

# Family Law Issues Meeting

**Call In Number: 877.820.7831**

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FEBRUARY 18, 2016  
11:00 A.M. - 3:15 P.M.  
SAN FRANCISCO, CA



JUDICIAL COUNCIL  
OF CALIFORNIA

OPERATIONS AND PROGRAMS DIVISION  
CENTER FOR FAMILIES, CHILDREN & THE COURTS

## Local Child Support Agency Allocation Methodology Project

- The State Department of Child Support Services (DCSS), in collaboration with the Child Support Director's Association, has convened a workgroup, the Budget Allocation Methodology (BAM) workgroup, to discuss different ways to allocate funding to local child support agencies (LCSAs).
  
- The BAM workgroup convened in September 2015 and is composed of representatives from State DCSS as well as representative from very large, large, medium, small and very small LCSAs. The workgroup estimates that it will complete its work by the end of state fiscal year 2016-17.
  
- The goal of the workgroup is to explore alternative budget methodologies that support responsible fiscal stewardship and enable LCSAs to provide services to customers equitably throughout the state while continuing to drive to improve program performance. Any proposed allocation methodology should also support and enable the department to achieve the goals it established in its 2015-19 Strategic Plan. These goals were developed collaboratively with the LCSAs and incorporated input from the Judicial Council of California as well as other program stakeholders. The goals include: (1) increase support for California's children; (2) deliver excellent and consistent customer service statewide; (3) enhance program performance and sustainability; (4) develop collaborative partnerships, and (5) be innovative in meeting the needs of families.
  
- Some of the data factors the workgroup is considering in the course of this project include, but are not limited to: current LCSA administrative allocations, current LCSA information technology (IT) allocations, administrative and IT staffing, core operational expenses and special items of expense (e.g. call center, training, shared services funding), caseload demographics, LCSA cost of doing business expenses, cases per fulltime equivalent, cases per caseworker, funding per case and child support program performance measures.



## JUDICIAL COUNCIL OF CALIFORNIA

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### MEMORANDUM

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Date	Action Requested
January 29, 2016	Review and provide comment, if needed
To	Deadline
Family and Juvenile Law Advisory Committee	February 18, 2016
From	Contact
Carrie Zoller, CFCC	Carrie Zoller 415-865-8829 carrie.zoller@jud.ca.gov
Subject	
Trainings approved pursuant to Rules of Court, Rules 5.210, 5.225, 5.230, and 5.518.	

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Pursuant to California Rules of Court, rules 5.210 (g) and 5.230 (e), Judicial Council staff, in consultation with the Family and Juvenile Law Advisory Committee, are charged with approving mandated education and training programs for court-connected mediators, evaluators and child custody recommending counselors. The attached document provides a list of the trainings offered in 2015 that were found to meet education requirements pursuant to the Rules of Court. As presented at the February 26, 2015 in-person meeting of the Family and Juvenile Law Committee, courses not provided by the Judicial Council can receive credit through a process whereby a Family Court Services (FCS) director, education provider, or class attendee submits a completed Request for Approval of Training form, which is then reviewed by two Judicial Council staff for appropriateness for Rules of Court credit. This process helps maximize the opportunities for FCS staff to meet their annual education requirements while also helping ensure that the trainings are beneficial and appropriate.

**2015 FDR PROGRAM: Approved Continuing Education (CE) Hours Under Applicable California Rules of Court**

TRAINING DATE(S)	PROGRAM NAME	DELIVERY METHOD	No. of CE Hours Provided for
<b>CFCC FDR IN-PERSON TRAININGS</b>			
March 24, 2015 - March 26, 2015	Institute for New Court Professionals	In person	20.0
March 24, 2015 - March 27, 2015	Family Law Education Programs (FLEP)	In person	33.25
October 12, 2015	FCS Columbus Day Training; Fresno, California	In person	6.25
October 16, 2015	FCS Directors, Managers, Supervisors, and Court Administrators Training Symposium in conjunction with AB 1058 Child Support Training Conference	In person	4.0
November 30, 2015 - December 2, 2015	2015 FDR Institute for New Court Professionals	In person	24.5
December 1, 2015 - December 4, 2015	Beyond the Bench 23	In person	32.25
<b>CFCC FDR INTERACTIVE WEBINARS</b>			
August 19, 2015	Child Custody and Domestic Violence: 3011, 3044 and New Cases	Webinar	1.5
September 18, 2015	Child Custody and Domestic Violence: 3011, 3044 and New Cases (Repeat of August 19, 2015)	Webinar	1.5
July 1, 2015	FCS Director, Manager, and Supervisors' Webinar and Training Special Considerations with Military and Veteran Families in Family Courts: Addressing Key Issues	Webinar	1.0
December 7, 2015	Family Dispute Resolution Interactive Webinar Series Adverse Childhood Experiences (ACEs): What's a Family Court to Do	Webinar	1.5
<b>CFCC FDR DISTANCE EDUCATION VIDEO COURSES</b>			
Launched 8/17/2012	Online—Lesbian, Gay, Bisexual and Transgender (LGBT) Issues in Family Court	Online course	4.0
Launched 8/17/2012	Online—Brief Solution-Focused Child Custody Mediation: Approaches and Skills	Online course	1.0
Launched 8/17/2012	Online—Ethics for Court-Connected Mediators, Child Custody Recommending Counselors, and Evaluators	Online course	6.0
Launched 7/01/2013	Online—Child Welfare and Juvenile Dependency Court—An Overview	Online course	3.0
Launched 2/12/2013	Online—Information Sharing between Family Court, Juvenile Court, Family Court Services and Child Welfare	Online course	3.0



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TRAINING DATE(S)	PROGRAM NAME	DELIVERY METHOD	No. of CE Hours Provided for
Launched 7/11/2014	Online—Working with High-Conflict Families	Online course	1.0
Launched 10/17/2014	Online—Domestic Violence & the Teen Brain: Maximizing Toward Complexity	Online course	1.5
Launched 12/16/2015	Online—Domestic Violence Issues in a Family Court Setting	Online course	3.0
<b>CFCC FDR CONFERENCE CALL TRAININGS</b>			
January 7, 2015	FCS Directors, Managers, and Supervisors’ Training Conference Call Updates Family Law Education Program	Conference call	0.5
February 4, 2015	FCS Directors, Managers, and Supervisors’ Training Conference Call Family Law Education Programs Updates and Questions	Conference call	0.5
May 6, 2015	FCS Directors, Managers, and Supervisors’ Training Conference Call Criminal Background Checks Information: CLETS, LiveScan, and More	Conference call	1.0
June 3, 2015	FCS Directors, Managers, and Supervisors’ Training Conference Call Screening and Intake Tools Review	Conference call	0.75
July 1, 2015	FCS Directors, Managers, and Supervisors’ Training Conference Call Special Considerations with Military and Veteran Families in Family Courts: Addressing Key Issues	Conference call	1.0
August 5, 2015	FCS Directors, Managers, and Supervisors’ Training Conference Call Special Consideration When Interviewing Children	Conference call	0.75
September 2, 2015	FCS Directors, Managers, and Supervisors’ Training Conference Call Working with Native Americans Families	Conference call	2.0
November 4, 2015	FCS Directors, Managers, Supervisors, and Court Administrators Training Symposium Where is your Seat in the Bus? Improving Communication in your Court	Conference call	0.75

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TRAINING DATE(S)	PROGRAM NAME	DELIVERY METHOD	No. of CE Hours Provided for
December 2, 2015	FCS Directors, Managers, Supervisors, and Court Administrators Training Symposium Training and Resource Update	Conference call	0.5
<b>NON-CFCC TRAININGS APPROVED FOR CREDIT</b>			
January 12, 2015	Integration of Pharmacological and Psychological Interventions for Mood Disorders:	Online course	15.0
January 12, 2015	Shame Affect: Theory, Research and Clinical Treatment	Online course	15.0
January 16, 2015	Domestic Violence Update Training	In person	4.0
January 17, 2015	Couples Therapy: Counterintuitive Approaches To Working More Effectively	In person	4.0
January 20, 2015	A Fresh Look at Guardianships	In person	5.5
January 20, 2015	Beyond Mandates	In person	5.0
January 22, 2015	Inside the Manipulator’s Mind	In person	6.0
January 28, 2015	Webinar—Engaging and Supporting Parents & Caregivers around Sensitive Issues	Webinar	1.5
January 28, 2015	Engaging and Supporting Parents & Caregivers around Sensitive Issues	Webinar	1.5
February 2, 2015	Drug and Alcohol Testing Training	In person	1.0
February 6, 2015 - February 8, 2015	2015 AFCC California Chapter Annual Conference: “Inventing the Future: Getting Ahead of the Curve for California’s Families	In person	36.0
February 8, 2015	SOS-Families in Distress-Matching Interventions to Families, Determining What Can Work	In person	2.0
February 11, 2015	Indian Child Welfare Act (ICWA)	In person	6.0
February 12, 2015	The Female Sex Offender: Understanding the Dynamics and Supporting Survivors	In person	6.0
February 12, 2015	Brief Focused Assessments	In person	1.0
February 12, 2015	The California Co-Parenting Center	In person	2.0
February 12, 2015	Intrafamilial Sexual Abuse Training	In person	2.0
February 12, 2015 - February 13, 2015	Advanced Mediation: When Push Comes to Shove in the Bargaining Stage	In person	12.0

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<b>TRAINING DATE(S)</b>	<b>PROGRAM NAME</b>	<b>DELIVERY METHOD</b>	<b>No. of CE Hours Provided for</b>
February 18, 2015	Terra Firma CBO on Diversion and Education in DV Cases	In person	1.0
February 25, 2015	The Role of Minor's Counsel	In person	1.0
February 25, 2015	Webinar—Partnering the Other System	Webinar	1.5
February 25, 2015	Partnering with Other Systems	Webinar	1.5
February 26, 2015	Trauma informed Child Custody Counseling and Domestic Violence Protocol	In person	1.5
March 4, 2015 - March 8, 2015	Society for Personality Assessment Annual Convention	In person	3.5
March 2, 2015	Drug and Alcohol Assessments	In person	1.0
March 6, 2015	Psychotropic Medications with Fred Rowe MD	In person	1.5
March 6, 2015	New Ways in Mediation	In person	1.5
March 18, 2015	Girls, Inc.	In person	2.0
March 20, 2015	Law and Ethics: Navigating Legal Obstacles and Ethical Dilemmas	In person	6.0
March 20, 2015	Report Writing	In person	2.0
March 23, 2015 - March 25, 2015	Essentials of Mediation	In person	22.5
March 25, 2015	Sustaining Trauma-Informed Family Centered Services	Webinar	1.5
March 26, 2015 - March 27, 2015	Divorce Mediation	In person	15.0
March 27, 2015	NASW Code of Ethics: Social Workers' Ethical Responsibilities	Online course	2.0
March 27, 2015	HIPAA	Online course	1.0
March 31, 2015	Mental Health and Substance Use Coercion: Results of Two National Surveys and Implications for Practice	Webinar	1.5
March 31, 2015	Mental Health and Substance Use Coercion: Results of Two National Surveys and Implications for Practice (webinar in collaboration with the National Domestic Violence Hotline)	Webinar	1.5
March 31, 2015	Ethics and Risk Management: Social Media and the Internet	Online course	2.0
March 31, 2015	Ethics	Online course	1.0
April 9, 2015	Badda Bing, Badda Boom: Don't Delay in Creating a High Performance Department and Agency	In person	2.75
April 9, 2015	Finding the Facts: Disciplinary and Harassment Investigations	In person	2.75

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<b>TRAINING DATE(S)</b>	<b>PROGRAM NAME</b>	<b>DELIVERY METHOD</b>	<b>No. of CE Hours Provided for</b>
April 10, 2015	Boyhood	In person	3.0
April 10, 2015	No Drama Discipline: A Whole Brain Approach from Dan Siegel, MD	In person	1.0
April 12, 2015 - April 14, 2015	Family Justice Center Alliance 2015 International Family Justice Conference	In person	10.5
April 14, 2015 - April 18, 2015	Beginning Mediation and Conflict Resolution,	In person	36.25
April 21, 2015 - April 22, 2015	Child Abduction Intervention & Resource Training	In person	12.0
April 23, 2015	Drug Testing: Science and Law	In person	1.0
April 23, 2015	Working with High Conflict Parents in Mediation	In person	4.5
April 24, 2015	DV: Coordinated Legal/Law Enforcement Community Response & Substance Abuse & Relationship Abuse	In person	8.0
April 24, 2015	Reasoning with Unreasonable People: Focus on Disorders and Emotional Regulations: April 24 and May 15, 2015 (Repeat)	In person	6.0
May 7, 2015	Utilizing a Trauma Informed Approach in Youth Services	In person	6.0
May 7, 2015 - May 8, 2015	Fundamentals of Family Law-For Mediators and Therapists;	In person	12.0
May 13, 2015	Children with Disabilities: A Training for First Responders	Webinar	1.5
May 13, 2015	Children with Disabilities: A Training for First Responders	In person	1.5
May 15, 2015	Legal Issues in Family Law: Standards of Evidence, Step Parent and Grandparent Visitation;	In person	2.0
May 18, 2015	Motivational Interviewing in Healthcare with Stephen Rollnick	Online course	1.5
May 21, 2015	Stalking Symposium	In person	7.0
May 27, 2015 - May 30, 2015	52nd Annual Conference—Children in the Court System: Different Doors, Different Responses, Different Outcomes,	In person	20.75
May 28, 2015	A Single Story: Cultural Sensitivity	In person	2.0
May 29, 2015	Children’s Perspectives on Divorce	In person	4.0
June 2, 2015	Understanding and Treating Perinatal & Postpartum Depression and Anxiety	In person	5.0
June 3, 2015	Enhancing Engagement with Parents & Families in Community Mental Health Treatment	In person	3.0
June 9, 2015	The Mental Health Practitioner’s Guide for Separated and Divorced Parents	Online course	5.0

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<b>TRAINING DATE(S)</b>	<b>PROGRAM NAME</b>	<b>DELIVERY METHOD</b>	<b>No. of CE Hours Provided for</b>
June 10, 2015	Multi-disciplinary Approach to Reunification Following Abduction	Webinar	1.5
June 10, 2015	Multi-Disciplinary Approach to Reunification Following Abduction	In person	1.0
June 12, 2015	Domestic Violence: Local Resources	In person	2.0
June 19, 2015	Domestic Violence Systems Training	In person	8.0
June 21, 2015	California Legal and Ethical Issues for Mental Health Clinicians	In person	6.0
June 23, 2015 - June 24, 2015	Working with Perpetrators of Violence	In person	8.0
June 25, 2015	A Dialogue: South Asian Culture	In person	2.0
June 25, 2015	Essential Skills in Mediating with High Conflict Co-Parents	In person	1.5
June 26, 2015	Custody Issues with Infants and Small Children	In person	6.0
July 9, 2015	Understanding Methamphetamine	Online course	1.0
July 10, 2015	Custody Evaluations Update for 2015	Online course	8.0
July 11, 2015	2015 Domestic Violence Update	In person	4.0
July 23, 2015 - July 24, 2015	Art of Coaching in Child Welfare	In person	10.0
July 25, 2015	Law and Ethics: Navigating Legal Obstacles and Ethical Dilemmas;	In person	6.0
July 29, 2015	Seeking Safety in America: The Nuts and Bolts of Representing Domestic Violence Victims as Respondents in International Child Abduction Cases 2015	Online course	2.25
July 29, 2015	Seeking Safety in America:: The Nuts and Bolts of Representing Domestic Violence Victims as Respondents in International Child Abduction Cases 2015-Program Overview & segments 1 and 2 (only) Approved: Segment 3 Not Approved	Online course	2.25
August 17, 2015	Attachment, Trauma& Psychotherapy: Neural Integration as a Pathway to Resilience and Well-Being	Online course	6.25
August 17, 2015	Beyond Mandates	In person	5.0
August 21, 2015 - August 26, 2015	20 <sup>th</sup> International Conference on Violence, Abuse & Trauma	In person	24.25
August 25, 2015 - August 27, 2015	National Association of Counsel for Children: 38th National Child Welfare, Juvenile and Family Law Conference;	In person	12.75

