

Title	Child Support: Revoke Redundant Child Support Order Form (revoke form DV-160)
Summary	This proposal would revoke a rarely used domestic violence form that contains a child support order where other child support order forms are available for judicial use.
Source	Family and Juvenile Law Advisory Committee Hon. Jerilyn L. Borack and Hon. Susan D. Huguenor, Cochairs
Staff	Anna Maves, 916-263-8624, anna.maves@jud.ca.gov

Form DV-160, *Child Support Order – Order of Protection (Domestic Violence Protection)* would be revoked in favor of other existing “order after hearing” forms. The purpose of this form was to allow courts to make child support orders in domestic violence cases at the same time an order of protection was issued. In practice, however, this form is rarely used in these instances. The revocation of this form would have no effect on a court’s authority to make a child support order at the same time it issues a restraining order. There are many other family law and governmental child support forms commonly used by the court when a child support order is made at the same time a restraining order is issued. These forms include FL-342, *Child Support Information and Order Attachment*; FL-687, *Order After Hearing (Governmental)*; and FL-692, *Minutes and Order of Judgment*. In addition, this form is an eight page attachment to the order of protection, which may also contain several other attachments of multiple pages. This results in a very bulky document that can be overwhelming for court users. Many users find it easier to complete the support order by just adding a few sentences to the “other orders” item on DV-130.

The results of a survey of family law facilitators, child support commissioners, court staff, and nonprofit organizations reveal that the form is rarely used. Most responders stated that the form is not particularly useful since FL-342 can be used for the order after hearing when support is ordered. Eighty percent of respondents indicated that there is no benefit to the continued use of the form. Nearly all of the 20 percent who saw some benefit to retaining the form acknowledged that in actual practice, they “never” or “rarely” see the form.

The form proposed to be revoked is attached at pages 2–9.

This form is attached to DV-130, Item 10.

① Protected person's name: _____ Mother Father _____

② Restrained person's name: _____ Mother Father _____

The court used the information below to calculate child support.

③ A printout of a computer calculation is attached. (Skip to ⑦ if the printout is attached, and do not complete ④ or ⑥.)

④ **Monthly income**

	Gross income	Net income	Capable of earning	TANF/CalWORKS
Person listed in ①	\$ _____	\$ _____	\$ _____	<input type="checkbox"/> Yes <input type="checkbox"/> No
Person listed in ②	\$ _____	\$ _____	\$ _____	<input type="checkbox"/> Yes <input type="checkbox"/> No

⑤ **Children of parents listed in ① and ②:**

- a. Number of children covered by this order: _____
- b. Those children spend _____% of time with person in ① and _____% with person in ②

⑥ **Hardships** considered by the court:

Person in ① Person in ② Explain or attach explanation

- a. Support for other minor children in the home \$ _____ \$ _____ _____
- b. Extraordinary medical expenses \$ _____ \$ _____ _____
- c. Catastrophic losses \$ _____ \$ _____ _____
- d. Other (specify): _____

⑦ The **total guideline calculation** for all children (not including additional support) is \$ _____

⑧ A **Non-Guideline Order** is appropriate instead of the guideline calculation in ⑦. This order is different from the statewide child support guideline set forth in Family Code section 4055.

⑨ **Other findings:** _____

The Court Orders:

⑩ **Low-Income Adjustment**

- a. The low-income adjustment applies.
- b. The low-income adjustment does not apply because (specify reasons): _____

This is a Court Order.



Your name: _____

11 A **Non-Guideline Order** of \$ _____ per month is ordered instead of the guideline calculation in 7. This order does not meet the child support guideline set forth in Family Code section 4055. **Form FL-342(A) (Non-Guideline Child Support Findings Attachment)** is attached.

