counsel for any minor children, with the recommendations in writing in advance of the hearing. The court shall make an inquiry at the hearing as to whether the parties and their attorneys have received the recommendations in writing. If the mediator is authorized to submit a recommendation to the court pursuant to this subdivision, the mediation and recommendation process shall be referred to as “child custody recommending counseling” and the mediator shall be referred to as a “child custody recommending counselor.” Mediators who make those recommendations are considered mediators for purposes of Chapter 11 (commencing with Section 3160), and shall be subject to all requirements for mediators for all purposes under this code and the California Rules of Court. On and after January 1, 2012, all court communications and information regarding the child custody recommending counseling process shall reflect the change in the name of the process and the name of the providers.

(b) If the parties have not reached agreement as a result of the mediation proceedings, the mediator may recommend to the court that an investigation be conducted pursuant to Chapter 6 (commencing with Section 3110) or that other services be offered to assist the parties to effect a resolution of the controversy before a hearing on the issues.

(c) In appropriate cases, the mediator may recommend that restraining orders be issued, pending determination of the controversy, to protect the well-being of the child involved in the controversy.

SEC. 17. Section 3557 of the Family Code is amended to read:

3557. (a) Notwithstanding any other provision of law, absent good cause to the contrary, the court, in order to ensure that each party has access to legal representation to preserve each party’s rights, upon determining (1) an award of attorney’s fees and cost under this section is appropriate, (2) there is a disparity in access to funds to retain counsel, and (3) one party is able to pay for legal representation for both parties, shall award reasonable attorney’s fees to any of the following persons:

(1) A custodial parent or other person to whom payments should be made in any action to enforce any of the following:

- (A) An existing order for child support.
- (B) A penalty incurred pursuant to Chapter 5 (commencing with Section 4720) of Part 5 of Division 9.

(2) A supported spouse in an action to enforce an existing order for spousal support.

(b) This section shall not be construed to allow an award of attorney's fees to or against a governmental entity.

SEC. 18. Section 6323 of the Family Code is amended to read:

6323. (a) Subject to Section 3064:

(1) The court may issue an ex parte order determining the temporary custody and visitation of a minor child on the conditions the court determines to a party who has established a parent and child relationship pursuant to paragraph (2). The parties shall inform the court if any custody or visitation orders have already been issued in any other proceeding.

(2) (A) In making a determination of the best interests of the child and in order to limit the child's exposure to potential domestic violence and to ensure the safety of all family members, if the party who has obtained the restraining order has established a parent and child relationship and the other party has not established that relationship, the court may award temporary sole legal and physical custody to the party to whom the restraining order was issued and may make an order of no visitation to the other party pending the establishment of a parent and child relationship between the child and the other party.

(B) A party may establish a parent and child relationship for purposes of subparagraph (A) only by offering proof of any of the following:

- (i) The party gave birth to the child.
- (ii) The child is conclusively presumed to be a child of the marriage between the parties, pursuant to Section 7540, or the party has been determined by a court to be a parent of the child, pursuant to Section 7541.
- (iii) Legal adoption or pending legal adoption of the child by the party.
- (iv) The party has signed a valid voluntary declaration of paternity, which has been in effect more than 60 days prior to the issuance of the restraining order, and that declaration has not been rescinded or set aside.
- (v) A determination made by the juvenile court that there is a parent and child relationship between the party offering the proof and the child.
- (vi) A determination of paternity made in a proceeding to determine custody or visitation in a case brought by the district attorney pursuant to Section 11350.1 of the Welfare and Institutions Code.
- (vii) The party has been determined to be the parent of the child through a proceeding under the Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12).
- (viii) Both parties stipulate, in writing or on the record, for purposes of this proceeding, that they are the parents of the child.

(b) (1) Except as provided in paragraph (2), the court shall not make a finding of paternity in this proceeding, and any order issued pursuant to this section shall be without prejudice in any other action brought to establish a parent and child relationship.

(2) The court may accept a stipulation of paternity by the parties and, if paternity is uncontested, enter a judgment establishing paternity, subject to the set-aside provisions in Section 7646.

(c) When making any order for custody or visitation pursuant to this section, the court's order shall specify the time, day, place, and manner of transfer of the child for custody or visitation to limit the child's exposure to potential domestic conflict or violence and to ensure the safety of all family members. Where the court finds a party is staying in a place designated as a shelter for victims of domestic violence or other confidential location, the court's order for time, day, place, and manner of transfer of the child for custody or visitation shall be designed to prevent disclosure of the location of the shelter or other confidential location.

(d) When making an order for custody or visitation pursuant to this section, the court shall consider whether the best interest of the child, based upon the circumstances of the case, requires that any visitation or custody arrangement shall be limited to situations in which a third person, specified by the court, is present, or whether visitation or custody shall be suspended or denied.