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<b>TRAINING DATE(S)</b>	<b>PROGRAM NAME</b>	<b>DELIVERY METHOD</b>	<b>No. of CE Hours Provided for</b>
August 27, 2015	Art of Coaching in Child Welfare	In person	10.0
September 1, 2015	Custody Evaluations Update	Online course	8.0
September 17, 2015	Perfect Daughters/Silent Sons	Online course	1.0
September 17, 2015	Perfect Daughter/Silent Sons	Webinar	1.0
September 18, 2015	Domestic Violence and Children Who Resist Parental Contact	In person	6.0
September 18, 2015	Multi-Disciplinary Seminar on Contested Child Custody Cases	In person	8.0
September 24, 2015	Mindfulness-Based Stress Reduction for Survivors of Trauma: An Introduction	Webinar	1.5
September 24, 2015	Mindfulness-Based Stress Reduction for Survivors of Trauma: An Introduction	Online course	1.5
September 24, 2015	Child Abduction	In person	2.0
September 24, 2015	Highlights of Changes from DSM-IV-TR to DSM-5	In person	1.5
September 25, 2015	Representing Clients with Mental Disabilities and Challenging Behaviors 2015	Webinar	3.0
September 25, 2015	Representing Clients with Mental Disabilities and Challenging Behaviors 2015: Disability Assessment for Attorneys; Harm Reduction Lawyering; Providing Reasonable Accommodations	Online course	3.0
October 1, 2015 - October 3, 2015	2015 Conference on Advanced Issues in Child Custody, Evaluation, Litigation and Settlement	In person	15.5
October 7, 2015	California Special Education 2015	Online course	3.0
October 7, 2015	California Special Education Law 2015	Webinar	3.0
October 13, 2015	Substance Abuse and Child Welfare	In person	6.0
October 17, 2015	Ethics and Legal Update for Mediators and Evaluators	In person	8.0
October 22, 2015	Domestic Violence Update: Recent Laws and Their Impact	In person	1.5
October 23, 2015	Issue in Domestic Violence: Special Populations	Online course	1.0
October 26, 2015 - October 28, 2015	Essentials of Mediation	In person	22.5
October 29, 2015 - October 30, 2015	Divorce Mediation	In person	15.0
November 3, 2015	Legal Issues and Family Interventions When Children Resist Contact with a Parent	In person	3.0

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<b>TRAINING DATE(S)</b>	<b>PROGRAM NAME</b>	<b>DELIVERY METHOD</b>	<b>No. of CE Hours Provided for</b>
November 5, 2015 - November 7, 2015	AFCC Regional Conference: Do You Hear What I Hear? Listening to the Voice of the Child;	In person	16.5
November 10, 2015	Advocating for Veterans: The Basics on VA Benefits, Discharge Upgrades and Veteran Cultural Competency 2015	Online course	6.0
November 13, 2015	Cutting Edge Solutions in Mediation and Coparenting	In person	4.0
November 15, 2015	The Power of Words: Purposeful Conversations with Adults and Children	In person	3.0
November 15, 2015	Spousal or Partner Abuse: The California Requirement	Online course	7.0
November 17, 2015	Prop 47: The Lawyer's Role in Implementing California's Landmark Criminal Justice Reform Initiative	Online course	6.0
November 20, 2015	Reflective Supervision as Trauma-Informed Practice for Youth in Foster Care	In person	6.0
December 4, 2015	Navigating the Waters of Relocation	In person	2.0
December 7, 2015	A Therapist Guide to Difficult Divorced Co-Parenting Overview	In person	2.0
December 10, 2015	Law and Ethics 2015 Video CE Workshop	Online course	6.0
December 11, 2015	Parenting Coordination	In person	6.0
Ongoing	A Therapist Guide to Difficult Divorced Co-Parenting	Online course	6.0
Ongoing	Clinical Supervision: A Competency-Based Approach	Online course	9.0

# **Family Court Services Forms**





CALIFORNIA  
OFFICE OF  
PRIVACY  
PROTECTION

**Recommended Practices on  
Protecting the Confidentiality of  
Social Security Numbers**

April 2008

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June 2002  
Rev. January 2003  
Rev. April 2007  
Rev. April 2008

California Office of Privacy Protection  
[www.privacy.ca.gov](http://www.privacy.ca.gov)  
866-785-9663

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# *Contents*

**Introduction.....5**

**Recommended Practices.....7**

**Notes.....10**

**Appendices**

Appendix 1: California Laws Restricting  
Disclosure of SSNs.....12

Appendix 2: Federal Laws Authorizing or  
Mandating SSNs.....20

Appendix 3: Federal Laws Restricting  
Disclosure of SSNs.....23

# Introduction

The California Office of Privacy Protection has the statutorily mandated purpose of “protecting the privacy of individuals’ personal information in a manner consistent with the California Constitution by identifying consumer problems in the privacy area and facilitating development of fair information practices.”<sup>1</sup> The law specifically directs the Office to “make recommendations to organizations for privacy policies and practices that promote and protect the interests of California consumers.”<sup>2</sup>

In line with those obligations, the Office of Privacy Protection offers these recommended practices for protecting the confidentiality of Social Security numbers. While many of the recommendations might be applied to protect any sensitive personal information, the focus is on Social Security numbers because of the role they have come to play in the marketplace and in identity theft and other forms of fraud.

In developing the recommendations, the Office of Privacy Protection received consultation and advice from an advisory committee made up of representatives of the financial, insurance, health care, retail and information industries and of consumer privacy advocates.<sup>3</sup> The committee members’ contributions were very helpful and are greatly appreciated.

## **Unique Status of SSN As a Privacy Risk**

The Social Security number (SSN) has a unique status as a privacy risk. No other form of personal identification plays such a significant role in linking records that contain sensitive information that individuals generally wish to keep confidential.

Created by the federal government in 1936 to track workers’ earnings and eligibility for re-

tirement benefits, the SSN is now used in both the public and private sectors for a myriad of purposes totally unrelated to this original purpose. It is used so widely because the SSN is a unique identifier that does not change, allowing it to serve many record management purposes.<sup>4</sup>

Today SSNs are used as representations of individual identity, as secure passwords, and as the keys for linking multiple records together. The problem is that these uses are incompatible. The widespread use of the SSN as an individual identifier, resulting in its appearance on mailing labels, ID cards, badges, and various publicly displayed documents, makes it unfit to be a secure password providing access to financial records and other personal information.<sup>5</sup>

## **Protecting SSNs**

The broad use and public exposure of SSNs has been a major contributor to the growth in recent years in identity theft and other forms of fraud. The need to significantly reduce the risks to individuals of the inappropriate disclosure and misuse of SSNs, has led California to take steps to limit their use and display.

In 2003, the public posting or display of SSNs was prohibited. The following year, laws that banned printing an entire SSN on a pay stub and created a procedure for truncating the numbers in family court records took effect. In 2007, laws were passed requiring truncation of SSNs in abstracts of judgment, tax liens, Uniform Commercial Code filings and publicly available records of local government agencies.<sup>6</sup>

Many other states have followed California’s lead and enacted similar laws restricting the use of SSNs.<sup>7</sup> The federal government is focusing efforts on reducing federal agencies’ use of the numbers. In May 2007 the Office of Man-

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agement and Budget, following up on the recommendation of the President's Task Force on Identity Theft, issued guidance urging federal agencies to eliminate unnecessary use of SSNs and explore alternatives to the numbers as individual identifiers.<sup>8</sup>

# Recommended Practices

## **Fair Information Practice Principles**

In developing these recommendations, the California Office of Privacy Protection looked first to the widely accepted principles that form the basis of most privacy laws in the United States, Canada, Europe, and other parts of the world. The Fair Information Practice Principles are openness, collection limitation, purpose specification, use limitation, data quality, individual participation, security and accountability.<sup>9</sup> While they were developed to guide the drafting of national privacy legislation, the principles are also appropriate for organizations to follow in developing their privacy policies and practices. The practices recommended here all derived from these basic privacy principles.

The Office of Privacy Protection's recommendations are intended to serve as guidelines to assist organizations in moving towards the goal of aligning their practices with the widely accepted fair information practice principles described below. They are not legal opinions or binding regulations. These recommended practices address, but are not limited to, the provisions of California Civil Code section 1798.85.

The recommendations are relevant for private and public sector organizations, and they apply to the handling of all Social Security numbers in the possession of an organization: those of customers, employees, and business partners.

## **Reduce the collection of SSNs.**

### ***Fair Information Practice Principles: Collection Limitation, Use Limitation***

- Collect SSNs preferably only where required to do so by federal or state law.
- When collecting SSNs as allowed, but not required, by law, do so only as reasonably

necessary for the proper administration of lawful business activities.

- If a unique personal identifier is needed, develop your own as a substitute for the SSN.

## **Inform individuals when you request their SSNs.**

### ***Fair Information Practice Principle: Openness, Purpose Specification***

- Whenever you collect SSNs as required or allowed by law, inform the individuals of the purpose of the collection, the intended use, whether the law requires the number to be provided or not, and the consequences of not providing the number.
- If required by law, notify individuals (customers, employees, business partners, etc) annually of their right to request that you do not post or publicly display their SSN or do any of the other things prohibited in Civil Code Section 1798.85(a).

## **Eliminate the public display of SSNs.**

### ***Fair Information Practice Principle: Security***

- Do not put SSNs on documents that are widely seen by others, such as identification cards, badges, time cards, employee rosters, bulletin board postings, and other materials.
- Do not send documents with SSNs on them through the mail, except on applications or forms or when required by law.<sup>10</sup>

- When sending applications, forms or other documents required by law to carry SSNs through the mail, place the SSN where it will not be revealed by an envelope window. Where possible, leave the SSN field on forms and applications blank and ask the individual to fill it in before returning the form or application.
- Do not send SSNs by email unless the connection is secure or the SSN is encrypted.
- Do not require an individual to send his or her SSN over the Internet or by email, unless the connection is secure or the SSN is encrypted.
- Do not require individuals to use SSNs as passwords or codes for access to Internet web sites or other services.

**Control access to SSNs.**

*Fair Information Practice Principle: Security*

- Limit access to records containing SSNs only to those who need to see the numbers for the performance of their duties.
- Use logs or electronic audit trails to monitor employees' access to records with SSNs.
- Protect records containing SSNs, including back-ups, during storage by encrypting the numbers in electronic records or storing records in other media in locked cabinets.
- Do not store records containing SSNs on computers or other electronic devices that are not secured against unauthorized access.
- Avoid sharing SSNs with other companies or organizations except where required by law.
- If you do share SSNs with other companies or organizations, including contrac-

tors, use written agreements to protect their confidentiality.

- Prohibit such third parties from re-disclosing SSNs, except as required by law.
- Require such third parties to use effective security controls on record systems containing SSNs.
- Hold such third parties accountable for compliance with the restrictions you impose, including monitoring or auditing their practices.
- If SSNs are disclosed inappropriately and the individuals whose SSNs were disclosed are put at risk of identity theft or other harm, promptly notify the individuals potentially affected.

**Protect SSNs with security safeguards.**

*Fair Information Practice Principle: Security*

- Develop a written security plan for record systems that contain SSNs.
- Develop written policies for protecting the confidentiality of SSNs, including but not limited to the following:
- Adopt “clean desk/work area” policy requiring employees to properly secure records containing SSNs.
- Do not leave voice mail messages containing SSNs and if you must send an SSN by fax, take special measures to ensure confidentiality.
- Require employees to ask individuals (employees, customers, etc.) for identifiers other than the SSN when looking up records for the individual.
- Require employees to promptly report any inappropriate disclosure or loss of records containing SSNs to their supervisors or to the organization's privacy officer.

- When discarding or destroying records in any medium containing SSNs, do so in a way that protects their confidentiality, such as shredding.<sup>11</sup>

**Make your organization accountable for protecting SSNs.**

*Fair Information Practice Principle:  
Accountability*

- Provide training and written material for employees on their responsibilities in handling SSNs.
- Conduct training at least annually.
- Train all new employees, temporary employees and contract employees.
- Impose discipline on employees for non-compliance with organizational policies and practices for protecting SSNs.
- Conduct risk assessments and regular audits of record systems containing SSNs.
- Designate someone in the organization as responsible for ensuring compliance with policies and procedures for protecting SSNs.



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# Notes

<sup>1</sup> California Government Code section 11549.5, subdivision (a).

<sup>2</sup> California Government Code section 11549.5, subdivision(c).

<sup>3</sup> The Advisory Committee members were Victoria Allen of the California Credit Union League; Jennie Bretschneider, Legislative Aide to Senator Debra Bowen; James W. Bruner, Jr., of Orrick, Herrington & Sutcliffe; Shelley Curran of Consumers Union; Mari Frank, Esq., privacy consultant; Beth Givens of the Privacy Rights Clearinghouse; Tony Hadley of Experian; Michael Hensley of LexisNexis; Chris Lewis of Providian and the California Chamber of Commerce; Deborah Pierce of Privacy Activism; Rebecca Richards of TRUSTe; Wendy Schmidt of Federated Department Stores and the California Retailers Association; Elaine Torres of Wells Fargo Bank; and Lee Wood of the Association of California Life & Health Insurance Companies.

<sup>4</sup> *Social Security Numbers: Government Benefits from SSN Use but Could Provide Better Safeguards*, GAO-02-352, May 2002. Available at <[www.gao.gov](http://www.gao.gov)>.

<sup>5</sup> Chris Hibbert, Computer Professionals for Social Responsibility, *Frequently Asked Questions on SSNs and Privacy*, last modified January 24, 2004. Available at <<http://www.cpsr.org/issues/privacy/ssn-faq>>.

<sup>6</sup> See Appendix 1.

<sup>7</sup> See the *Compilation of State and Federal Privacy Laws*, published by Privacy Journal, for current information on state laws restructuring the use of SSNs.

<sup>8</sup> See OMB Memorandum M-07-17, *Safeguarding Against and Responding to the Breach of Personally Identifiable Information*. The findings and recommendations of the President's Task Force on Identity Theft may be found in *Combating Identity Theft: A Strategic Plan*, April 2007, available online at <[www.idtheft.gov](http://www.idtheft.gov)>.

<sup>9</sup> The Fair Information Practice Principles were first formulated by the U.S. Department of Health Education, and Welfare in 1973. They may be found in the Organisation for Economic Cooperation and Development's *Guidelines on the Protection of Privacy and Transborder Flows of Personal Data*, available at <[www1.oecd.org](http://www1.oecd.org)>. The principles are the following:

*Openness:* There should be a general policy of openness about the practices and policies with respect to personal information.

*Collection Limitation:* Personal information should be collected by lawful and fair means and with the knowledge or consent of the subject. Only the information necessary for the stated purpose should be collected.

*Purpose Specification:* The purpose for collecting personal information should be specified at the time of collection. Further uses should be limited to those purposes.

*Use Limitation:* Personal information should not be used for purposes other than those speci-

fied, except with the consent of the subject or by the authority of law.

*Data Quality:* Personal information should be accurate, complete, timely and relevant to the purpose for which it is to be used.

*Individual Participation:* Individuals should have the right to inspect and correct their personal information.

*Security:* Personal information should be protected by reasonable security safeguards against such risks as unauthorized access, destruction, use, modification, and disclosure.

*Accountability:* Someone in an organization should be held accountable for compliance with the organization's privacy policy. Regular privacy audits and employee training should be conducted.

<sup>10</sup> See Appendices 1-3 for federal and California laws that require the collection of SSNs or restrict the disclosure of the numbers. The lists are not comprehensive.

<sup>11</sup> California Civil Code section 1798.81 requires businesses to destroy customer records containing personal information by shredding, erasing, or otherwise modifying the personal information in those records to make it unreadable or undecipherable, before discarding them. In addition, section 628 of the Fair Credit Reporting Act (15 U.S. Code section 1681-1681u) requires the proper disposal of records containing consumer information derived from consumer reports.

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# Appendix 1: California Laws Restricting SSN Disclosure

## **Public Posting or Display of SSNs**

### ***Summary of Civil Code Sections 1798.85-1798.89***

Civil Code Sections 1798.85-1798.86 took effect beginning July 1, 2002 and was phased in through January 1, 2007. It applies to any person or entity and prohibits the following practices:

- Posting or publicly display SSNs,
- Printing SSNs on identification cards or badges,
- Requiring people to transmit an SSN over the Internet unless the connection is secure or the number is encrypted,
- Requiring people to log onto a web site using an SSN without a password, and
- Printing SSNs on anything mailed to a customer unless required by law or the document is a form or application.<sup>8</sup>

It also prohibits filing with a county recorder a publicly available document displaying more than the last four digits of an SSN.

### ***Text of Civil Code Sections 1798.85-1798.89***

1798.85. (a) Except as provided in this section, a person or entity may not do any of the following:

(1) Publicly post or publicly display in any manner an individual's social security number. "Publicly post" or "publicly display" means to intentionally communicate or otherwise make available to the general public.

(2) Print an individual's social security number on any card required for the individual to access products or services provided by the person or entity.

(3) Require an individual to transmit his or her social security number over the Internet, unless the connection is secure or the social security number is encrypted.

(4) Require an individual to use his or her social security number to access an Internet Web site, unless a password or unique personal identification number or other authentication device is also required to access the Internet Web site.

(5) Print an individual's social security number on any materials that are mailed to the individual, unless state or federal law requires the social security number to be on the document to be mailed. Notwithstanding this paragraph, social security numbers may be included in applications and forms sent by mail, including documents sent as part of an application or enrollment process, or to establish, amend or terminate an account, contract or policy, or to confirm the accuracy of the social security number. A social security number that is permitted to be mailed under this section may not be printed, in whole or in part, on a postcard or other mailer not requiring an envelope, or visible on the envelope or without the envelope having been opened.

(b) This section does not prevent the collection, use, or release of a social security number as required by state or federal law or the use of a social security number for internal verification or administrative purposes.

(c) This section does not apply to documents that are recorded or required to be open to the public pursuant to Chapter 3.5 (commencing with Section 6250), Chapter 14 (commencing with Section 7150) or Chapter 14.5 (commencing with Section 7220) of Division 7 of Title 1 of, Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of, or Chapter 9 (commencing with Sec-

tion 54950) of Part 1 of Division 2 of Title 5 of, the Government Code. This section does not apply to records that are required by statute, case law, or California Rule of Court, to be made available to the public by entities provided for in Article VI of the California Constitution.