12 **Basic child support**

a. Person in 1 Person in 2 will pay child support for:

Child's name	Date of birth	Monthly amount	Payable to:
_____	_____	\$ _____	_____
_____	_____	\$ _____	_____
_____	_____	\$ _____	_____
_____	_____	\$ _____	_____

b. Additional children are listed on a separate page.

c. Starting (date): _____ support must be paid to:

- person in 1 person in 2 local child support agency Other: _____
- By the 1st of each month
- 50% on the 1st and 50% on the 15th of each month
- By earnings assignment order (order to withhold income)
- Other (specify): _____

13 **Additional child support**

(Write the specific amount. If the specific amount is not available, enter a percentage. The local child support agency can collect only fixed dollar amounts, not percentages.)

a. **Costs**

Person listed in 1 Person listed in 2 Other arrangements:

<input type="checkbox"/> Child-care expenses	\$ _____ or _____%	\$ _____ or _____%	_____
<input type="checkbox"/> Children's uninsured health-care expenses	\$ _____ or _____%	\$ _____ or _____%	_____
<input type="checkbox"/> Children's educational/other special needs	\$ _____ or _____%	\$ _____ or _____%	_____
<input type="checkbox"/> Travel expenses for visitation	\$ _____ or _____%	\$ _____ or _____%	_____
<input type="checkbox"/> Other (specify): _____	\$ _____ or _____%	\$ _____ or _____%	_____

b. Starting (date): _____ these support payments must be paid to:

- person in 1 person in 2 local child support agency Other: _____
- By the 1st of each month
- 50% on the 1st and 50% on the 15th of each month
- By earnings assignment order (order to withhold income)
- Other (specify): _____

All payments to the local child support agency must be made to:

This is a Court Order.



Your name: _____

- 14** **Total Child Support Order**
- a. Total basic child support is \$ _____/month.
- b. Total additional child support is \$ _____/month (and/or the percentages listed in **13**).
- c. **Total Child Support Order**
(basic and additional child support) is \$ _____/month, payable as listed in **12** and **13**.

Notice:

If you are late in paying child support, interest on overdue amounts will add up at the legal rate, which is currently 10% per year.

This support order will continue until:

- There is a different court order *or*
- The child marries, dies, turns 19, or is emancipated *or*
- The child turns 18 and is not a full-time high school student.

- 15** **Health-care expenses**
- a. Person in **1** Person in **2** will provide and keep health insurance for the children if it is available at no or reasonable cost through work or a group plan, including group plans available through self-employment. Both parents will cooperate to complete health-care claims as stated on **page 5** (Notice of Rights and Responsibilities: Health-Care Costs and Reimbursement Procedures). Parents may have peaceful written contact with each other in order to complete insurance claims.
- b. No health insurance is available to person in **1** person in **2** at a reasonable cost now.
- c. The parent with insurance will give the right of reimbursement to the other parent.
- d. Other (*specify*): _____

- 16** **Earnings Assignment Order (Order to Withhold Income)**
- a. A form **FL-195/OMB No. 0970-0154, Income Withholding for Support**, will be issued.
Note: The parent paying child support must pay support to the other parent until support payments are deducted from the paying parent's wages, and must pay any support owed that is not covered by the earnings assignment.
- b. If the parent paying support is more than _____ days late in making a payment, the earnings assignment order will be served.
- c. There will be a **Qualified Medical Child Support Order** payable to:
 person in **1** person in **2**

- 17** **Employment Search Order**
- Person in **1** Person in **2** is ordered to seek employment as stated in the attachment as follows:
- _____
- _____

- 18** **Other orders**
- _____
- _____
- _____

This is a Court Order.



Your name: _____

Empty box for Case Number

- 19 These **required attachments** are attached and are a part of this order:
Notice of Rights and Responsibilities: Health-Care Costs and Reimbursement Procedures (pages 5 and 6)
Information Sheet on Changing a Child Support Order (pages 7 and 8)

20 **Notice Regarding Child Support Case Registry**

If there is a case open in the local child support agency, the parents must notify the local child support agency in writing within 10 days of any change in residence or employment.

If there is no open case in the local child support agency, both parties must complete and file with the court form FL-191, *Child Support Case Registry Form*, within 10 days of the date of this order. Thereafter, the parties must notify the court of any change in the information submitted within 10 days of the change by filing an updated form.

Proposed for revocation

This is a Court Order.



If you have a child support order that includes a provision for the reimbursement of a portion of the child's or children's health-care costs and those costs are not paid by insurance, the law says:

1. Notice. You must give the other parent an itemized statement of the charges that have been billed for any health-care costs not paid by insurance. You must give this statement to the other parent within a reasonable time, but no more than 30 days after those costs were given to you.