SEC. 19. Section 6340 of the Family Code is amended to read:

6340. (a) The court may issue any of the orders described in Article 1 (commencing with Section 6320) after notice and a hearing. When determining whether to make any orders under this subdivision, the court shall consider whether failure to make any of these orders may jeopardize the safety of the petitioner and the children for whom the custody or visitation orders are sought. If the court makes any order for custody, visitation, or support, that order shall survive the termination of any protective order. The Judicial Council shall provide notice of this provision on any Judicial Council forms related to this subdivision.

(b) The court may issue an order described in Section 6321 excluding a person from a dwelling if the court finds that physical or emotional harm would otherwise result to the other party, to a person under the care, custody, and control of the other party, or to a minor child of the parties or of the other party.

SEC. 20. Section 328 of the Welfare and Institutions Code is amended to read:

328. Whenever the social worker has cause to believe that there was or is within the county, or residing therein, a person described in Section 300, the social worker shall immediately make any investigation he or she deems necessary to determine whether child welfare services should be offered to the family and whether proceedings in the juvenile court should be commenced. If the social worker determines that it is appropriate to offer child welfare services to the family, the social worker shall make a referral to these services pursuant to Chapter 5 (commencing with Section 16500) of Part 4 of Division 9. No inference regarding the credibility of the allegations or the need for child welfare services shall be drawn from the mere existence of a child custody or visitation dispute.

However, this section does not require an investigation by the social worker with respect to a child delivered or referred to any agency pursuant to Section 307.5.

The social worker shall interview any child four years of age or older who is a subject of an investigation, and who is in juvenile hall or other custodial facility, or has been removed to a foster home, to ascertain the child's view of the home environment. If proceedings are commenced, the social worker shall include the substance of the interview in any written report submitted at an adjudicatory hearing, or if no report is then received in evidence, the social worker shall include the substance of the interview in the social study required by Section 358. A referral based on allegations of child abuse from the family court pursuant to Section 3027 of the Family Code shall be investigated to the same extent as any other child abuse allegation.

SEC. 21. Section 827.10 is added to the Welfare and Institutions Code, to read:

827.10. (a) Notwithstanding Section 827, the child welfare agency is authorized to permit its files and records relating to a minor, who is the subject of either a family law or a probate guardianship case involving custody or visitation issues, or both, to be inspected by, and to provide copies to, the following persons, if these persons are actively participating in the family law or probate case:

(1) The judge, commissioner, or other hearing officer assigned to the family law or probate case.

(2) The parent or guardian of the minor.

(3) An attorney for a party to the family law or probate case.

(4) A family court mediator assigned to a case involving the minor pursuant to Article 1 (commencing with Section 3160) of Chapter 11 of Part 2 of Division 8 of the Family Code.

(5) A court-appointed investigator, evaluator, or a person conducting a court-connected child custody evaluation, investigation, or assessment pursuant to Section 3111 or 3118 of the Family Code or Part 2 (commencing with Section 1500) of Division 4 of the Probate Code.

(6) Counsel appointed for the minor in the family law case pursuant to Section 3150 of the Family Code. Prior to allowing counsel appointed for the minor in the family law case to inspect the file, the court clerk may require counsel to provide a certified copy of the court order appointing him or her as the counsel for the minor.

(b) If the child welfare agency files or records, or any portions thereof, are privileged or confidential pursuant to any other state law, except Section 827, or federal law or regulation, the requirements of that state law or federal law or regulation prohibiting or limiting release of the child welfare agency files or records, or any portions thereof, shall prevail.

(c) A social worker may testify in any family or probate proceeding with regard to any information that may be disclosed under this section.

(d) Any records or information obtained pursuant to this section, including the testimony of a social worker, shall be maintained solely in the confidential portion of the family law or probate file.

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## Item SPR11-44 Response Form

**Title:** **Family Law and Governmental Child Support: Address Verification for Postjudgment Service of Request to Modify Family Law Child Custody, Visitation, or Child Support and Governmental Motions Regarding Modification or Enforcement of Child Support** (adopt form FL-686, revise forms FL-335, FL-640, FL-661, FL-662, FL-676, FL-677, FL-679, FL-680, and FL-685; and approve form FL-334)

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

Comments: \_\_\_\_\_

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\_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Organization: \_\_\_\_\_

- Commenting on behalf of an organization

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

### **To Submit Comments**

Comments may be submitted online, written on this form, or prepared in a letter format. If you are *not* commenting directly on this form, please include the information requested above and the proposal number for identification purposes. Please submit your comments online or email, mail, or fax comments. You are welcome to email your comments as an attachment.

Internet: [www.courts.ca.gov/policyadmin-invitationstocomment.htm](http://www.courts.ca.gov/policyadmin-invitationstocomment.htm)

Email: [invitations@jud.ca.gov](mailto:invitations@jud.ca.gov)

Mail: Ms. Camilla Kieliger  
Judicial Council, 455 Golden Gate Avenue  
San Francisco, CA 94102

Fax: (415) 865-7664, Attn: Camilla Kieliger

**DEADLINE FOR COMMENT: 5:00 p.m., Monday, June 20, 2011**

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