(d) (1) In the case of a health care service plan, a provider of health care, an insurer or a pharmacy benefits manager, a contractor as defined in Section 56.05, or the provision by any person or entity of administrative or other services relative to health care or insurance products or services, including third-party administration or administrative services only, this section shall become operative in the following manner:

(A) On or before January 1, 2003, the entities listed in paragraph (1) shall comply with paragraphs (1), (3), (4), and (5) of subdivision (a) as these requirements pertain to individual policyholders or individual contractholders.

(B) On or before January 1, 2004, the entities listed in paragraph (1) shall comply with paragraphs (1) to (5), inclusive, of subdivision (a) as these requirements pertain to new individual policyholders or new individual contractholders and new groups, including new groups administered or issued on or after January 1, 2004.

(C) On or before July 1, 2004, the entities listed in paragraph (1) shall comply with paragraphs (1) to (5), inclusive, of subdivision (a) for all individual policyholders and individual contractholders, for all groups, and for all enrollees of the Healthy Families and Medi-Cal programs, except that for individual policyholders, individual contractholders and groups in existence prior to January 1, 2004, the entities listed in paragraph (1) shall comply upon the renewal date of the policy, contract, or group on or after July 1, 2004, but no later than July 1, 2005.

(2) A health care service plan, a provider of health care, an insurer or a pharmacy benefits manager, a contractor, or another person or entity as described in paragraph (1) shall make reasonable efforts to cooperate, through systems testing and other means, to ensure that the requirements of this article are implemented on or before the dates specified in this section.

(3) Notwithstanding paragraph (2), the Director of the Department of Managed Health Care, pursuant to the authority granted under Section 1346 of the Health and Safety Code, or the Insurance Commissioner, pursuant to the authority granted under Section 12921 of the Insurance Code, and upon a determination of good cause, may grant extensions not to exceed six months for compliance by health care service plans and insurers with the requirements of this section when requested by the health care service plan or insurer. Any extension granted shall apply to the health care service plan or insurer's affected providers, pharmacy benefits manager, and contractors.

(e) If a federal law takes effect requiring the United States Department of Health and Human Services to establish a national unique patient health identifier program, a provider of health care, a health care service plan, a licensed health care professional, or a contractor, as those terms are defined in Section 56.05, that complies with the federal law shall be deemed in compliance with this section.

(f) A person or entity may not encode or embed a social security number in or on a card or document, including, but not limited to, using a barcode, chip, magnetic strip, or other technology, in place of removing the social security number, as required by this section.

(g) This section shall become operative, with respect to the University of California, in the following manner:

(1) On or before January 1, 2004, the University of California shall comply with paragraphs (1), (2), and (3) of subdivision (a).

(2) On or before January 1, 2005, the University of California shall comply with paragraphs (4) and (5) of subdivision (a).

(h) This section shall become operative with respect to the Franchise Tax Board on January 1, 2007.

(i) This section shall become operative with respect to the California community college districts on January 1, 2007.

(j) This section shall become operative with respect to the California State University system

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on July 1, 2005.

(k) This section shall become operative, with respect to the California Student Aid Commission and its auxiliary organization, in the following manner:

(1) On or before January 1, 2004, the commission and its auxiliary organization shall comply with paragraphs (1), (2), and (3) of subdivision (a).

(2) On or before January 1, 2005, the commission and its auxiliary organization shall comply with paragraphs (4) and (5) of subdivision (a).

1798.86. Any waiver of the provisions of this title is contrary to public policy, and is void and unenforceable.

1798.89. Unless otherwise required to do so by state or federal law, no person, entity, or government agency shall present for recording or filing with a county recorder a document that is required by any provision of law to be open to the public if that record displays more than the last four digits of a social security number.

### **SSNs on Pay Stubs**

#### ***Summary of Labor Code Section 226(a)***

Labor Code Section 226 requires employers to print no more than the last four digits of an employee's SSN, or to use an employee ID number other than the SSN, on employee pay stubs or itemized statements. Employers must comply by January 1, 2008.

#### ***Text of Labor Code Section 226(a)***

226. (a) Every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing

(1) gross wages earned,

(2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the In-

dustrial Welfare Commission,

(3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis,

(4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item,

(5) net wages earned,

(6) the inclusive dates of the period for which the employee is paid,

(7) the name of the employee and his or her social security number, except that by January 1, 2008, only the last four digits of his or her social security number or an employee identification number other than a social security number may be shown on the itemized statement,

(8) the name and address of the legal entity that is the employer, and

(9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. The deductions made from payments of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement or a record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California.

### **SSNs in Government Records**

#### ***Summary of Commercial Code Section 9526.5: Uniform Commercial Code Filings***

This law requires the Secretary of State to create versions of Uniform Commercial Code filings that contain only truncated SSNs.

#### ***Text of Commercial Code Section 9526.5***

9526.5. (a) For purposes of this section, the following terms have the following meanings:

(1) "Official filing" means the permanent archival filing of all instruments, papers, records, and attachments as accepted for filing by a filing office.

(2) "Public filing" means a filing that is an exact copy of an official filing except that any



social security number contained in the copied filing is truncated. The public filing shall have the same legal force and effect as the official filing.

(3) “Truncate” means to redact at least the first five digits of a social security number.

(4) “Truncated social security number” means a social security number that displays no more than the last four digits of the number.

(b) For every filing containing an untruncated social security number filed before August 1, 2007, a filing office shall create a public filing.

(c) A filing office shall post a notice on its Web site informing filers not to include social security numbers in any portion of their filings. A filing office’s online filing system shall not contain a field requesting a social security number.

(d) Beginning August 1, 2007, for every filing containing an untruncated social security number filed by means other than the filing office’s Web site, a filing office shall create a public filing.

(e) When a public filing version of an official filing exists, both of the following shall apply:

(1) Upon a request for inspection, copying, or any other public disclosure of or any other public disclosure of an official filing that is not exempt from disclosure, a filing office shall make available only the public filing version of that filing.

(2) A filing office shall publicly disclose an official filing only in response to a subpoena or order of a court of competent jurisdiction.

(3) Nothing in this article shall be construed to restrict, delay, or modify access to any official filing, or modify any existing agreements regarding access to any official filing, prior to the creation and availability of a public filing version of that official filing.

(f) A filing office shall be deemed to be in compliance with the requirements of this section and shall not be liable for failure to truncate a social security number if he or she uses due diligence to locate social security numbers in official records and truncate the social security numbers in the public filing version of those official filings. The use of an automated program with a high rate of accuracy shall be deemed to be due

diligence.

(g) In the event that a filing office fails to truncate a social security number contained in a record pursuant to subdivision (b) or (d), any person may request that the filing office truncate the social security number contained in that record. Notwithstanding that a filing office may be deemed to be in compliance with this section pursuant to subdivision (f), a filing office that receives a request that identifies the exact location of an untruncated social security number that is required to be truncated pursuant to subdivision (b) or (d) within a specifically identified record, shall truncate that number within 10 business days of receiving the request. The public filing with the truncated social security number shall replace the record with the untruncated number.

(h) The Secretary of State shall not produce or make available financing statements in the form and format described in Section 9521 that provide a space identified for the disclosure of the social security number of an individual.

(i) The Secretary of State shall produce and make available financing statements in the form and format described in Section 9521, except that the financing statements shall not provide a space identified for the disclosure of the social security number of an individual.

(j) The provisions of this section shall not apply to a county recorder.

### ***Summary of Government Code Sections 27300-27307: County Recorders***

This law requires county recorders to create versions of documents recorded back to 1980 that contain only truncated SSNs. If authorized by boards of supervisors, they may levy a fee to cover the costs of truncation.

### ***Text of Government Code Sections 27300-27307***

27300. As used in this article, the following terms have the following meanings:

(a) “Official record” means the permanent archival record of all instruments, papers, and notices as accepted for recording by a county

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recorder.

(b) "Public record" means a record that is in an electronic format and is an exact copy of an official record except that any social security number contained in the copied record is truncated. The public record shall have the same legal force and effect as the official record.

(c) "Truncate" means to redact the first five digits of a social security number.

(d) "Truncated social security number" means a social security number that displays only the last four digits of the number.

27301. The county recorder of each county shall establish a social security number truncation program in order to create a public record version of each official record. The program shall include both of the following components, which the recorder shall implement concurrently:

(a) For each official record recorded between January 1, 1980, and December 31, 2008, the recorder shall create in an electronic format an exact copy of the record except that any social security number contained in the copied record shall be truncated. In order to create a public record copy, the recorder shall first truncate the social security numbers in all records that already exist in an electronic format and then create an electronic version of all other records and truncate social security numbers contained in those records. Each group of records shall be handled in descending chronological order.

(b) For each official record recorded on or after January 1, 2009, the recorder shall create a copy of that record in an electronic format and truncate any social security number contained in that record.

(c) Nothing in this article shall be construed to restrict, delay, or modify access to any official record, or modify any existing agreements regarding access to any official record, prior to the creation and availability of a public record version of that official record. A county recorder shall not charge any new fee or increase any existing fees in order to fund the social security number truncation program pursuant to this article, except as provided in subdivision (d) of Section 27361.

(d) Notwithstanding subdivisions (a) and (b), a county recorder shall not be required to create a public record version of an official record if the fee authorized in Section 27304 is determined by the recorder to be insufficient to meet the cost of creating the public record version. In that case, the county recorder shall determine whether the fee is sufficient to meet the cost of creating a public record version of only a fraction of the official records described in subdivisions (a) and (b). If the fee is sufficient to meet the cost of creating a public record version of a fraction of the official records, the recorder shall be required to create a public record version of that fraction only.

27302. (a) A county recorder shall be deemed to be in compliance with the requirements of Section 27301 and shall not be liable for failure to truncate a social security number if he or she uses due diligence to locate social security numbers in official records and truncate social security numbers in the public record version of those official records. The use of an automated program with a high rate of accuracy shall be deemed to be due diligence.

(b) In the event that a county recorder fails to truncate a social security number contained in a public record, any person may request that the county recorder truncate the social security number contained in that record. Notwithstanding that a county recorder may be deemed to be in compliance with Section 27301 pursuant to subdivision (a), a county recorder that receives a request that identifies the exact location of an untruncated social security number within a specifically identified public record, shall truncate that number within 10 business days of receiving the request. The public record with the truncated social security number shall replace the record with the untruncated number.

27303. When a public record version of an official record exists, both of the following shall apply:

(a) Upon a request for inspection, copying, or any other public disclosure of an official record that is not exempt from disclosure, a county recorder shall make available only the

public record version of that record.

(b) A county recorder shall publicly disclose an official record only in response to a subpoena or order of a court of competent jurisdiction.

27304. (a) Each county may use funds generated by fees authorized by subdivision (d) of Section 27361 to implement a social security number truncation program required by this article.

(b) No later than June 1, 2008, the county recorder of each county shall petition the board of supervisors in that county for the authority to levy the fee authorized by subdivision (d) of Section 27361.

(c) It is the intent of the Legislature that in the interest of enabling county recorders to act expeditiously to protect the privacy of Californians, counties be permitted to seek revenue anticipation loans or other outside funding sources for the implementation of a social security number truncation program to be secured by the anticipated revenue from the fee authorized by subdivision (d) of Section 27361.

27305. (a) To assist the Legislature in monitoring the progress of each county recorder's social security number truncation program, the County Recorders Association of California, no later than January 1, 2009, and annually thereafter, shall submit to the chairpersons of the Assembly Committee on Judiciary and of the Senate Committee on Judiciary, and to the Office of Privacy Protection, or any successor agency, a report on the progress each county recorder has made in complying with this article.

(b) Upon the Office of Privacy Protection making a determination that all counties have completed the component of the program described in subdivision (a) of Section 27301, the report described in subdivision (a) of this section shall no longer be required.

27307. A county recorder is authorized to take all actions required by this article notwithstanding subdivision (d) of Section 27203 or any other provision of law.

**Summary of Government Code Section 15705: Franchise Tax Board Records**

This law requires the Franchise Tax Board

to truncate SSNs in documents released to the public.

**Text of Government Code Section 15705**

15705. Notwithstanding any other provision of law, unless prohibited by federal law, the Franchise Tax Board shall truncate social security numbers on lien abstracts and any other records created by the board that are disclosable under Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 before disclosing the record to the public. For purposes of this section, "truncate" means to redact the first five digits of a social security number.

**Summary of California Family Code Section 2024.5: Certain Court Records**

This law establishes a procedure for keeping SSNs confidential in court filings for legal separation, dissolution, or nullification of marriage.

**Text of Family Code Section 2024.5**

2024.5. (a) Except as provided in subdivision (b), the petitioner or respondent may redact any social security number from any pleading, attachment, document, or other written material filed with the court pursuant to a petition for dissolution of marriage, nullity of marriage, or legal separation. The Judicial Council form used to file such a petition, or a response to such a petition, shall contain a notice that the parties may redact any social security numbers from those pleadings, attachments, documents, or other material filed with the court. (b) An abstract of support judgment, the form required pursuant to subdivision (b) of Section 4014, or any similar form created for the purpose of collecting child or spousal support payments may not be redacted pursuant to subdivision (a).

**Summary of Code of Civil Procedure Section 674: Abstracts of Judgment**

Abstracts of judgment and decrees requiring the payment of money may contain only the last four digits of the judgment debtor's SSN.



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***Text of Code of Civil Procedure Section  
674***

674. (a) Except as otherwise provided in Section 4506 of the Family Code, an abstract of a judgment or decree requiring the payment of money shall be certified by the clerk of the court where the judgment or decree was entered and shall contain all of the following:

(1) The title of the court where the judgment or decree is entered and cause and number of the action.

(2) The date of entry of the judgment or decree and of any renewals of the judgment or decree and where entered in the records of the court.

(3) The name and last known address of the judgment debtor and the address at which the summons was either personally served or mailed to the judgment debtor or the judgment debtor's attorney of record.

(4) The name and address of the judgment creditor.

(5) The amount of the judgment or decree as entered or as last renewed.

(6) The last four digits of the social security number and driver's license number of the judgment debtor if they are known to the judgment creditor. If either or both of those sets of numbers are not known to the judgment creditor, that fact shall be indicated on the abstract of judgment.

(7) Whether a stay of enforcement has been ordered by the court and, if so, the date the stay ends.

(8) The date of issuance of the abstract.

(b) An abstract of judgment, recorded after January 1, 1979, that does not list the social security number and driver's license number of the judgment debtor, or either of them, as required by subdivision (a) or by Section 4506 of the Family Code, may be amended by the recording of a document entitled "Amendment to Abstract of Judgment." The Amendment to Abstract of Judgment shall contain all of the information required by this section or by Section 4506 of the Family Code, and shall set forth the date of recording and the book and page loca-

tion in the records of the county recorder of the original abstract of judgment.

A recorded Amendment to Abstract of Judgment shall have priority as of the date of recordation of the original abstract of judgment, except as to any purchaser, encumbrancer, or lessee who obtained their interest after the recordation of the original abstract of judgment but prior to the recordation of the Amendment to Abstract of Judgment without actual notice of the original abstract of judgment. The purchaser, encumbrancer, or lessee without actual notice may assert as a defense against enforcement of the abstract of judgment the failure to comply with this section or Section 4506 of the Family Code regarding the contents of the original abstract of judgment notwithstanding the subsequent recordation of an Amendment to Abstract of Judgment. With respect to an abstract of judgment recorded between January 1, 1979, and July 10, 1985, the defense against enforcement for failure to comply with this section or Section 4506 of the Family Code may not be asserted by the holder of another abstract of judgment or involuntary lien, recorded without actual notice of the prior abstract, unless refusal to allow the defense would result in prejudice and substantial injury as used in Section 475. The recordation of an Amendment to Abstract of Judgment does not extend or otherwise alter the computation of time as provided in Section 697.310.

(c) (1) The abstract of judgment shall be certified in the name of the judgment debtor as listed on the judgment and may also include the additional name or names by which the judgment debtor is known as set forth in the affidavit of identity, as defined in Section 680.135, filed by the judgment creditor with the application for issuance of the abstract of judgment. Prior to the clerk of the court certifying an abstract of judgment containing any additional name or names by which the judgment debtor is known that are not listed on the judgment, the court shall approve the affidavit of identity. If the court determines, without a hearing or a notice, that the affidavit of identity states sufficient facts upon which the judgment creditor has identified the

additional names of the judgment debtor, the court shall authorize the certification of the abstract of judgment with the additional name or names.

(2) The remedies provided in Section 697.410 apply to a recorded abstract of a money judgment based upon an affidavit of identity that appears to create a judgment lien on real property of a person who is not the judgment debtor.

***Summary of Revenue and Taxation Code  
Section 2191.3: Tax Liens***

Tax collector liens may contain only the last four digits of SSNs.

***Text of Revenue and Taxation Code  
Section 2191.3***

2191.3. (a) The tax collector may make the filing specified in subdivision (b) where either of the following occurs:

- (1) There is a tax on any of the following:
  - (A) A possessory interest secured only by a lien on that taxed possessory interest.
  - (B) Goods in transit, not secured by any lien on real property.
  - (C) Improvements that have been assessed pursuant to Section 2188.2.
  - (D) Off-roll taxes on escape assessments where the error was not the fault of the assessee and the escape taxes are being paid pursuant to Section 4837.5.
  - (E) Unsecured property not secured by a lien on any real property, and where the tax has become delinquent or where there are prior unpaid and delinquent taxes with respect to that same property.