2. Proof of full payment. If you have already paid all of the uninsured costs, you must (1) give the other parent proof that you paid them and (2) ask for reimbursement for the other parent's court-ordered share of those costs.

3. Proof of partial payment. If you have paid only your share of the uninsured costs, you must (1) give the other parent proof that you have paid your share, (2) ask that the other parent pay his or her share of the costs directly to the health-care provider, and (3) give the other parent the information necessary for that parent to be able to pay the bill.

4. Payment by notified parent. If you receive notice from a parent that an uninsured health-care cost has been incurred, you must pay your share of that cost within the time the court orders; or if the court has not specified a period of time, you must make payment either (1) within 30 days from the time you were given notice of the amount due, (2) according to any payment schedule set by the health-care provider, (3) according to a schedule agreed to in writing by you and the other parent, or (4) according to a schedule adopted by the court.

5. Disputed charges. If you dispute a charge, you may file a motion in court to resolve the dispute, but only if you pay that charge before filing your motion. If you claim that the other party has failed to

reimburse you for a payment, or the other party has failed to make a payment to the provider after proper notice has been given, you may file a motion in court to resolve the dispute. The court will presume that if uninsured costs have been paid, those costs were reasonable. The court may award attorney fees and costs against a party who has been unreasonable.

6. Court-ordered insurance coverage. If a parent provides health-care insurance as ordered by the court, that insurance must be used at all times to the extent that it is available for health-care costs.

a. Burden to prove. The party claiming that the coverage is inadequate to meet the child's needs has the burden of proving that to the court.

b. Cost of additional coverage. If a parent purchases health-care insurance in addition to that ordered by the court, that parent must pay all the costs of the additional coverage. In addition, if a parent uses alternative coverage that costs more than the coverage provided by court order, that parent must pay the difference.

7. Preferred health-care providers. If the court-ordered coverage designates a preferred health-care provider, that provider must be used at all times, consistent with the terms of the health insurance policy. When any party uses a health-care provider other than the preferred provider, any health-care costs that would have been paid by the preferred health-care provider if that provider had been used will be the sole responsibility of the party incurring those costs.

Si usted tiene una orden de manutención de menores que disponga la devolución de costos incurridos por servicios de salud para menores y costos no cubiertos por el seguro médico, la ley dice lo siguiente:

1. Aviso. Se debe dar al otro padre una factura detallada relacionando los costos cobrados por servicios de salud que no estén cubiertos por seguro médico. Esta factura se le debe dar al otro padre con antelación razonable y no más tarde de 30 días después de haber recibido dichos cobros de pago.

2. Comprobante de pago total. Si usted ya pagó todos los costos de salud correspondientes a individuos no asegurados, deberá: (1) proporcionar al otro padre el comprobante de haber pagado y (2) pedirle al otro padre que le pague la porción de los costos que al otro padre le corresponda, según la orden del tribunal.

3. Comprobante de pago parcial. Si sólo pagó su porción de los costos no cubiertos por el seguro, debe: (1) darle al otro padre un comprobante indicando que ya pagó dicha porción, (2) pedir al otro padre que pague directamente al proveedor de servicios médicos la parte de los costos que al otro padre le corresponda y (3) darle al otro padre la información necesaria para que pague la factura.

4. Pago que le corresponde al padre notificado. Si usted recibe notificación del otro padre indicando costos incurridos por servicios de salud para individuos sin seguro, deberá pagar la porción que le corresponde a usted dentro del plazo ordenado por el tribunal, o si el tribunal no especifica un plazo, usted deberá pagar dichos costos, ya sea, (1) a más tardar en 30 días, desde la fecha en que recibió la notificación sobre los costos por pagar, (2) según un horario de pagos fijado por el proveedor de servicios de salud, (3) según un horario acordado por escrito entre usted y el otro padre o (4) según el horario adoptado por el tribunal.

5. Cuando se disputan los costos. Si usted disputa un costo, puede presentar al tribunal una moción (o pedimento) para resolver la disputa. Sólo podrá hacer esto, si paga el costo antes de presentar la moción.

