

How to Start a Parentage Case and get Custody, Parenting Time, or Support orders

Open a Parentage case if you have a child with a person you are not married to and you want to get court orders.

Step 1

Complete the following forms in blue or black ink:

- FL-210 Summons (Uniform Parentage-Petition for Custody and Support)
- FL-200 Petition to Establish Parental Relationship (Uniform Parentage)
- FL-105 Declaration Under Uniform Child Custody Jurisdiction Enforcement Act (UCCJEA)
- Local form FM-1051 Declaration of Residence
- FL-300 Request for Order
- FL-311 Child Custody and Visitation Application Attachment
- MC-025 Attachment to Judicial Council Form
- Local form FM-1013 Declaration in Support of Ex Parte Application for Orders
- FL-305 Temporary Emergency Court Orders
- FL-155 Financial Statement (Simplified), if child support is an issue **OR**
- FL-150 Income and Expense Declaration, if spousal support is at issue or you are self-employed. *Read the back of the Financial Statement to see which form you qualify to complete.*

Step 2

If you are asking for emergency/temporary orders, the law requires you to **give 1 copy of the forms** to the other party by 10:00 am the day **before** you want the Judge to read them. Then you will complete form FM-1013 to let the Judge know you did this. In some cases you may not have to give notice. See page 2 for more information.

Step 3

Copies: Make 2 3 4 copies, in addition to the original.

Step 4

There is a filing fee, unless the fee is waived.

File:

- If you are not asking for a fee waiver or emergency/temporary orders, turn your forms into the **Clerk's Office**. You will pay the filing fee and get copies back with a file-stamp.
- If you are asking for a fee waiver or emergency/temporary orders, turn your forms into the **"Document Examiner-Court Specialist" window**. There is a 24 to 48 hour hold on the papers. During that time, the Judge will decide if you get emergency/temporary orders and/or if the filing fee will be waived. If emergency/ temporary orders are granted, these orders will be in effect until the court date.

File in the courthouse located at (You can file at *any* branch if you are receiving cash aid.):

- 170 Park Avenue, San Jose, CA
 - 99 Notre Dame Ave., San Jose, CA
 - 605 W. El Camino Real, Sunnyvale, CA
 - 301 Diana Ave., Morgan Hill, CA
- Monday-Friday from 8:30am to 4:00pm.

Please turn over for further instruction and important information



<p>Step 5</p>	<p>Service: After the filed copies are returned to you:</p> <ul style="list-style-type: none"> • Keep for your records—1 filed copy • Serve: Have 1 filed copy of the forms you filled out <u>and</u> a blank FL-220 <i>Response to Petition to Establish Parental Relationship</i>, a blank FL-105 <i>UCCJEA</i>, local forms FM-1021 <i>ADR Options</i> and FM-1049 <i>Family Law Notice</i>, blank FL-320 <i>Responsive Declaration to Request for Order</i> and <input type="checkbox"/> FL-155 or <input type="checkbox"/> FL-150 personally served on the other parent. “<i>Personal Service</i>” means: someone, NOT YOU, who is at least 18 years old must hand deliver the filed copies to the other parent. You can find a “Process Server” who will do this for a fee. <p>Service must be completed at least:</p> <ul style="list-style-type: none"> <input type="checkbox"/> 16 court days before the court hearing (weekends and holidays do not count) <input type="checkbox"/> 5 calendar days before the court hearing (if emergency orders granted) <p>Whoever serves must complete the attached <i>Proof of Service of Summons</i> form (FL-115) and give it back to you. You must file the original and a copy of this form at the Clerk’s Office, the clerk will file stamp the copy and give it back to you. Keep this copy for your records.</p> <p><input type="checkbox"/> Drop off 1 filed copy at the Self-Help Center/Family Law Facilitator’s office at 99 Notre Dame Ave (at any time; you don’t need to wait in line) and that office will serve a copy on the Department of Child Support Services (DCSS) for you.</p>
<p>STEP 6</p>	<p>Go to your court date.</p>

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

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

WHAT ARE EMERGENCY/TEMPORARY ORDERS?