(2) A tax has been entered on the unsecured roll pursuant to Section 482, 531.2, or 4836.5, or transferred to the unsecured roll pursuant to any provision of law.

(b) A filing for record without fee in the office of the county recorder of any county of a certificate specifying the amount due, the name, the last four digits of his or her federal social security number, if known, and last known address of the assessee liable for the amount, and compliance with all provisions of this division

with respect to the computation and levy of the tax if compliance has in fact occurred. The procedure authorized by this section is cumulative to the procedure provided by Sections 2951 and 3003. The county recorder shall, within 30 days after a filing as described in this subdivision with respect to delinquent taxes on unsecured property, send a notice of the filing to the assessee at the assessee's last known address. The notice shall contain the information contained in the filing, and shall prominently display on its face the following heading:

“THIS IS TO NOTIFY YOU THAT A TAX LIEN HAS BEEN FILED WITH RESPECT TO UNSECURED PROPERTY”

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# Appendix 2: Federal Laws Authorizing or Mandating SSNs

The following list of federal laws authorizing or mandating the collection and use of Social Security numbers is not comprehensive. It is taken from a report of the U.S. Government Accountability Office, *Social Security Numbers: Federal and State Laws Restrict Use of SSNs, Yet Gaps Remain* (GAO-05-1016T of September 15, 2005).

<b>Federal statute</b>	<b>General purpose for collecting or using SSN</b>	<b>Government entity and authorized or required use</b>
Tax Reform Act of 1976 42 U.S.C. 405(c)(2)(c)(i)	General public assistance programs, tax administration, driver's license, motorvehicle registration	Authorizes states to collect and use SSNs in administering any tax, general public assistance, driver's license, or motor vehicle registration law
Food Stamp Act of 1977 7 U.S.C. 2025(e)(1)	Food Stamp Program	Mandates the secretary of agriculture and state agencies to require SSNs for program participation
Deficit Reduction Act of 1984 42 U.S.C. 1320b-7(1)	Eligibility benefits under the Medicaid program	Requires that, as a condition of eligibility for Medicaid benefits, applicants for and recipients of these benefits furnish their SSNs to the state administering program
Comprehensive Omnibus Budget Reconciliation Act of 1986 20 U.S.C. 1091(a)(4)	Financial Assistance	Requires students to provide their SSNs when applying for federal student financial aid

<b>Federal Statute</b>	<b>General purpose for collecting or using SSN</b>	<b>Government entity and authorized or required use</b>
Housing and Community Development Act of 1987 42 U.S.C. 3543(a)	Eligibility for HUD programs	Authorizes the secretary of the Department of Housing and Urban Development to require applicants and participants in HUD programs to submit their SSNs as a condition of eligibility
Family Support Act of 1988 42 U.S.C. 405(c)(2)(C)(ii)	Issuance of birth certificates	Requires states to obtain parents' SSNs before issuing a birth certificate unless there is good cause for not requiring the number
Technical and Miscellaneous Revenue Act of 1988 42 U.S.C. 405(c)(2)(D)(i)	Blood donation	Authorizes states and political subdivisions to require that blood donors provide their SSNs
Food, Agriculture, Conservation, and Trade Act of 1990 42 U.S.C. 405(c)(2)(C)	Retail and wholesale businesses participation in food stamp program	Authorizes the secretary of agriculture to require the SSNs of officers or owners of retail and wholesale food concerns that accept and redeem food stamps
Omnibus Budget Reconciliation Act of 1990 38 U.S.C. 5101(c)	Eligibility for Veterans Affairs compensation or pension benefits programs	Requires individuals to provide their SSNs to be eligible for Department of Veterans Affairs' compensation or pension benefits programs
Social Security Independence and Program Improvements Act of 1994 42 U.S.C. 405(c)(2)(E)	Eligibility of potential jurors	Authorizes states and political subdivisions of states to use SSNs to determine eligibility of potential jurors

Federal statute	General purpose for collecting or using SSN	Gpvernment entity and authorized or required use
Personal Responsibility and Work Opportunity Reconciliation Act of 1996 42 U.S.C. 666(a)(13)	Various license applications; divorce and child support documents; death certificates	Mandates that states have laws in effect that require collection of SSNs on applications for driver's licenses and other licenses; requires placement in the pertinent records of the SSN of the person subject to a divorce decree, child support order, paternity determination; requires SSNs on death certificates; creates national database for child support enforcement purposes
Debt Collection Improvement Act of 1996 31 U.S.C. 7701(c)	Persons doing business with a federal agency	Requires those doing business with a federal agency, i.e., lenders in a federal guaranteed loan program; applicants for federal licenses, permits, right-of-ways, grants, or benefit payments; contractors of an agency and others to furnish SSNs to the agency
Higher Education Act Amendments of 1998 20 U.S.C. 1090(a)(7)	Financial assistance	Authorizes the secretary of education to include the SSNs of parents of dependent students on certain financial assistance forms
Internal Revenue Code(various amendments) 26 U.S.C. 6109	Tax returns	Authorizes the commissioner of the Internal Revenue Service to require that taxpayers include their SSNs on tax returns

# Appendix 3: Federal Laws Restricting Disclosure of SSNs

The following list of federal laws that restrict the disclosure of Social Security numbers is not comprehensive. It is taken from a U.S. Government Accountability Office report, *Social Security Numbers: Government Benefits from SSN Use but Could Provide Better Safeguards* (GAO-02-352, May 2002).

## ***The Freedom of Information Act (5 U.S.C. 552)***

This act establishes a presumption that records in the possession of agencies and departments of the executive branch of the federal government are accessible to the people. FOIA, as amended, provides that the public has a right of access to federal agency records, except for those records that are protected from disclosure by nine stated exemptions. One of these exemptions allows the federal government to withhold information about individuals in personnel and medical files and similar files when the disclosure would constitute a clearly unwarranted invasion of personal privacy. According to Department of Justice guidance, agencies should withhold SSNs under this FOIA exemption. This statute does not apply to state and local governments.

## ***The Privacy Act of 1974 (5 U.S.C. 552a)***

The act regulates federal government agencies' collection, maintenance, use and disclosure of personal information maintained by agencies in a system of records.<sup>1</sup> The act prohibits the disclosure of any record contained in a system of records unless the disclosure is made on the basis of a written request or prior written consent of the person to whom the records pertain, or is otherwise authorized by law. The act authorizes 12 exceptions under which an agency may disclose information in its records. How-

ever, these provisions do not apply to state and local governments, and state law varies widely regarding disclosure of personal information in state government agencies' control. There is one section of the Privacy Act, section 7, that does apply to state and local governments. Section 7 makes it unlawful for federal, state, and local agencies to deny an individual a right or benefit provided by law because of the individual's refusal to disclose his SSN. This provision does not apply (1) where federal law mandates disclosure of individuals' SSNs or (2) where a law existed prior to January 1, 1975 requiring disclosure of SSNs, for purposes of verifying the identity of individuals, to federal, state or local agencies maintaining a system of records existing and operating before that date. Section 7 also requires federal, state and local agencies, when requesting SSNs, to inform the individual (1) whether disclosure is voluntary or mandatory, (2) by what legal authority the SSN is solicited, and (3) what uses will be made of the SSN. The act contains a number of additional provisions that restrict federal agencies' use of personal information. For example, an agency must maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose required by statute or executive order of the president, and the agency must collect information to the greatest extent practicable directly from the individual when the information may result in an adverse determination about an individual's rights, benefits and privileges under federal programs.

## ***The Social Security Act Amendments of 1990 (42 U.S.C. 405(c)(2)(C)(viii))***

A provision of the Social Security Act bars disclosure by federal, state and local governments of SSNs collected pursuant to laws enacted on

---

or after October 1, 1990. This provision of the act also contains criminal penalties for “unauthorized willful disclosures” of SSNs; the Department of Justice would determine whether to prosecute a willful disclosure violation. Because the act specifically cites willful disclosures, careless behavior or inadequate safeguards may not be subject to criminal prosecution. Moreover, applicability of the provision is further limited in many instances because it only applies to disclosure of SSNs collected in accordance with laws enacted on or after October 1, 1990. For SSNs collected by government entities pursuant to laws enacted before October 1, 1990, this provision does not apply and therefore, would not restrict disclosing the SSN. Finally, because the provision applies to disclosure of SSNs collected pursuant to laws requiring SSNs, it is not clear if the provision also applies to disclosure of SSNs collected without a statutory requirement to do so. This provision applies to federal, state and local governmental agencies; however, the applicability to courts is not clearly spelled out in the law.

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California Office of Privacy Protection  
[www.privacy.ca.gov](http://www.privacy.ca.gov)

Office of Information Security and Privacy Protection  
[www.oispp.ca.gov](http://www.oispp.ca.gov)

State and Consumer Services Agency  
[www.scsa.ca.gov](http://www.scsa.ca.gov)



**Superior Court of California, County of Alameda**

**CHILD CUSTODY RECOMMENDING COUNSELING (CCRC) APPOINTMENT REQUEST**

**Applying on line is the fastest and most accurate way of getting your information to us.**

- On-Line: [www.alameda.courts.ca.gov](http://www.alameda.courts.ca.gov) then click on Court Divisions/Family Law/Child Custody, Guardianship and Domestic Violence Recommending Counseling/Schedule an appointment on-line; or
- Fax: (510) 783-4297; or
- Mail : Family Court Services, 224 W. Winton Ave, Suite 208 Hayward, CA 94544
- E-mail: [families&childrensbureau@alameda.courts.ca.gov](mailto:families&childrensbureau@alameda.courts.ca.gov)
- Call Appointment Line: (510) 690-2500

Next Court Date: _____ Department # _____ Court Action # _____		
Have you served papers on the other party or have you been served papers? <input type="checkbox"/> Yes <input type="checkbox"/> No Date of service _____		
PARENT OR GUARDIAN'S FULL NAME: Relationship to minors: <input type="checkbox"/> Mother <input type="checkbox"/> Father <input type="checkbox"/> Other		<input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent
Street:	City/State:	Zip:
Home Phone: (    )	Work Phone: (    )	DOB:
Cell Phone: (    )	Email:	
Attorney's Name: <input type="checkbox"/> No attorney	Primary Language: Interpreter needed? <input type="checkbox"/> Yes <input type="checkbox"/> No	
PARENT OR GUARDIAN'S FULL NAME: Relationship to minors: <input type="checkbox"/> Mother <input type="checkbox"/> Father <input type="checkbox"/> Other		<input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent
Street:	City/State:	Zip:
Home Phone: (    )	Work #: (    )	DOB:
Cell Phone: (    )	Email:	
Attorney's Name: <input type="checkbox"/> No attorney	Primary Language: Interpreter needed? <input type="checkbox"/> Yes <input type="checkbox"/> No	

CHILDREN (Full Name)	Check One	DOB	AGE	CHILDREN (Full Name)	Check One	DOB	AGE
#1	<input type="checkbox"/> M <input type="checkbox"/> F			#4	<input type="checkbox"/> M <input type="checkbox"/> F		
#2	<input type="checkbox"/> M <input type="checkbox"/> F			#5	<input type="checkbox"/> M <input type="checkbox"/> F		
#3	<input type="checkbox"/> M <input type="checkbox"/> F			#6	<input type="checkbox"/> M <input type="checkbox"/> F		

- Are/were parents married to each other?  Yes  No
- With whom are the child(ren) in this matter now living?  
\_\_\_\_\_
- Do you want to bring up any of the following issue during CCRC appointment?  
 Drug/alcohol abuse  Child abuse  Domestic violence  Child stealing  Juvenile Court actions
- Has either party made sworn allegations of domestic violence against the other?  Yes  No  
 Who made the allegations? \_\_\_\_\_ Against whom were the allegations made?  
 \_\_\_\_\_
- Is there a Restraining Order currently in place?  Yes  No When does it expire?  
 \_\_\_\_\_  
 What type of Restraining Order?  DVPA  Other Civil  Criminal  Emergency (EPO)  Juvenile Court  Unknown  
 Who does the Restraining Order restrain? \_\_\_\_\_ Who does the Restraining Order protect?  
 \_\_\_\_\_
- Separate appointments may be requested if there are sworn allegations of domestic violence or if there is a restraining order in place that protects one party from the other party. Are separate CCRC appointments being requested?  Yes  No
- Are accommodations for a disability required?  Yes  No Explain:  
 \_\_\_\_\_

Name of the person completing this form:	Date:
--	-------



**SUPERIOR COURT OF CALIFORNIA • COUNTY OF FRESNO**  
**FAMILY COURT SERVICES**  
1130 'O' Street  
Fresno, CA 93721  
(559) 457-2100 (option #4)

## **Family Court Services Intake Form**

# **Please complete pages 3-4 of this packet PRIOR to Your Mediation Appointment**

### **Orientation:**

- ❖ The Court will provide you with the date and time for you to attend the FCS Orientation. Participation in the **FCS Orientation is ordered by the Court and is essential to your success in the Mediation session.** The Orientation will provide essential information about:
  - Standard Language in custody orders,
  - Common parenting plans for different age children, and
  - General information on how to best prepare for your Mediation appointment.

### **Purpose of Mediation:**

- ❖ The Family Court Services Mediator can help parties formulate full or partial agreements regarding the following issues:
  - How the children will spend time with each party (regular time and holidays)
  - How the parties will make legal decisions about the children
  - How the children will be transported and exchanged for the visits
  - Participation in programs or services that may be beneficial for the family
  - Safety Considerations
- ❖ Financial considerations including division of property, child support and spousal support are not addressed in Family Court Services Mediation.

### **Confidentiality:**

- ❖ Pursuant to Family Code §3188, Mediation is private and confidential. The mediator may not make a recommendation as to custody or visitation to anyone other than the parties participating in the mediation appointment. Other than reporting the parties' agreement to the Court, the mediator will not disclose what occurred in mediation with the following exceptions:
  - If the Mediator determines there is reasonable suspicion of **danger to one of the parties** or others, the mediator is required to report suspected child abuse, elder abuse, and/or if someone is a danger to themselves others to the appropriate agency.
  - In the event of a **partial agreement**, with consent from all parties, the Mediator will report the partial agreement to the Court, as well as a list, in neutral terms, of the unresolved issues

# Family Court Services Intake Form (cont.)

## Interpreters:

- ❖ If you do not speak English, you must **bring your own interpreter** to your mediation appointment. Failure to bring your own interpreter may result in cancellation of your Mediation appointment.
- ❖ **Si usted no habla Inglés, usted debe traer su propio intérprete. La falta de traer su propio intérprete puede resultar en la cancelación de su Mediación de custodia de los hijos.**

## Documents:

- ❖ The Family Court Services Mediator has access to documents filed with the Court. The Mediator may discuss documents provided by the parents during the mediation session, for the sole purpose of facilitating an agreement between the parties regarding custody and visitation. The Mediator will NOT retain any documents presented by the parties during the Tier I mediation.

## Separate Sessions:

- ❖ Pursuant to Family Code §3181, where there has been a history of domestic violence between the parties or where a protective order as defined in §6218 is in effect, at the request of the party alleging domestic violence in a written declaration under penalty of perjury or protected by the order, the Mediator appointed pursuant to this chapter shall meet with the parties separately and at separate times.
- ❖ **If you feel that separate sessions are appropriate due to a history of domestic violence, please contact Family Court Services IMMEDIATELY to complete a “Request for Separate Sessions”. This request must be submitted to Family Court Services at least five days prior to your Mediation appointment.**

**SUPERIOR COURT OF CALIFORNIA • COUNTY OF FRESNO**  
**FAMILY COURT SERVICES**  
**FAMILY COURT SERVICES INTAKE FORM**

**PERSONAL INFORMATION**

**Name:** \_\_\_\_\_ **Other Names Used:** \_\_\_\_\_  
(First) (Middle) (Last) (Nickname, Aliases, Maiden Name)

**Address:** \_\_\_\_\_ **City:** \_\_\_\_\_  
(Number and Street Name) (Apartment No.)

**State:** \_\_\_\_\_ **Zip:** \_\_\_\_\_ **County:** \_\_\_\_\_

**Phone Number(s):** ( ) \_\_\_\_\_ ( ) \_\_\_\_\_ **Date of Birth:** \_\_\_\_\_  
(Home) (Work / Cell)

**Social Security Number:** \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ **Driver's License Number:** \_\_\_\_\_ **State:** \_\_\_\_\_

**OTHER PARENT / PARTY'S PERSONAL INFORMATION**

**Other Parent's / Party's Name:** \_\_\_\_\_ **Date of Birth:** \_\_\_\_\_  
(First) (Middle) (Last)

**Social Security Number:** \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ **Driver's License Number:** \_\_\_\_\_ **State:** \_\_\_\_\_

**EMPLOYMENT**

**Employer** (If Unemployed, Please Write "Unemployed"): \_\_\_\_\_

**Work Schedule:**  MON  TUES  WED  THURS  FRI  SAT  SUN **Work Hours:** \_\_\_\_\_

**ATTORNEY**

**Name:** \_\_\_\_\_ **Phone Number:** \_\_\_\_\_

**MINOR CHILDREN IN THIS CASE**

Name	DOB	School	Name	DOB	School

**OTHER ADULTS IN YOUR HOME**

Name	DOB	Relationship	Name	DOB	Relationship

**DOMESTIC VIOLENCE**

- Is there currently a Restraining Order in effect protecting you or the other parent?  NO  YES: \_\_\_\_\_  
Expiration Dated: \_\_\_\_\_
- Are you, under penalty of perjury, alleging that there is a history of domestic violence between you and the other parent?  YES  NO
- If you answered 'YES' to question #2, were the child/ren present during the abuse / violence?  YES  NO
- Are you requesting a separate mediation session due to a history of domestic violence between you and the other parent?  YES  NO

**If you answered 'YES' to questions #2 and #4, please immediately contact Family Court services at (559) 457-2100 (option #4) to receive a packet regarding your request for separate mediation sessions.**

**QUESTIONNAIRE**

1. Do you currently have a Court order for custody and visitation:  YES  NO

Describe how much time each parent has with the child/ren since your separation?