Si su reclamo consiste en que la otra parte no le ha pagado a usted por un costo, o que no le ha pagado al proveedor de servicios de salud después de la notificación apropiada, usted puede presentar una moción ante el tribunal para resolver la disputa. El tribunal asumirá que si los costos ya se han pagado, dichos costos han sido razonables. Si una persona se comporta de una manera que no sea razonable, el tribunal puede imponerle que pague honorarios de abogado.

6. Cobertura de seguro por orden de tribunal. Si un padre tiene seguro de salud por orden del tribunal, ese seguro se usará todo el tiempo, siempre que esté disponible para cubrir los costos de servicios de salud.

a. Responsabilidad de comprobar. La responsabilidad de comprobar ante el tribunal que la cobertura de servicios de salud es inadecuada para los menores recae sobre la parte que reclama que es inadecuada.

b. Costos de cobertura adicional. Si uno de los padres compra un seguro de salud adicional al que haya sido ordenado por el tribunal, tal padre deberá pagar todo el costo de la cobertura adicional. Y si uno de los padres usa una manera alterna para cubrir gastos médicos que cuestan más que la cobertura dispuesta por el tribunal, dicho padre tendrá que pagar la diferencia.

7. Proveedor preferido para servicios de salud. Si la orden del tribunal especifica un proveedor preferido para servicios de salud, dicho proveedor deberá usarse siempre, según los términos de la póliza del seguro de salud. Si una de las partes decide usar un proveedor que no sea el preferido e incurre costos que podrían haber sido cubiertos por el proveedor preferido si se hubieran utilizado sus servicios, dicha parte asumirá la responsabilidad de cubrir los costos incurridos.

General information. The court has just made a child support order in your case. This order will remain the same unless a party to the action requests that the support be changed (modified). An order for child support can be modified only by filing a motion to change child support and serving each party involved in your case. If both parents and the local child support agency (if it is involved) agree on a new child support amount, you can complete, have all parties sign, and file with the court a *Stipulation to Establish or Modify Child Support and Order* (form FL-350) or *Stipulation and Order (Governmental)* (form FL-625).

When a child support order may be modified. The court takes several things into account when ordering the payment of child support. First, the number of children is considered. Next, the net incomes of both parents are determined, along with the percentage of time each parent has physical custody of the children. The court considers both parties' tax filing status and may consider hardships, such as a child of another relationship. An existing order for child support may be modified when the net income of one of the parents changes significantly, the parenting schedule changes significantly, or a new child is born.

Examples

- You have been ordered to pay \$500 per month in child support. You lose your job. You will continue to owe \$500 per month, plus 10 percent interest on any unpaid support, unless you file a motion to modify your child support to a lower amount and the court orders a reduction.
- You are currently receiving \$300 per month in child support from the other parent, whose net income has just increased substantially. You will continue to receive \$300 per month unless you file a motion to modify your child support to a higher amount and the court orders an increase.
- You are paying child support based upon having physical custody of your children 30 percent of the time. After several months it turns out that you actually have physical custody of the children 50 percent of the time. You may file a motion to modify child support to a lower amount.

How to Change a Child Support Order

To change a child support order, you must file papers with the court. *Remember:* You must follow the order you have now.

What forms do I need?

If you are asking the court to change a child support order open with the local child support agency, you must fill out one of these forms:

- FL-680, *Notice of Motion (Governmental)* or FL-683 *Order to Show Cause (Governmental)* and
- FL-684, *Request for Order and Supporting Declaration (Governmental)*

If you are asking the court to change a child support order that is **not** open with the local child support agency, you must fill out one of these forms:

- FL-301, *Notice of Motion* or FL-300, *Order to Show Cause* and
- FL-310, *Application for Order and Supporting Declaration* or
- FL-390, *Notice of Motion and Motion for Simplified Modification of Order for Child, Spousal, or Family Support*

You must also fill out one of these forms:

- FL-150, *Income and Expense Declaration* or FL-155, *Financial Statement (Simplified)*

What if I am not sure which forms to fill out?

Talk to the family law facilitator at your court.