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

The law requires that you, the party requesting emergency orders, give 1 copy of the forms to the other party before they are filed so the other party knows about the emergency orders you are requesting (has “notice”). This gives them a chance to respond to the court on an emergency basis to give the Judge their side of the story. You have to give the forms to the other party by 10:00 am the day before you want the Judge to review them. So if the forms are given to the other party at:

- 9:30 am on Wednesday they will be reviewed by the Judge on Thursday.
- 2:00 pm on Wednesday they will be reviewed by the Judge on Friday.

In some cases, the Judge can excuse this notice depending on facts of each case. Such cases include domestic violence restraining order applications. You can consult a private attorney for legal advice as to whether notice is required in your situation.

If emergency/temporary orders are made, they are in effect until your court date. The filing clerk will write this date on the front page of the *Request for Order*. If your request for emergency orders is denied at the temporary stage, you still have another chance to ask for them at your hearing,

WHAT HAPPENS IF I CANNOT GET THE OTHER PARTY SERVED?

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

WHY IS ESTABLISHING PARENTAGE IMPORTANT FOR MY CHILD?

A parentage action establishes the parentage of your child, rights to child support and legal claims to inheritance or Social Security benefits. However, you must be sure you get your actual parentage *Judgment*, not just orders for custody and support. Opening a case also establishes which county's court will make decisions about your child.

WHAT ARE THE IMPORTANT DEADLINES?

The court has important things you should do to keep your case on track. The first is that you should serve your filed Request for Orders, Petition and Summons on the other parent. Please review the following deadlines for service:

- If you file a Request for Orders with your Petition and Summons, serve no later than **16 court days before the hearing date** ("court day" means days that court is open, do not count weekends or holidays)
- If you file a Request for Orders and the Judge granted an "Order Shortening Time" (see FL-300, item 5), serve no later than **5 calendar days before the hearing date**
- If you did not file a Request for Orders, serve **within 60 days of filing** your papers.

There are additional deadlines you can read about in the court's Local Rules and the California Rules of Court. You can find both Rules on our website (www.scscourt.org) or at the Santa Clara County Law Library. If you do not follow the Rules and deadlines your case may be dismissed.

WHAT IF THE FATHER SIGNED A VOLUNTARY DECLARATION OF PATERNITY AT THE HOSPITAL?

The *Voluntary Declaration of Paternity* becomes a parentage judgment 60 days after it is signed and cannot be cancelled after the child turns two years old. If you want custody, visitation or child support orders, you still need to file a parentage action and attach a copy of the *Voluntary Declaration of Paternity*, if you have it.

WHAT IF THE OTHER PARENT AND I AGREE ABOUT PARENTAGE, CUSTODY, PARENTING TIME AND/OR CHILD SUPPORT ISSUES?

If a case has been opened by you or the other parent and neither of you are being represented by private attorneys in this case, the attorneys at the Self-Help Center/Family Law Facilitator's Office can help you prepare a *Judgment* by agreement. To get an appointment, come to your Case Status Conference and tell the Center's staff that you agree. You may also hire a private attorney-mediator to help you.

HOW CAN I GET THE FORMS?

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

- hire an attorney;
- contact a legal services agency (Read our Do-It-Yourself Resources flier for names and contact information)
- get the forms online at the state's website, (<http://courts.ca.gov/forms.htm>);
- use legal self-help websites and books
- visit the Self-Help Center/Family Law Facilitator's Office in person, Monday through Thursday, starting at 8:30 am. Please go to www.scscourt.org (and click on the self-help section of the site) for details on how to sign up for help at our office or at our workshops. We are now offering workshops for help requesting non-emergency orders. **Please note: we cannot help people who have attorneys.**

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

www.scscourt.org
Superior Court, County of Santa Clara

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