2. Please provide two (2) detailed visitation schedule options, including specific days and times for exchanges:

Visitation schedule A:  Sole Legal  Sole Physical  Joint Legal  Joint Physical

**Holiday Schedule:**

Easter: \_\_\_\_\_ Thanksgiving: \_\_\_\_\_ Christmas: \_\_\_\_\_

Visitation schedule B:  Sole Legal  Sole Physical  Joint Legal  Joint Physical

**Holiday Schedule:**

Easter: \_\_\_\_\_ Thanksgiving: \_\_\_\_\_ Christmas: \_\_\_\_\_

3. Approximately, how many miles do you reside from the other parent? \_\_\_\_\_

4. Major areas of concern that would justify limited contact between the child/ren and the other parent:

Please bring copies of any documentation regarding your major areas of concerns to the Mediation appointment.  
(i.e. Police reports, CPS reports, School records, Criminal Background checks, Drugs test, Medical records)

- Substance abuse
- Exposure to criminal behavior/Arrest History
- Child/ren's resistance to visitation
- Child/ren's poor academic performance
- Neglect of medical care
- History of child abuse / CPS/ Police involvement
- Use of inappropriate discipline
- Unavailability of other parent to care for the child/ren

Briefly summarize the concerns you have regarding the custody and/or welfare of the child/ren:

**SIGNATURE**

I declare that the foregoing information, as provided in this entire form, is true and correct.

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Signature)

DATE TODAY \_\_\_\_\_

**FAMILY MEDIATION INTAKE**

THE INFORMATION REQUESTED IS FOR MEDIATION PERSONNEL ONLY AND IS SUBJECT TO RULES OF CONFIDENTIALITY. PLEASE FILL OUT ALL ITEMS THOROUGHLY. THANK YOU.

NAME: \_\_\_\_\_ BIRTHDATE: \_\_\_\_\_

\*\*ADDRESS: \_\_\_\_\_ CITY: \_\_\_\_\_ STATE: \_\_\_\_\_

ZIP CODE: \_\_\_\_\_ HOME PHONE: \_\_\_\_\_ WORK/CELL PHONE \_\_\_\_\_

MAILING ADDRESS IF DIFFERENT \_\_\_\_\_

ATTORNEY: \_\_\_\_\_ PLACE OF EMPLOYMENT \_\_\_\_\_

*\*\*If your home address is confidential, due to a restraining order, leave blank and talk to your Mediator.*

HAVE YOU BEEN IN MEDIATION PREVIOUSLY? \_\_\_\_ YES \_\_\_\_ NO

ARE YOU A VETERAN OR ACTIVE DUTY MILITARY? \_\_\_\_ YES \_\_\_\_ NO

DID YOU SERVE IN A COMBAT ZONE? \_\_\_\_ YES \_\_\_\_ NO

CHILDREN OF THE MARRIAGE  
OR RELATIONSHIP

CHILDREN IN YOUR HOME NOT  
OF THIS MARRIAGE/RELATIONSHIP

NAME	BIRTHDATE	AGE
_____	_____	_____
_____	_____	_____
_____	_____	_____

NAME	BIRTHDATE	AGE
_____	_____	_____
_____	_____	_____
_____	_____	_____

DOES ANY CHILD HAVE SPECIAL NEEDS? If so, please place a star next to their name and describe on the back of this sheet.

DATE OF MARRIAGE \_\_\_\_\_ DATE OF SEPARATION \_\_\_\_\_ NON-MARRIAGE

Do you have a domestic violence restraining order or criminal protective order against the other parent? \_\_\_\_\_

Effective Date \_\_\_\_\_ Expiration Date \_\_\_\_\_

At the start of every mediation appointment the parties will each meet with the Mediator separately. If you have experienced domestic violence you have the option of meeting separately throughout your mediation experience for all Mediation sessions. Please discuss this with your Mediator.

**RIGHT TO A SUPPORT PERSON:** If the Court issued a PROTECTIVE ORDER, a support person shall be permitted to accompany the protected party during the orientation and all mediation sessions. It is the function of a support person to provide moral and emotional support. The support person is not present as a legal adviser and shall not give legal advice or participate in the discussion.

\*HAVE YOU ATTENDED THE PARENTING APART WORKSHOP? \_\_\_\_\_ DATE \_\_\_\_\_

If scheduled, when? \_\_\_\_\_

COMMENTS WELCOME ON REVERSE SIDE

**Superior Court of Mendocino County Family Court Services**  
**Supplemental Questionnaire (Confidential)**

EACH PARENT MUST ANSWER HIS/HER OWN QUESTIONNAIRE SEPARATELY

**The law requires that these questions be raised.**

	YES	NO
1. Have you ever participated in a custody case about any children in another county or state?	_____	_____
2. Do you have any concerns about the child(ren)'s emotional and/or physical safety with the other parent?	_____	_____
3. Has Child Protective Services been involved with the family regarding allegations of abuse or neglect to the child(ren)?	_____	_____
4. Has an attorney/Guardian ad Litem been appointed to represent the child(ren).	_____	_____
5. Have you ever feared that you would not have access to your children?	_____	_____
6. Has there even been medical treatment or hospitalization of immediate family members for psychiatric disorders?	_____	_____
7. Do you have any concerns regarding the use of alcohol and/or drugs by immediate family members?	_____	_____
8. Have there ever been <u>any</u> physical confrontations between you and the other parent?	_____	_____
9. Have you ever been abusive to the other parent or been restrained by a restraining order?	_____	_____
10. Has the other parent been violent or abusive <b>to you</b> ? <i>If yes, how many times?</i> _____	_____	_____
11. When was the <u>most recent</u> violence or abuse? (Date): _____ Please describe the violence or abuse: _____ _____ _____ Were the children there? _____	_____	_____
12. When was the <u>2<sup>nd</sup> most recent</u> violence or abuse? (Date): _____ Please describe the violence or abuse: _____ _____ _____ Were the children there? _____	_____	_____

YES

NO

13. When was the worst violence or abuse? (Date): \_\_\_\_\_  
Please describe the violence or abuse: \_\_\_\_\_

\_\_\_\_\_

Were the children there? \_\_\_\_\_

14. Are you worried that the other parent might be violent or abusive to you again? \_\_\_\_\_

15. Have there ever been any threats or implications about the use of weapons against either parents or child(ren)? \_\_\_\_\_

16. Have you ever asked for a restraining order against the other parent? \_\_\_\_\_

*If yes, in which county and state?* \_\_\_\_\_

17. Has the other parent ever been abusive **to another family member**? \_\_\_\_\_

18. Has the other parent ever been abusive to a family pet or another animal? \_\_\_\_\_

19. Has the other parent ever been involved in a criminal domestic violence case? \_\_\_\_\_

*If yes, in what state and county?* \_\_\_\_\_

20. Do you have any other concerns about your own emotional and/or physical safety with the other parent? \_\_\_\_\_

21. Are you in any way afraid to meet with the other parent in mediation? \_\_\_\_\_

22. Do you feel that you were an equal partner in your relationship? \_\_\_\_\_

23. Do you feel you are ready to be working with the other parent to develop a parenting plan? \_\_\_\_\_

*If no, please state briefly why not:* \_\_\_\_\_

24. Do you have any fears about answering these questions? \_\_\_\_\_

*If yes, please state briefly why:* \_\_\_\_\_

You will have an opportunity to discuss your responses to the above questions when you meet individually with the Mediator.



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>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO</b> <input type="checkbox"/> CENTRAL DIVISION, COUNTY COURTHOUSE, 220 W. BROADWAY, SAN DIEGO, CA 92101 <input type="checkbox"/> CENTRAL DIVISION, FAMILY COURT, 1555 6TH AVE., SAN DIEGO, CA, 92101 <input type="checkbox"/> CENTRAL DIVISION, MADGE BRADLEY, 1409 4TH AVE., SAN DIEGO, CA 92101 <input type="checkbox"/> EAST COUNTY DIVISION, 250 E. MAIN ST., EL CAJON, CA, 92020 <input type="checkbox"/> NORTH COUNTY DIVISION, 325 S. MELROSE DR., SUITE 340, VISTA, CA, 92081 <input type="checkbox"/> SOUTH COUNTY DIVISION, 500 3RD AVE., CHULA VISTA, CA 91910	
PETITIONER(S) _____	
RESPONDENT(S) _____	
<b>FAMILY COURT SERVICES SCREENING FORM (CONFIDENTIAL)</b>	CASE NUMBER _____

FATHER

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

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

Daytime Telephone Number (8:00 a.m. to 5:00 p.m.): \_\_\_\_\_

Attorney: \_\_\_\_\_ Telephone Number: \_\_\_\_\_

MOTHER

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

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

Daytime Telephone Number (8:00 a.m. to 5:00 p.m.): \_\_\_\_\_

Attorney: \_\_\_\_\_ Telephone Number: \_\_\_\_\_

**NOTE: THIS SCREENING FORM IS FOR FAMILY COURT SERVICES (FCS) USE ONLY. THIS INFORMATION WILL BE KEPT CONFIDENTIAL.**

**CHILDREN MAY NOT ACCOMPANY PARTIES TO THE FAMILY COURT SERVICES APPOINTMENT UNLESS ORDERED BY THE COURT OR SPECIFICALLY REQUESTED BY A FAMILY COURT SERVICES COUNSELOR.**

**FAILURE TO APPEAR OR FAILURE TO CANCEL THE FAMILY COURT SERVICES APPOINTMENT AT LEAST 48 HOURS PRIOR TO THE APPOINTMENT TIME MAY RESULT IN SANCTIONS IMPOSED BY THE COURT OF UP TO \$1500 TO ONE OR BOTH PARTIES PURSUANT TO CODE CIV. PROC. § 177.5 AND SAN DIEGO SUPERIOR COURT LOCAL RULES.**

- |  | Yes                      | No                       |
|--|--------------------------|--------------------------|
| 1. Do you or the other party allege domestic violence?   | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Is there a domestic violence restraining order?   | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. Do you or the other party require a Spanish-speaking counselor?                                     | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. Do you or the other party live outside of the County of San Diego and need a telephone FCS session? | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. Is a third party requesting custody or visitation?  | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> Grandparent Joinder   |                          |                          |
| <input type="checkbox"/> Other: _____  |                          |                          |

Name and relationship to child(ren) \_\_\_\_\_

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

\_\_\_\_\_  
Signature of Filing Party/Attorney



SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

FAMILY COURT SERVICES (FCS) DATA SHEET (CONFIDENTIAL)

PLEASE COMPLETE ALL THREE PAGES

Have you previously been to Family Court Services? [ ] Yes [ ] No

Case Name \_\_\_\_\_

Case No. \_\_\_\_\_

FCS Date \_\_\_\_\_

Next Court Date \_\_\_\_\_

IF YOU ARE BEING PROTECTED BY A RESTRAINING ORDER OR IF YOU ALLEGE DOMESTIC VIOLENCE, YOU MAY BE SEEN SEPARATELY. Are you requesting a separate session? [ ] Yes [ ] No
If you want to be seen separately, please advise the Family Court Services Clerk when you check in.

SUPPORT PERSON: If you are being protected by a restraining order, a support person may accompany you during your FCS session. The support person must first sign a Family Court Services Domestic Violence Support Person Agreement (SDSC Form #FCS-038). Please advise the Family Court Services Clerk of your support person when you check in.

Are you requesting that your address and telephone number remain confidential? [ ] Yes [ ] No

CHECK ONE [ ] Father [ ] Mother [ ] Grandparent [ ] Other: specify relationship \_\_\_\_\_

FULL LEGAL NAME \_\_\_\_\_ AKA OR MAIDEN NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_
Number and Street Apt. # City State Zip Code

HOME TEL. NO. \_\_\_\_\_ WORK TEL. NO. \_\_\_\_\_ WORK SCHEDULE \_\_\_\_\_

SOCIAL SECURITY NUMBER \_\_\_\_\_ BIRTH DATE \_\_\_\_ / \_\_\_\_ / \_\_\_\_ PLACE OF BIRTH \_\_\_\_\_

DRIVER LICENSE NUMBER \_\_\_\_\_ STATE \_\_\_\_\_ CURRENTLY VALID [ ] Yes [ ] No

ATTORNEY \_\_\_\_\_ TELEPHONE NO. \_\_\_\_\_

ADDRESS \_\_\_\_\_
Number and Street Apt. # City State Zip Code

CHILD(REN)'S ATTORNEY (if any) \_\_\_\_\_ TELEPHONE NO. \_\_\_\_\_

ADDRESS \_\_\_\_\_
Number and Street Apt. # City State Zip Code

PARENTS:

Date of Marriage \_\_\_\_\_ or Date Began Living Together \_\_\_\_\_ Date of Separation \_\_\_\_\_

If dissolution filed, when? \_\_\_\_\_

NAME OF MINOR CHILD(REN)

Table with 7 columns: First, Middle, Last, Date of Birth, Place of Birth, Parent with whom residing. Rows 1-4.



CASE NAME	CASE NUMBER
-----------	-------------

**FAMILY COURT SERVICES (FCS) DATA SHEET**  
Please complete the following questions.

1. Which parent filed the current court action? \_\_\_\_\_
2. What is the action regarding? \_\_\_\_\_  
\_\_\_\_\_
3. Is there a court order regarding custody and visitation now?  Yes  No
  - a. If yes, briefly summarize: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  - b. When was it issued? \_\_\_\_\_
4. If there is no court order or a different schedule is being practiced, please summarize your current parenting schedule. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
5. What parenting schedule would you like to have? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
Signature of Party Filling Out This Form

**NO ATTACHMENTS PLEASE**



## **SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO**

- CENTRAL DIVISION, FAMILY COURT, 1555 6TH AVE., SAN DIEGO, CA 92101 (619) 450-7888
- EAST COUNTY DIVISION, 250 E. MAIN ST., EL CAJON, CA 92020 (619) 456-4100
- NORTH COUNTY DIVISION, 325 S. MELROSE DR., VISTA, CA 92081 (760) 201-8300
- SOUTH COUNTY DIVISION, 500 3RD AVE., CHULA VISTA, CA 91910 (619) 746-6097

### **FAMILY COURT SERVICES** **CHILD CUSTODY RECOMMENDING COUNSELING INFORMATION SHEET**

**IMPORTANT: This information sheet is not and should not be considered or construed as legal advice. Child custody recommending counselors do not give legal advice. If you need legal advice, you should consult an attorney.**

#### **What Is Child Custody Recommending Counseling?**

Child custody recommending counseling (formerly called "mediation") is a process in which parties are given the opportunity to work together, with the assistance of an experienced Family Court Services (FCS) counselor, towards a goal of reaching an agreement regarding a parenting plan for the child(ren). The child custody recommending counseling conference is an opportunity for parties to discuss custody and visitation and make their own decisions about what is in the best interest of the child(ren). The parenting plan that is developed will detail when the children are to be with each party and will specify other parental responsibilities. Information shared by parents in the child custody recommending counseling session is not confidential to the court. The counselor will notify the court of areas of agreement. If no agreement is reached, the counselor will make a written recommendation to the court as to what is believed to be in the best interest of the child(ren). The recommendation will be provided to the parties prior to the court hearing. If you disagree with the counselor's recommendation, during your court hearing, you or your attorney will have the opportunity to tell the judicial officer your position regarding a child sharing plan. Only a judicial officer can make a court order for child custody or visitation.

Telephone calls to a counselor after the Family Court Services session will not be accepted unless the counselor has requested specific information. All information that you want the counselor to know should be discussed during the FCS session.

#### **What will happen at your Family Court Services appointment?**

You will view an orientation video before seeing a counselor. The child custody recommending counseling conference will last 1½ to 2 hours. The Family Court Services Data Sheet (SDCS Form #FCS-002) will be reviewed. You will be asked about your home, relationships and other aspects of your life related to parenting. Your proposal for a child sharing schedule and any parenting concerns will be discussed.

#### **Are the parties always seen together in the child custody recommending counseling session?**

Arrangements can be made for a telephone conference if one party is out of the county. Please call the FCS office where your session will take place to arrange for participation by telephone.