After you fill out the forms, file them with the court clerk and ask for a hearing date. Write the hearing date on the form.

The clerk will ask you to pay a filing fee. If you cannot afford the fee, fill out these forms too:

- Form FW-001, *Application for Waiver of Court Fees and Costs*
- Form FW-003, *Order on Application for Waiver of Court Fees and costs*

You must serve the other parent. If the local child support agency is involved, serve it too.

This means someone 18 or over—**not you**—must serve the other parent copies of your filed court forms at least **16 court days** before the hearing. Add **5 calendar days** if you serve by mail within California (see Code of Civil Procedure section 1005 for other situations). **Court days** are weekdays when the court is open for business (Monday through Friday except court holidays). **Calendar days** include all days of the month, including weekends and holidays. To determine court and calendar days, go to www.courtinfo.ca.gov/selfhelp/courtcalendars/.

The server must also serve blank copies of these forms:

- FL-320, *Responsive Declaration to Order to Show Cause or Notice of Motion* and FL-150, *Income and Expense Declaration*, or
- FL-155, *Financial Statement (Simplified)*

Then the server fills out and signs a *Proof of Service* (form FL-330 or FL-335). Take this form to the clerk and file it.

Go to your hearing and ask the judge to change the support. Bring your tax returns from the last two years and your last two months' pay stubs. The judge will look at your information, listen to both parents, and make an order. After the hearing, fill out:

- FL-340, *Findings and Order After Hearing* and
- FL-342, *Child Support Information and Order Attachment*

Need help?

Contact the family law facilitator in your county or call your county's bar association and ask for an experienced family lawyer.

Información general

El tribunal acaba de dar una orden judicial sobre manutención de menores en esta causa. Esta orden permanecerá en efecto, a menos que alguna de las partes de la causa pida que se modifique. Sólo se puede modificar una orden de manutención de menores si se presenta ante el tribunal una moción (o pedimento) de modificación de manutención y si se da una copia de dicha moción a las partes interesadas en la causa. Si ambos padres llegan a un común acuerdo sobre una suma y si la agencia local que vigila la manutención de menores también acepta el acuerdo (si dicha agencia participa), se puede llenar y hacer que cada una de las partes firme una *Estipulación para Establecer o Modificar una Orden de Manutención de Menores* (formulario FL-350) o llenar y hacer que cada una de las partes firme una *Estipulación y Orden (Documento gubernamental)* (formulario FL-625).

¿Cuándo se puede modificar una orden de manutención de menores?

El juez toma varios factores en consideración cuando emite una orden judicial sobre el pago de manutención de menores. Primero, considera, el número de hijos. Luego, determina los ingresos de ambos padres y el porcentaje del tiempo que cada padre asume la custodia física de los hijos. El tribunal estudia el estado tributario (pago de impuestos) de ambas partes y puede tener en cuenta factores de dificultad económica, tales como la existencia de hijos de otra relación. Se puede modificar la orden de manutención de menores si ocurre un cambio considerable en los ingresos netos de uno de los padres, un cambio considerable en el tiempo que los menores pasan con cada uno de los padres, o cuando nace un nuevo hijo.

Ejemplos:

Si a usted se le ha ordenado pagar \$500 mensuales de manutención de menores y luego pierde su empleo, continuará debiendo \$500 mensuales. Además usted deberá el 10% de intereses de la suma de manutención adeudada, a menos que presente una moción pidiendo que se modifique y se reduzca la suma de manutención y que el tribunal ordene dicha reducción.

Si usted está recibiendo \$300 mensuales por manutención de menores provenientes del otro padre y los ingresos de ese padre aumentan considerablemente, usted continuará recibiendo \$300 mensuales, a menos que usted presente una moción para modificar la orden y que el tribunal ordene el aumento de la suma de manutención de menores.

Si paga manutención de menores basándose en que pasa un 30% de tiempo asumiendo la custodia parcial de sus hijos y después de varios meses, resulta que en efecto pasa el 50% del tiempo a cargo de la custodia física de sus hijos, en dado caso, podrá presentar una moción pidiendo que se reduzca la suma de manutención.