If you are being protected by a restraining order against the other parent or if you allege domestic violence has occurred, you may be seen separately without the other parent present at your FCS appointment. Also, if a restraining order for your protection is in effect at the time of the appointment, you may have a support person with you during your FCS session, including a session where you are seen without the other parent. Please advise the FCS clerk of these requests when you check in.

#### **Should I bring the child(ren) to the Family Court Services appointment?**

Do NOT bring the child(ren) with you for the FCS appointment unless ordered to do so by the court. If an interview with the child(ren) is needed, arrangements will be made for this at a later time.

#### **What are the limitations of child custody recommending counseling?**

Child custody recommending counseling does NOT deal with issues related to money, child or spousal support, or property. Family Court Services cannot monitor or enforce court orders.

**FAMILY COURT SERVICES  
CHILD CUSTODY RECOMMENDING COUNSELING INFORMATION SHEET**

**IMPORTANT**

**If you do not need the Family Court Services child custody recommending counseling appointment you must cancel it at least two court days prior to the appointment date. If you do not cancel the appointment and/or fail to appear for the appointment you may be ordered by the court to pay a monetary sanction of up to \$1,500 pursuant to Code Civ. Proc. § 177.5.**

**Where can I obtain additional information about child custody recommending counseling?**

FCS provides a free twice monthly Parent Orientation meeting to provide general information regarding child custody and Family Court matters. This meeting is facilitated by an FCS counselor. The orientation lasts about one hour. Advance registration is not required.

Day	Time	Address	Location	Phone
3rd Tuesday of the month	12:00 p.m. *	1555 6th Ave., San Diego	Family Law Court FCS Conference Room 2nd floor	(619) 450-7888
1st Thursday of the month	4:00 p.m.	1555 6th Ave., San Diego	Family Law Court FCS Conference Room 2nd floor	(619) 450-7888

\*Please be aware that doors are closed promptly at 12:10 p.m.

Additional information about child custody recommending counseling can be found at [www.sdcourt.ca.gov](http://www.sdcourt.ca.gov) and [www.courts.ca.gov](http://www.courts.ca.gov).

## Superior Court of California, San Luis Obispo Family Court Services Intake Form

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***What is this form for?*** You and your child/children's other parent have been referred to Family Court Services for help with developing a parenting plan for your child or children. Professionals in family court services are trained as mediators and on other topics related to family court cases, including child development and domestic violence. The information collected on this form will be used to help the mediator decide how to best help you with your particular case. You will receive a written copy of the mediation outcome form the mediator provides to the court before the form goes to the court.

Today's date: \_\_\_\_\_ Case #: \_\_\_\_\_ Next hearing date: \_\_\_\_\_

Your full name: \_\_\_\_\_ Other parent's name: \_\_\_\_\_

Your birth date: \_\_\_\_\_ Age: \_\_\_\_\_

Address: \_\_\_\_\_ City/State/Zip: \_\_\_\_\_

Daytime phone: \_\_\_\_\_ e-mail: \_\_\_\_\_

Employer: \_\_\_\_\_ How long? \_\_\_\_\_ Position: \_\_\_\_\_

Are you represented by an attorney in this case? \_\_\_\_\_

### ***Children involved in this case***

<u>First name</u>	<u>M.I.</u>	<u>Last Name</u>	<u>Age</u>	<u>Date of Birth</u>	<u>School and grade</u>
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

Who else lives in your home (and how are they related)? \_\_\_\_\_

Have you been to mediation with the other parent before?  Yes  No

Have you been to the co-parenting class (Children: the Challenge in Divorce) yet?  Yes  No

Please describe your current parenting schedule:  
\_\_\_\_\_

**Related Cases:** It is helpful to know if your family (you, the other parent, and children/child) has been involved or is involved in other court cases. If there are other cases related to this one, please let us know:

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**Detailed questions:** Mediators need to know about your case so that your appointment is as helpful to you as possible. Please answer the following questions:

1. Have either you or the other parent said that there are concerns about family violence?  
 Yes  No  Not Sure
2. Has a request for a restraining order been filed within the last five years?  Yes  No  
Is there a restraining order in place right now? \_\_\_ Yes \_\_\_ No
3. Do you have any concerns about **the safety of the child/children** when the child is with the other parent?  Yes  No If yes, the mediator will talk with you about your concerns, but is there anything you would like to briefly write to the mediator about this now?  

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4. Do you have any concerns about **your safety** around the other parent?  Yes  No If yes, the mediator will talk with you about your concerns, but is there anything you would like to briefly write to the mediator about this now?  

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5. Do you have any concerns about mediating (talking about your case and plans for parenting your children) with the other parent in the same room?  Yes  No
6. Please provide the following dates, if applicable, as well as you can estimate:  
Date of marriage: \_\_\_\_\_  
Dates lived together: \_\_\_\_\_  
Date of separation: \_\_\_\_\_

**Your case may be one where a “separate session” must be provided.** If there are allegations or a history of domestic violence, or if there is a restraining order in your case, you have the right to meet with the mediator without the other party upon request (“separate session”). In a case with allegations or a history of domestic violence, even if you do not ask for a separate session, the mediator will speak with each parent separately before meeting with you together (or during or after if the domestic violence comes up during the session). A request for a separate session is not viewed as evidence of lack of cooperation.

**Are you asking for a separate session at this time?** \_\_\_ Yes \_\_\_ No

**If you are unsure about whether you need to meet separately, would you like to speak with the mediator privately about the mediation process?** \_\_\_ Yes \_\_\_ No

**Support Person** If a restraining order has been issued to protect you, a support person is allowed to go with you any mediation orientation or session, including separate sessions. However, the mediator may exclude a support person if the support person participates in the mediation, acts as an advocate, or if their being there interferes with mediation.



**Substance abuse:** Do you have concerns about drug or alcohol use or abuse by the other parent?

Yes     No

**Mental health concerns impacting child currently:** If you have concerns about mental health issues in this case, please briefly describe:

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**Information about mediation:** Parents who come to court about child custody and visitation face decisions about parenting plans for their children. A parenting plan describes how the parents will divide their responsibilities for taking care of their child after separating or divorcing. The plan may include a general or specific schedule of days, times, weekends, holidays, vacations, transportation, pick-up/drop-off, limits on travel, and other details. When the parties cannot agree to a parenting plan on their own, in mediation, or through other processes, the judge will decide.

**What do you feel needs to be discussed in mediation?**

(Check as many as applicable)

- |   |   |
|---|---|
| <input type="checkbox"/> Child/ren's residence          | <input type="checkbox"/> Time with each parent in school year |
| <input type="checkbox"/> Holiday/Vacation time          | <input type="checkbox"/> Authority/Decision-making            |
| <input type="checkbox"/> Child care                     | <input type="checkbox"/> Transportation                       |
| <input type="checkbox"/> Parent/Child relationship      | <input type="checkbox"/> Supervision/Discipline               |
| <input type="checkbox"/> Domestic violence              | <input type="checkbox"/> Creating peaceful communication      |
| <input type="checkbox"/> Child abuse, neglect           | <input type="checkbox"/> Alcohol/Drug Abuse                   |
| <input type="checkbox"/> Following the court's order(s) |   |

**Are there any other issues about your child or children you would like to discuss with the mediator?**

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**Confidentiality**

Mediation sessions are private and the mediator may not share information from those sessions with just anybody. You should not assume information you share separately with the mediator may be kept confidential from the other party, however, you may tell the mediator if there is information you are providing that may put you at risk if it is shared.

Mediators and staff must make reasonable efforts to keep residential addresses, work addresses, and contact information-including but not limited to telephone numbers and e-mail addresses-confidential in all cases and on all Family Court Services documents.

***What if we reach an agreement?*** Your agreement will be submitted to the court only after all parties (including their attorneys) have signed the document.

***What if we do not reach an agreement?*** The mediator may make recommendations to the court regarding counseling and education and the court's procedure for gathering information. These recommendations may include the following:

- a. Attorney for the child
- b. Counseling for the children and/or parents
- c. Parenting classes
- d. Abbreviated custody investigation
- e. Full custody investigation
- f. Psychological evaluation
- g. Drug and alcohol assessment

- The mediator **will not** make recommendations to the court regarding your children's living arrangements.
- The only communication between the mediator and an attorney of record will be a copy of the **Mediation Outcome Report Form** or a faxed copy of the proposed agreement.

***What information goes to the judge?***

Mediation will end with either a written parenting plan of the parties' agreement or a mediator's recommendation on the **Mediation Outcome Report Form** that is given to the attorneys or the parties before the recommendation is presented to the court. The mediator will not make a custody recommendation to the court.

***What information goes to people outside the court?***

There are certain situations in which mediators are required or permitted to reveal information without your permission. They are not required to inform you of their actions in this situation.

If you threaten violence to another person, the mediator may be required to inform the intended victim and the appropriate law enforcement agencies.

If you are likely to harm yourself unless protective measures are taken, the law may permit the mediator to take appropriate actions to ensure your safety.

If the mediator has reasonable cause to suspect abuse and/or neglect of children, elderly or dependent adults, or if such is reported to the mediator, that mediator may be required by law to report to an appropriate protective agency and/or the police.

APPEARING PARTY :  Telephone No:              Fax No:              Email:  State Bar No.              _____ (if applicable) REPRESENTING (Name):	DO NOT FILE WITH COURT  <b>COMPLETELY FILL OUT/CORRECT FORM BEFORE SUBMITTING TO COURTCALL</b>  CourtCall ID#:
<b>San Mateo County Superior Court</b>	
Case Name:	<b>CASE NUMBER:</b> <b>DEPARTMENT:</b> / <b>DATE/TIME:</b> <b>HEARING:</b>
<b>REQUEST FOR COURTCALL TELEPHONIC APPEARANCE</b>	Our Tax ID#: 95-4568415

1. \_\_\_\_\_ (Name of specific attorney appearing telephonically) requests a CourtCall telephonic calendar appearance at the above referenced proceeding and agrees to provisions of the Rule/Order/Procedure Re: CourtCall Telephonic Appearances. I UNDERSTAND THAT I DIAL INTO THE CALL FIVE MINUTES BEFORE ITS SCHEDULED START TIME. **COURTCALL DOES NOT DIAL OUT TO ME.**
2. Not less than 3 Court days or 4:00 PM on the Court day prior to the hearing if the department posts tentative rulings , a copy of this document was served on all other parties and faxed to CourtCall, Telephonic Appearance Program Administrator at (310) 743-1850 OR (888) 88-FAXIN .
3. The CourtCall Appearance Fee in the sum of \$78.00 USD (plus additional fee of \$30.00 USD if late filing is accepted) paid as follows:  
 Check - (copy attached-**write CourtCall ID# on check**-and faxed to CourtCall at (310) 743-1850 or (888) 88-FAXIN) payable to CourtCall, LLC and original mailed to CourtCall at 6383 Arizona Circle, Los Angeles, CA 90045, telephone (310) 342-0888 or (888) 88-COURT. **INDIVIDUALS REPRESENTING THEMSELVES MUST PAY BY CREDIT CARD!**  
 Charged - to CourtCall Debit Account No.: \_\_\_\_\_  
 Charged - to VISA, Mastercard or American Express: \_\_\_\_\_

**To be completed only on the copy submitted to CourtCall, LLC:**

Credit Card Number: _____	Expiration Date: _____
To pay by credit card, the copy of this form submitted to CourtCall, LLC must be signed by the person whose credit card is to be charged and must be <b>faxed</b> to CourtCall at (310) 743-1850 or (888) 88-FAXIN with the above credit card information completed. The signature below constitutes authorization to charge the above referenced credit card.	
_____ Type Name	_____ Signature

4. Request forms are processed within 24 hours of receipt. Call CourtCall if you do not receive a faxed Confirmation within 24 hours. WITHOUT A WRITTEN CONFIRMATION YOU ARE NOT ON THE COURTCALL CALENDAR AND MAY BE PRECLUDED FROM APPEARING TELEPHONICALLY! COURTCALL'S LIABILITY CONCERNING THIS TELEPHONIC APPEARANCE IS LIMITED TO THE FEE PAID TO COURTCALL. Matters continued at the time of the hearing require a new form and a new fee for the continued date. It is counsel's responsibility to notify CourtCall of any continuance or cancellation, prior to the scheduled hearing time by calling (888) 882-6878.

5. **MY SIGNATURE ON THIS DOCUMENT SERVES AS CONSENT FOR COURTCALL TO CONTINUE TO FAX (AT THE FAX NUMBER LISTED ABOVE UNDER "ATTORNEY OF RECORD") OR EMAIL NOTICES TO ME OR MY FIRM ADVISING OF UPCOMING APPEARANCES AND/OR OTHER OFFERINGS FROM COURTCALL UNTIL I OR MY FIRM ADVISES COURTCALL OTHERWISE.**

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

Signature: \_\_\_\_\_



SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN MATEO

FAMILY COURT SERVICES

400 County Center, 6th Floor

Redwood City, CA 94063-1668

Tel. (650) 261-5080 - Fax (650) 261-5142

www.sanmateocourt.org

AUTHORIZATION FOR RELEASE OF RECORDS AND PROTECTED HEALTH INFORMATION

Completion of this document authorizes the release of health information and other records as set forth below, consistent with California and Federal law concerning the privacy of such information. Failure to provide all information requested may invalidate this authorization.

To: \_\_\_\_\_

Name: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Name: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

I authorize the release of health and other information to Family Court Services from the above person/organization regarding myself and/or my minor children below:

Name of Child: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Name of Child: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Name of Child: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

This authorization applies to the following health information and other records (select only one of the following):

- Options for health information release: All health information... Only the following records...

This authorization also applies to the following information (select all that applies):

- Options for additional information: Educational, Investigative narratives from Child Protective Services

I understand that the released records are to be used by the Family Court Services Child Custody Recommending Counselor to assist my family and myself in making recommendations to the Superior Court about the custody and/or visitation of my child(ren).

RESTRICTIONS

California law prohibits the requestor from making further disclosure of my protected health information and other records unless the requestor obtains another authorization from me or unless such disclosure is specifically required or permitted by law.

YOUR RIGHTS

I may refuse to sign this authorization. I may inspect or obtain a copy of the protected health information and other records that I am being asked to release/disclose.

Signature: \_\_\_\_\_ Relationship: \_\_\_\_\_ Date: \_\_\_\_\_

Signature: \_\_\_\_\_ Relationship: \_\_\_\_\_ Date: \_\_\_\_\_

A Superior Court hearing ( ) has been set for \_\_\_\_\_ / ( ) has not been set.

We would appreciate having the records/information by \_\_\_\_\_. If any fees regarding this request should arise, please inform Family Court Services prior to sending the requested information.

Print Name: Chuck Amital Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**INFORMATION SHEET**

**Bring this completed form with you; failure to complete this form will delay your appointment.  
Please limit your answers to the space provided and do not attach any additional pages.**

**CASE #:** \_\_\_\_\_

**Personal Information**

Name: \_\_\_\_\_  
Other names you have used: \_\_\_\_\_  
Birthdate: \_\_\_\_\_ Birthplace: \_\_\_\_\_ Age: \_\_\_\_\_  
Social Security number: \_\_\_\_\_ Driver's License number & State: \_\_\_\_\_  
Home address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip code: \_\_\_\_\_  
Mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip code: \_\_\_\_\_  
Home phone: \_\_\_\_\_ Cell: \_\_\_\_\_ Work / message: \_\_\_\_\_

**Attorney Information**

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip code: \_\_\_\_\_  
Telephone #: \_\_\_\_\_ Fax #: \_\_\_\_\_

**Children involved in this matter**

Name: \_\_\_\_\_ DOB: \_\_\_\_\_ Age: \_\_\_\_\_ Lives with: \_\_\_\_\_  
Name: \_\_\_\_\_ DOB: \_\_\_\_\_ Age: \_\_\_\_\_ Lives with: \_\_\_\_\_  
Name: \_\_\_\_\_ DOB: \_\_\_\_\_ Age: \_\_\_\_\_ Lives with: \_\_\_\_\_  
Name: \_\_\_\_\_ DOB: \_\_\_\_\_ Age: \_\_\_\_\_ Lives with: \_\_\_\_\_

**Residence**

How long have you resided at your current address? \_\_\_\_\_  
Number of bedrooms: \_\_\_\_\_ Are you planning to move? \_\_\_\_\_  
Do you rent or own? \_\_\_\_\_ Number of persons at this residence: \_\_\_\_\_  
Names and relationship to you (including children) of all persons who live at this residence:  
\_\_\_\_\_  
\_\_\_\_\_

**Employment Information**

Employer: \_\_\_\_\_ Address: \_\_\_\_\_  
Date employed: \_\_\_\_\_ Days & hours of work: \_\_\_\_\_  
Job title: \_\_\_\_\_ Monthly income before taxes: \_\_\_\_\_

**Status of your relationship with the other parent**

Married / Domestic Partnership: ( ) Yes ( ) No Date of marriage / domestic partnership: \_\_\_\_\_  
Date began living together: \_\_\_\_\_ Date of last separation: \_\_\_\_\_  
Date divorce was final / domestic partnership was terminated: \_\_\_\_\_

**Other marriages / domestic partnerships**

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

Children from this relationship: \_\_\_\_\_

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

Children from this relationship: \_\_\_\_\_

**Health**

Are you currently receiving any medical treatment? ( ) No ( ) Yes; briefly describe: \_\_\_\_\_

**Domestic Violence / Restraining Orders** (if not applicable, skip & continue with **Current Situation**)

When there is a history of domestic violence or a domestic violence restraining order, the protected party may request a separate session and bring a support person under Family Codes 3181 & 6303.

\_\_\_\_\_ I request a separate session under **code section 3181**

\_\_\_\_\_ I wish to bring a support person under **code section 6303**

If there is a history of domestic violence against you, either in or outside the children's presence, describe when and where it occurred and who was involved:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If you have a copy of your declaration or restraining order regarding domestic violence, please provide a copy to your counselor. Otherwise, briefly answer the following:

▪ Latest incident: \_\_\_\_\_

\_\_\_\_\_

▪ Worst incident: \_\_\_\_\_

\_\_\_\_\_

▪ Were the police called / any police reports? \_\_\_\_\_

▪ Was emergency medical treatment needed? \_\_\_\_\_

▪ Were weapons involved? \_\_\_\_\_

▪ Was the Court involved? \_\_\_\_\_

▪ Were temporary restraining orders issued? \_\_\_\_\_

\_\_\_\_\_

▪ Has anyone received counseling or help from a domestic violence agency? \_\_\_\_\_

\_\_\_\_\_

▪ Has Child Protective Services been involved? \_\_\_\_\_

▪ Have the children witnessed any of the domestic violence? \_\_\_\_\_

\_\_\_\_\_

[This space intentionally left blank.]

[This space intentionally left blank]

**Current Situation** (limit your answers to the space provided & **do not attach** any additional pages)

- Are the children seeing the other parent? \_\_\_\_\_
- Do you or the other parent have any history or current issues with drug or alcohol abuse? \_\_\_\_\_  
\_\_\_\_\_
- Are there any current charges of child physical or sexual abuse or neglect? \_\_\_\_\_  
\_\_\_\_\_
- Has a dependency petition (W&I 300) been filed with the Juvenile Court? \_\_\_\_\_
- Are there any problems relating to the safety of the children? \_\_\_\_\_
- \_\_\_\_\_
- What hours of the day, days of the week or weeks of the month do you spend time with or see your children? \_\_\_\_\_  
\_\_\_\_\_

What custody / visitation problems currently exist? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please list some reasonable solutions to these problems: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**I certify all the information provided to Family Court Services is true and correct. I understand falsification or omission of any information may affect the disposition of my case, and Family Court Services staff may consider all other available Family Court Services case information regarding myself.**

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

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SANTA CLARA

Family Court Services  
170 Park Avenue, San José, CA 95113  
(408) 534-5760  
Mailing Address:  
191 North First Street, San José, CA 95113



Petitioner  Respondent  Joined Party FCS #: \_\_\_\_\_ Case #: \_\_\_\_\_ FC #: \_\_\_\_\_

Non-Litigated  I do not speak English or Spanish and know I must bring my own interpreter. Dept #: \_\_\_\_\_

Your Name: \_\_\_\_\_ Relationship to Child: \_\_\_\_\_

Your Age: \_\_\_\_\_ Date of Birth: \_\_\_\_\_ Other last names used: \_\_\_\_\_

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

Residence Phone: ( ) \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_  
Work Phone: ( ) \_\_\_\_\_

Driver's License #: \_\_\_\_\_ State: \_\_\_\_\_ Social Security #: \_\_\_\_\_

Race/Ethnicity (check all that apply):  Asian/Pacific Islander  Black/African American  Latino/Hispanic

Native American/Eskimo/Aleut  White (non-Latino/Hispanic)  Other: \_\_\_\_\_

Subject to Indian Child Welfare Act

Currently Employed:  Yes  No Occupation: \_\_\_\_\_ Employer: \_\_\_\_\_

Work Days & Hours: \_\_\_\_\_

Your attorney: \_\_\_\_\_ Phone: ( ) \_\_\_\_\_

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

Name of other parent in this case: \_\_\_\_\_

**LIST ALL CHILDREN WHO ARE THE SUBJECTS OF THIS ACTION**

First & Last Name	Age	Birth Date	Sex	School	Grade	Resides with
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____

Children's Attorney: \_\_\_\_\_ Phone: ( ) \_\_\_\_\_

Name of Joined Party in this case: \_\_\_\_\_

**LIST ALL OTHERS RESIDING WITH YOU**

Name	Age	Date of Birth	Sex	Relationship to You
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

If you plan to move in the next 6 months, when? \_\_\_\_\_ where? \_\_\_\_\_

If you have another case in FCS, name of other parent: \_\_\_\_\_

✓ Are there any child abuse/neglect issues?  Yes  No

✓ If yes, explain briefly: \_\_\_\_\_

✓ Name & phone number of any involved social worker: \_\_\_\_\_

✓ If yes, has there been a Welfare and Institution Code §300 Petition filed in Juvenile Dependency Court?

Yes  No  Current  Past If yes, which child(ren)? \_\_\_\_\_

✓ Does the child have a juvenile probation officer?  Yes  No (name/phone) \_\_\_\_\_

✓ Are there drug or alcohol issues in this case?  Yes  No

✓ If yes, explain briefly: \_\_\_\_\_

✓ Has a guardianship been filed?  Yes  No

✓ Have you been arrested as an adult?  Yes  No Which state(s)/counties? \_\_\_\_\_

✓ What charges? \_\_\_\_\_ Criminal action pending?  Yes  No

✓ If yes, where? \_\_\_\_\_ What charges? \_\_\_\_\_

✓ Is there a criminal restraining order in effect?  Yes  No Case # \_\_\_\_\_

✓ If yes, please attach a copy or bring a copy to your mediation session.



Marriage Date: \_\_\_\_\_ Date of Last Separation: \_\_\_\_\_  Dissolution Pending

Domestic Partnership Date: \_\_\_\_\_ Date of Final Dissolution: \_\_\_\_\_

Is there a current custody/visitation order in effect?  Yes  No

If yes, please attach a copy of the custody/visitation order or bring a copy to your mediation session.

Have you been the victim of domestic violence?  Yes  No

Who committed the domestic violence?  The other parent/party

Other (list name and relationship): \_\_\_\_\_

Briefly describe the kind of violence and how often it occurred: \_\_\_\_\_

When did the most recent violence occur? \_\_\_\_\_

**RIGHT TO SEPARATE SESSIONS:** If a party alleging domestic violence in a written declaration under penalty of perjury, or a party protected by a protective order so requests, Family Court Services staff must meet with the parties separately at separate times. (If you have a restraining order of any kind, please attach a copy or bring it with you to your session.) If domestic violence is an issue in a case and both parents wish to be seen together, Family Court Services must still begin all proceedings by interviewing each party separately.

Have you attached or are you planning to submit to Family Court Services a copy of the PROTECTIVE ORDER or a WRITTEN DECLARATION UNDER PENALTY OF PERJURY alleging domestic violence?  Yes  No

If you answered "yes," do you wish to be seen separately?  Yes  No

**RIGHT TO A SUPPORT PERSON:** If the court has issued a PROTECTIVE ORDER, a support person shall be permitted to accompany protected party during any mediation orientation or mediation session, including separate mediation sessions. It is the function of a support person to provide moral and emotional support. The support person is not present as a legal adviser and shall not give legal advice.

- Do you have a current PROTECTIVE ORDER?  Yes  No
- Do you wish to have a support person accompany you in mediation?  Yes  No
- Have you had a protective order in the past against the other party?  Yes  No

\*\*\* If you stated that you have been a victim of domestic violence, please obtain and complete a separate domestic violence questionnaire from Family Court Services.

**OTHER SAFETY RELATED ISSUES**

Please briefly describe any other safety-related issues affecting any party or child named in the proceedings:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**FEE REQUIREMENTS FOR SCREENINGS, EVALUATIONS, AND GUARDIANSHIPS**

- Fee for above services are \$160.00 per hour.
- ADVANCED DEPOSITS: Screenings require \$250.00 each, and Evaluations require \$750.00 each in advance.
- Fees for Non-litigated mediations and for guardianship mediations are \$160.00 per person.

**NO SHOW AND LATE CANCELLATION FEES:**

- A "NO SHOW" fee of \$100.00 will be charged if either or both parties fail to appear (this includes arriving over thirty minutes late).
- A "LATE CANCELLATION" fee of \$100.00 will be charged if notice of cancellation is less than 48 hours (Mon. – Fri.) for mediation appointments, and less than one week (Mon. – Fri.) for first Evaluation appointments.
- ❖ Fee rates may be increased in the future at the direction of the Court.
- ❖ Make checks or money orders payable to OFFICE OF THE COURT CLERK.

Application for Waiver of Court Fees and Costs are available if you are unable to pay the required fees. Your sworn statement to this effect along with Income and Expense Declarations and required attachments detailing your finances must be submitted to Family Court Services. Unreasonable or frivolous requests for modification of Court fees may result in Court assessed penalties.

**I understand that any audio, visual or other electronic recording of any communication with Family Court Services staff is prohibited.**

I declare that the information on this form, including any attachment, is true and correct and that this declaration is executed on (date): \_\_\_\_\_

\_\_\_\_\_  
Signature



SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SANTA CLARA

FAMILY COURT SERVICES  
PARENT SURVEY

Family Court Services is asking for your feedback so that we can do a better job serving families. Please do NOT identify yourself. **The information you provide is anonymous and will NOT affect your case.** Please complete this form once you have completed your participation in the Custody Pilot Project or the Traditional mediation, assessment, or evaluation process. Thanks in advance for your help.

1. Your relationship to the child:

- Female Parent     Male Parent     Legal Guardian     Other (*please specify*):

2. Ethnicity: List \_\_\_\_\_

3. Please check any of the following issues that were present in your case:

- Domestic Violence     Drugs or alcohol     Child abuse

4. The reception and telephone staff were:

**Select one from each column**

- |  |   |
|--|---|
| <input type="checkbox"/> very courteous/respectful       | <input type="checkbox"/> very helpful   |
| <input type="checkbox"/> courteous/respectful            | <input type="checkbox"/> helpful        |
| <input type="checkbox"/> discourteous/disrespectful      | <input type="checkbox"/> unhelpful      |
| <input type="checkbox"/> very discourteous/disrespectful | <input type="checkbox"/> very unhelpful |

5. Any written materials I received from Family Court Services were:

- very helpful     helpful     unhelpful     very unhelpful

6. If the service received most recently was mediation, did you reach either a temporary or long term agreement on the custody and visitation issues?     Yes     No

7. Name of the Family Court Services Mediator/Investigator providing the above service:

\_\_\_\_\_

8. Gender of Mediator/Investigator:     Male     Female

Ethnicity of Mediator/Investigator. List: \_\_\_\_\_

9. The Mediator/Investigator explained the procedure to me:

- very clearly     clearly     unclearly     very unclearly

10. I felt the Mediator/Investigator listened to me:

- strongly agree     agree     disagree     strongly disagree

11. I felt the Mediator/Investigator understood the points I was trying to make even though he or she may not have agreed with me:

- strongly agree     agree     disagree     strongly disagree

This is NOT a complaint form. If you wish to register a complaint regarding how Family Court Services handled your case, you may obtain a complaint form from our clerical staff.

12. I believe the Mediator/Investigator spent enough time on my case.
- strongly agree       agree       disagree       strongly disagree
13. I believe the service was provided in a (**Select one in each column**) manner:
- |                                      |   |  |  |
|--------------------------------------|---|--|--|
| <input type="checkbox"/> very fair   | <input type="checkbox"/> very helpful   | <input type="checkbox"/> very professional   | <input type="checkbox"/> very unbiased |
| <input type="checkbox"/> fair        | <input type="checkbox"/> helpful        | <input type="checkbox"/> professional        | <input type="checkbox"/> unbiased      |
| <input type="checkbox"/> unfair      | <input type="checkbox"/> unhelpful      | <input type="checkbox"/> unprofessional      | <input type="checkbox"/> biased        |
| <input type="checkbox"/> very unfair | <input type="checkbox"/> very unhelpful | <input type="checkbox"/> very unprofessional | <input type="checkbox"/> very biased   |
14. I did not feel overly pressured by the Mediator/Investigator to go along with things I did not want.
- strongly agree       agree       disagree       strongly disagree
15. How satisfied or dissatisfied are you with the service you received in Family Court Services?
- very satisfied       satisfied       dissatisfied       very dissatisfied
16. The service was provided in a manner that it preserved self-determination even though I did not “get” everything I wanted.
- strongly agree       agree       disagree       strongly disagree
17. The result of the service produced an agreement or recommendation that is likely to be safe and good for the child(ren), and safe for the family members.
- strongly agree       agree       disagree       strongly disagree

If the service received most recently was an **emergency screening, assessment, recommendation or evaluation** which resulted in a recommendation by the investigator:

- I agreed with all or most of the recommendation, and was willing to have it presented to the court for approval with no, or only minor, changes.
- I disagreed with an important part of the recommendation and did not want it submitted to the court without important changes.

I believe the investigation was:

- very thorough       thorough       adequate       very inadequate

18. The most helpful thing about the service was:
19. The most unhelpful thing about the service was
20. Other comments or suggestions:

This is NOT a complaint form. If you wish to register a complaint regarding how Family Court Services handled your case, you may obtain a complaint form from our clerical staff.

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SANTA CLARA**

**Family Court Services**  
170 Park Avenue  
San José, CA 95113  
(408) 534-5760



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**WAIVER OF MEDIATION CONFIDENTIALITY**

I understand that mediation counseling is a confidential process. However, I agree to waive confidentiality in order that the mediation counselor may conduct an assessment/evaluation and to provide the Court with information and recommendation regarding my children.

Signature: \_\_\_\_\_

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

Case Number: \_\_\_\_\_

FCS: \_\_\_\_\_

**SUPERIOR COURT, STATE OF CALIFORNIA  
COUNTY OF SANTA CLARA**

**Family Court Services**  
170 Park Avenue  
San José, CA 95113  
(408) 534-5760



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**WAIVER OF MEDIATION CONFIDENTIALITY**

I understand that mediation counseling is a confidential process. However, I agree to waive confidentiality in order that the mediation counselor may conduct an assessment/evaluation and to provide the Court with information and recommendation regarding my children.

Signature: \_\_\_\_\_

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

Case Number: \_\_\_\_\_

FCS: \_\_\_\_\_

2010 v1 FCS Casework Info Sheet					File	Courtroom	Bin
A	Date of Mediation:	AM	PM		AW		MDV
					AX		MDS
B	Case Number:				AY		Attorney for Petitioner:
C	Petitioner Name:				AZ		Attorney for Respondent:
D	Respondent Name:				BA		Attorney Children (name)
E	Mediator:				BB		Children's Ages:
F	Moving Party Petitioner				<b>Case Type I</b>		
G	Moving Party Respondent				BC		Initial Action
H	Orientation Completed	Petitioner	Yes	No	BD		Modification
I	Orientation Completed	Respondent	Yes	No	<b>Case Type II</b>		
<b>Mediation Not Held</b>					BE		Dissolution
J	Number of Days notice to FCS _____.				BF		Legal Separation
K	No Interpreter				BG		Establish Paternity
L	No Service				BH		D/V Prevention
M	Continuance - Stipulated				BI		DA Support
N	Continuance - Contested				BJ		Probate
O	Moving Party Withdrew				BK		D/V Separate - Same Time
P	Agreement reached prior to mediation				BL		D/V Separate - Different Time
Q	No Show Petitioner and Respondent				<b>Agreement / Recommendation</b>		
R	No Show Petitioner				BM	Primary Residence	Agree Rec
S	No Show Respondent				BN	Weekends	Agree Rec
T	Children not brought to mediation				BO	Weekdays	Agree Rec
U	Jail / Deported				BP	Holidays	Agree Rec
V	Late Arrival				BQ	Physical Custody	Agree Rec
W	Mediation Cancelled				BR	Legal Custody	Agree Rec
X	Mediation Rescheduled				BS	Custody Evaluation	Agree Rec
<b>Settings</b>					BT	Psych Eval	Agree Rec
Y	D/V 1st Available				BU	Child Abuse Report	Agree Rec
Z	Court Same Day				BV	Supervised Visitation	Agree Rec
AA	Court ASAP				BW	Parenting Classes	Agree Rec
AB	ER Mediation Not Scheduled				BX	Drug and Alcohol Program	Agree Rec
AC	Long Appointment Date				BY	Anger Management Classes	Agree Rec
AD	Short Appointment Date				BZ	Drug Testing	Agree Rec
<b>Session Features</b>					CA	Co-Custody Parenting Class	Agree Rec
AE	Bilingual Mediation				CB	Restraining Orders	Agree Rec
AF	Court Interpreter				CC	Attorney for minor	Agree Rec
AG	Private Interpreter				CD	Batterers Diversion Program	Agree Rec
AH	Review Mediation				CE	Mental Health Services	Agree Rec
AI	Months since last mediation _____.				<b>Agreement / Recommendation Summary</b>		
AJ	Total Number of Prior Mediations _____.				CF	Agree all Issues	
AK	Session Length _____.				CG	Partial Agreement	
AL	Number of Children Interviewed _____.				CH	No Agreement	
<b>Issues</b>					<b>Collaterals</b>		
AM	Hostility to mediator				CI	CLETS inc. DMV Records	
AN	Mental Health				CJ	Other Collaterals	
AO	Substance or Alcohol Abuse				<b>Cats Data Entry</b>		
AP	Move Away					MCOM	
AQ	Domestic Violence					MEDRE	
AR	CPS Investigation					MEDN	
AS	Child Sexual Abuse						
AT	Child Physical Abuse						
AU	Restraining order in effect						
AV	Restraining order pending						
<b>Mediator Signature and Date</b>							