Cómo modificar una orden existente de manutención de hijos menores

Para modificar una orden de manutención de hijos menores usted debe presentar documentos ante el tribunal. Recuerde: Usted tiene la obligación de cumplir la orden judicial existente.

¿Qué formularios necesita?

Si está pidiendo que el tribunal modifique una orden de manutención cuyo caso está abierto en la agencia local que vigila la manutención de menores, deberá llenar los siguientes formularios:

- FL-680 Aviso de petición (Gubernamental) o FL-683 Orden de motivos justificativos (Gubernamental) y
- FL-684 Solicitud de orden y declaración de respaldo

Si está pidiendo que el tribunal modifique una orden de manutención cuyo caso **no** está abierto en la agencia local que vigila la manutención de menores, deberá llenar los siguientes formularios:

- FL-301 Aviso de petición o FL-300 Orden de motivos justificativos y
- FL-310 Solicitud para una orden y declaración de respaldo (Derecho de familia -Paternidad uniforme) o
- FL-390 Aviso de petición y petición simplificada de modificación de orden de manutención de hijos menores, de cónyuge o de familia

También deberá llenar uno de los siguientes formularios:

- FL-150 Declaración de ingresos y gastos o FL-155 Declaración sobre finanzas (Simplificada)

¿Qué puedo hacer si no sé qué formulario llenar?

Hable con el asesor legal del tribunal de familia.

Después de llenar los formularios, radíquelos en el tribunal y pida una audiencia ante el tribunal. Escriba la fecha de su audiencia en su formulario. En la secretaría le pedirán que pague la cuota de radicación. Si no tiene los medios para pagar la cuota, llene también los siguientes formularios:

- Formulario 982(a)(17) Solicitud de exención de cuotas y costos judiciales
- Formulario 982(a)(18) Orden de exoneración de cuotas y costos judiciales

Usted tiene que hacer la "entrega legal" de los formularios de modificación al otro padre.

Si la agencia local que vigila la manutención de hijos menores participa en la causa, entregue también los documentos a esa agencia.

Esto significa que una persona de no menos de 18 años (**y que no sea usted mismo**) debe entregar copias de los formularios por lo menos **16 días hábiles del tribunal** antes de la audiencia. Se deben añadir **5 días calendarios** más si la entrega se hace por correo postal dentro de California (véase Código Civil de Procedimientos, sección 1005 para ver otras situaciones). Los **días hábiles del tribunal** son los días cuando el tribunal está funcionando, de lunes a viernes, exceptuando los días feriados. Los **días calendarios** son todos los días de la semana, incluyendo los fines de semana y los días feriados. Para obtener mayor información, visite: www.courtinfo.ca.gov/selfhelp/courtcalendars

La persona que haga entrega de la copia de los documentos deberá entregar copias de los siguientes formularios:

- FL-320 Declaración de respuesta y FL-150 Declaración de ingresos y gastos, o
- FL-155 Declaración de finanzas (Simplificada)

La persona que hace la entrega entonces llena y firma el comprobante de entrega (formularios FL-330 o FL-335). Luego, usted lleva este documento a la secretaría del tribunal para radicarlo.

Vaya a su audiencia ante el tribunal y pida al juez que modifique la manutención.

Lleve consigo sus formularios más recientes de declaración de impuestos federales de los últimos dos años y sus talones de pago de los últimos dos meses. El juez estudiará la información presentada, escuchará a ambos padres y emitirá una orden. Después de la audiencia usted debe llenar los formularios:

- FL-340 Conclusiones y orden después de la audiencia y
- FL-342 Documento adjunto con información sobre manutención de menores y orden judicial.

¿Necesita ayuda?

Consulte con el Asesor Legal del Tribunal de Familia de su condado o llame al colegio de abogados de su condado y pida un abogado con experiencia en el tribunal de familia.

Item SPR10-26 Response Form

Title: **Child Support: Revoke Redundant Child Support Order Form** (revoke form DV-160)

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

Comments: _____

Name: _____ **Title:** _____

Organization: _____

- Commenting on behalf of an organization**

Address: _____

City, State, Zip: _____

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: <http://www.courtinfo.ca.gov/invitationstocomment/>

Email: 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., Friday, June 18, 2010

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.