IN THE MATTER OF: _____ CASE NUMBER: _____	<b>FOR COURT USE ONLY</b>
---	---------------------------

**FAMILY COURT SERVICES INTAKE QUESTIONNAIRE**

- |  | YES                      | NO                       |
|--|--------------------------|--------------------------|
| <b>1. Previous Mediation</b><br>Have the parents previously participated in child custody mediation?   | <input type="checkbox"/> | <input type="checkbox"/> |
| <b>2. Interpreters Required</b><br>Is either parent non-English speaking or limited in speaking English?   | <input type="checkbox"/> | <input type="checkbox"/> |
| <b>3. Parent Change of Residence</b><br>Has either parent recently moved or is planning to move out of the United States, State of California, or County of Ventura?                                     | <input type="checkbox"/> | <input type="checkbox"/> |
| <b>4. Domestic Violence Concerns*</b>  |                          |                          |
| (a) Is there a Restraining or Protective order against either parent?  | <input type="checkbox"/> | <input type="checkbox"/> |
| (b) Have there been any allegations of violence, abuse, or stalking committed by either parent against the other or the child?   | <input type="checkbox"/> | <input type="checkbox"/> |
| <b>5. Children or Adult Protective Services Involvement</b><br>Has either parent been contacted by a Children's or Adult Services Agency concerning an abuse/neglect investigation?                      | <input type="checkbox"/> | <input type="checkbox"/> |
| <b>6. Child Custody Evaluation</b><br>Have the parents participated or been ordered to participate in a child custody evaluation? When?: _____   | <input type="checkbox"/> | <input type="checkbox"/> |
| <b>7. Party in Jail or Prison</b><br>Identify any parent who is expected to be in jail or prison at the time of the Mediation:<br><br>_____<br>Name of parent incarcerated                      Facility |                          |                          |
| <b>8. Dependency Petitions</b><br>Have any dependency petitions been filed in Juvenile Court related to the parties children?  | <input type="checkbox"/> | <input type="checkbox"/> |

\_\_\_\_\_  
Signature of Petitioner or Attorney for Petitioner

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Respondent or Attorney for Respondent

\_\_\_\_\_  
Date

\*Family Code Section 3181(b) states; "If any party alleging domestic violence in a written declaration under penalty of perjury or a party protected by a protective order so requests, the mediator will meet with the parties separately and at separate times."

**THIS FORM TO REMAIN CONFIDENTIAL (Family Code §3177)**

**CHILD CUSTODY RECOMMENDING COUNSELING  
(MEDIATION) INFORMATION**

Case Number: \_\_\_\_\_ Petitioner: \_\_\_\_\_ Respondent: \_\_\_\_\_

Date: \_\_\_\_\_ Child Custody Recommending Counselor: \_\_\_\_\_

SUMMARY OF PROCEDURES

You are here today to meet with a particular kind of mediator known as a Child Custody Recommending Counselor (CCRC) who will use specialized education and experience to try to help you resolve disagreements, and create a parenting plan that is in the best interests of your child or children.

**If you agree** on some or all of the issues, the CCRC will prepare a document for the Judge to approve containing those agreements. You can review the document with your attorney before you sign it. **If you are unable to reach an agreement about some or all of the issues**, the CCRC will make a written recommendation about them and give it to the Judge. You will receive a copy of the recommendation before the hearing. Either of the parents, or the Judge, may ask the CCRC to testify about the basis for the recommendation. That testimony will be considered, along with the evidence and argument of the parents, when the Judge decides if the recommendations should be adopted or modified.

CONFIDENTIALITY

If you reach an **agreement** on all issues, everything discussed with the parents in the mediation will remain confidential, and information the CCRC receives from children will not be disclosed to the parents or others. If a **recommendation** is necessary, then the CCRC can be asked to testify about what the parents and children said in the mediation, as well as about the reasons for the recommendation.

**EXCEPTIONS:** Regardless of whether or not an agreement is reached, there is no confidentiality for information received from parents or children concerning sexual, emotional, or physical abuse or neglect of a child, and reports about it may be made to the Court and appropriate authorities. Information received about elder abuse, and certain threats of behavior related to suicide and serious bodily injury, may also be reported. The CCRC will discuss the basis for the agreement or recommendation with your attorney.

COLLATERAL CONTACTS

The CCRC may obtain information without the parents' permission from anyone with knowledge about alleged domestic violence (including child abuse). The CCRC also has discretion to obtain criminal history information. Other collateral contacts may be made when both parents agree.

**I understand all of the above information:**

\_\_\_\_\_

**Petitioner**

\_\_\_\_\_

**Respondent**

\_\_\_\_\_

**Attorney for Petitioner**

\_\_\_\_\_

**Attorney for Respondent**

**I request/agree to the following collateral contacts:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Petitioner**

\_\_\_\_\_

**Respondent**

\_\_\_\_\_

**Attorney for Petitioner**

\_\_\_\_\_

**Attorney for Respondent**

# **Appellate Opinions: Family Law Information**





# California Rules of Court

## **Rule 8.401. Confidentiality**

### **(a) References to juveniles or relatives in documents**

To protect the anonymity of juveniles involved in juvenile court proceedings:

- (1) In all documents filed by the parties in proceedings under this chapter, a juvenile must be referred to by first name and last initial; but if the first name is unusual or other circumstances would defeat the objective of anonymity, the initials of the juvenile may be used.
- (2) In opinions that are not certified for publication and in court orders, a juvenile may be referred to either by first name and last initial or by his or her initials. In opinions that are certified for publication in proceedings under this chapter, a juvenile must be referred to by first name and last initial; but if the first name is unusual or other circumstances would defeat the objective of anonymity, the initials of the juvenile may be used.
- (3) In all documents filed by the parties and in all court orders and opinions in proceedings under this chapter, if use of the full name of a juvenile's relative would defeat the objective of anonymity for the juvenile, the relative must be referred to by first name and last initial; but if the first name is unusual or other circumstances would defeat the objective of anonymity for the juvenile, the initials of the relative may be used.

*(Subd (a) adopted effective January 1, 2012.)*

### **(b) Access to filed documents**

- (1) Except as provided in (2)-(3), the record on appeal and documents filed by the parties in proceedings under this chapter may be inspected only by the reviewing court and appellate project personnel, the parties or their attorneys, and other persons the court may designate.
- (2) Filed documents that protect anonymity as required by (a) may be inspected by any person or entity that is considering filing an amicus curiae brief.
- (3) Access to records that are sealed or confidential under authority other than Welfare and Institutions Code section 827 is governed by rules 8.45-8.47 and the applicable statute, rule, sealing order, or other authority.

*(Subd (b) amended effective January 1, 2014; adopted as subd (a); previously amended and relettered effective January 1, 2012.)*

### **(c) Access to oral argument**

The court may limit or prohibit public admittance to oral argument.

*(Subd (c) relettered effective January 1, 2012; adopted as subd (b).)*

*Rule 8.401 amended effective January 1, 2014; adopted effective July 1, 2010; previously amended effective January 1, 2012.*

# **Criminal Background Information in Custody Cases**

**State of California**  
**FAMILY CODE**  
**DIVISION 10. PREVENTION OF DOMESTIC VIOLENCE**  
**PART 4. PROTECTIVE ORDERS AND OTHER DOMESTIC VIOLENCE**  
**PREVENTION ORDERS**  
**CHAPTER 1. GENERAL PROVISIONS**  
**§ 6306**

---

6306. (a) Prior to a hearing on the issuance or denial of an order under this part, the court shall ensure that a search is or has been conducted to determine if the subject of the proposed order has any prior criminal conviction for a violent felony specified in Section 667.5 of the Penal Code or a serious felony specified in Section 1192.7 of the Penal Code; has any misdemeanor conviction involving domestic violence, weapons, or other violence; has any outstanding warrant; is currently on parole or probation; has a registered firearm; or has any prior restraining order or any violation of a prior restraining order. The search shall be conducted of all records and databases readily available and reasonably accessible to the court, including, but not limited to, the following:

- (1) The California Sex and Arson Registry (CSAR).
- (2) The Supervised Release File.
- (3) State summary criminal history information maintained by the Department of Justice pursuant to Section 11105 of the Penal Code.
- (4) The Federal Bureau of Investigation's nationwide database.
- (5) Locally maintained criminal history records or databases.

However, a record or database need not be searched if the information available in that record or database can be obtained as a result of a search conducted in another record or database.

(b) (1) Prior to deciding whether to issue an order under this part or when determining appropriate temporary custody and visitation orders, the court shall consider the following information obtained pursuant to a search conducted under subdivision (a): any conviction for a violent felony specified in Section 667.5 of the Penal Code or a serious felony specified in Section 1192.7 of the Penal Code; any misdemeanor conviction involving domestic violence, weapons, or other violence; any outstanding warrant; parole or probation status; any prior restraining order; and any violation of a prior restraining order.

(2) Information obtained as a result of the search that does not involve a conviction described in this subdivision shall not be considered by the court in making a determination regarding the issuance of an order pursuant to this part. That information shall be destroyed and shall not become part of the public file in this or any other civil proceeding.

(c) (1) After issuing its ruling, the court shall advise the parties that they may request the information described in subdivision (b) upon which the court relied. The court shall admonish the party seeking the proposed order that it is unlawful, pursuant to Sections 11142 and 13303 of the Penal Code, to willfully release the information, except as authorized by law.

(2) Upon the request of either party to obtain the information described in subdivision (b) upon which the court relied, the court shall release the information to the parties or, upon either party's request, to his or her attorney in that proceeding.

(3) The party seeking the proposed order may release the information to his or her counsel, court personnel, and court-appointed mediators for the purpose of seeking judicial review of the court's order or for purposes of court proceedings under Section 213.5 of the Welfare and Institutions Code.

(d) Any information obtained as a result of the search conducted pursuant to subdivision (a) and relied upon by the court shall be maintained in a confidential case file and shall not become part of the public file in the proceeding or any other civil proceeding. However, the contents of the confidential case file shall be disclosed to the court-appointed mediator assigned to the case or to a child custody evaluator appointed by the court pursuant to Section 3111 of the Family Code or Section 730 of the Evidence Code. All court-appointed mediators and child custody evaluators appointed or contracted by the court pursuant to Section 3111 of the Family Code or Section 730 of the Evidence Code who may receive information from the search conducted pursuant to subdivision (a) shall be subject to, and shall comply with, the California Law Enforcement Telecommunications System policies, practices, and procedures adopted pursuant to Section 15160 of the Government Code.

(e) If the results of the search conducted pursuant to subdivision (a) indicate that an outstanding warrant exists against the subject of the order, the court shall order the clerk of the court to immediately notify, by the most effective means available, appropriate law enforcement officials of the issuance and contents of any protective order and of any other information obtained through the search that the court determines is appropriate. The law enforcement officials so notified shall take all actions necessary to execute any outstanding warrants or any other actions, with respect to the restrained person, as appropriate and as soon as practicable.

(f) If the results of the search conducted pursuant to subdivision (a) indicate that the subject of the order is currently on parole or probation, the court shall order the clerk of the court to immediately notify, by the most effective means available, the appropriate parole or probation officer of the issuance and contents of any protective order issued by the court and of any other information obtained through the search that the court determines is appropriate. That officer shall take all actions necessary to revoke any parole or probation, or any other actions, with respect to the restrained person, as appropriate and as soon as practicable.

(g) Nothing in this section shall delay the granting of an application for an order that may otherwise be granted without the information resulting from the database search. If the court finds that a protective order under this part should be granted on the basis of the affidavit presented with the petition, the court shall issue the protective

order and shall then ensure that a search is conducted pursuant to subdivision (a) prior to the hearing.

(Amended by Stats. 2014, Ch. 54, Sec. 2. (SB 1461) Effective January 1, 2015.)



## **PENAL CODE - PEN**

### **PART 4. PREVENTION OF CRIMES AND APPREHENSION OF CRIMINALS [11006 - 14315]** ( *Part 4 added by Stats. 1953, Ch. 1385.* )

#### **TITLE 1. INVESTIGATION AND CONTROL OF CRIMES AND CRIMINALS [11006 - 11460]** ( *Title 1 added by Stats. 1953, Ch. 1385.* )

##### **CHAPTER 1. Investigation, Identification, and Information Responsibilities of the Department of Justice [11006 - 11144]** ( *Heading of Chapter 1 amended by Stats. 1972, Ch. 1377.* )

###### **ARTICLE 3. Criminal Identification and Statistics [11100 - 11112]** ( *Article 3 added by Stats. 1953, Ch. 1385.* )

(a) (1) The Department of Justice shall maintain state summary criminal history information.

**11105.** (2) As used in this section:

(A) “State summary criminal history information” means the master record of information compiled by the Attorney General pertaining to the identification and criminal history of any person, such as name, date of birth, physical description, fingerprints, photographs, dates of arrests, arresting agencies and booking numbers, charges, dispositions, and similar data about the person.

(B) “State summary criminal history information” does not refer to records and data compiled by criminal justice agencies other than the Attorney General, nor does it refer to records of complaints to or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice.

(b) The Attorney General shall furnish state summary criminal history information to any of the following, if needed in the course of their duties, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any other entity, in fulfilling employment, certification, or licensing duties, Chapter 1321 of the Statutes of 1974 and Section 432.7 of the Labor Code shall apply:

(1) The courts of the state.

(2) Peace officers of the state, as defined in Section 830.1, subdivisions (a) and (e) of Section 830.2, subdivision (a) of Section 830.3, subdivision (a) of Section 830.31, and subdivisions (a) and (b) of Section 830.5.

(3) District attorneys of the state.

(4) Prosecuting city attorneys of any city within the state.

(5) City attorneys pursuing civil gang injunctions pursuant to Section 186.22a, or drug abatement actions pursuant to Section 3479 or 3480 of the Civil Code, or Section 11571 of the Health and Safety Code.

(6) Probation officers of the state.

(7) Parole officers of the state.

- (8) A public defender or attorney of record when representing a person in proceedings upon a petition for a certificate of rehabilitation and pardon pursuant to Section 4852.08.
- (9) A public defender or attorney of record when representing a person in a criminal case, or a parole, mandatory supervision pursuant to paragraph (5) of subdivision (h) of Section 1170, or postrelease community supervision revocation or revocation extension proceeding, and if authorized access by statutory or decisional law.
- (10) Any agency, officer, or official of the state if the criminal history information is required to implement a statute or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon that specified criminal conduct. The agency, officer, or official of the state authorized by this paragraph to receive state summary criminal history information may also transmit fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation.
- (11) Any city or county, city and county, district, or any officer or official thereof if access is needed in order to assist that agency, officer, or official in fulfilling employment, certification, or licensing duties, and if the access is specifically authorized by the city council, board of supervisors, or governing board of the city, county, or district if the criminal history information is required to implement a statute, ordinance, or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon that specified criminal conduct. The city or county, city and county, district, or the officer or official thereof authorized by this paragraph may also transmit fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation.
- (12) The subject of the state summary criminal history information under procedures established under Article 5 (commencing with Section 11120).
- (13) Any person or entity when access is expressly authorized by statute if the criminal history information is required to implement a statute or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon that specified criminal conduct.
- (14) Health officers of a city, county, city and county, or district when in the performance of their official duties enforcing Section 120175 of the Health and Safety Code.
- (15) Any managing or supervising correctional officer of a county jail or other county correctional facility.
- (16) Any humane society, or society for the prevention of cruelty to animals, for the specific purpose of complying with Section 14502 of the Corporations Code for the appointment of humane officers.
- (17) Local child support agencies established by Section 17304 of the Family Code. When a local child support agency closes a support enforcement case containing summary criminal history information, the agency shall delete or purge from the file and destroy any documents or information concerning or arising from offenses for or of which the parent has been arrested, charged, or convicted, other than for offenses related to the parent's having failed to provide support for minor children, consistent with the requirements of Section 17531 of the Family Code.
- (18) County child welfare agency personnel who have been delegated the authority of county probation officers to access state summary criminal history information pursuant to Section 272 of the Welfare and Institutions Code for the purposes specified in Section 16504.5 of the Welfare and Institutions Code. Information from criminal history records provided pursuant to this subdivision shall not be used for any purposes other than those specified in this section and Section 16504.5 of the Welfare and Institutions Code. When an agency obtains records obtained both on the basis of name checks

and fingerprint checks, final placement decisions shall be based only on the records obtained pursuant to the fingerprint check.

(19) The court of a tribe, or court of a consortium of tribes, that has entered into an agreement with the state pursuant to Section 10553.1 of the Welfare and Institutions Code. This information may be used only for the purposes specified in Section 16504.5 of the Welfare and Institutions Code and for tribal approval or tribal licensing of foster care or adoptive homes. Article 6 (commencing with Section 11140) shall apply to officers, members, and employees of a tribal court receiving criminal record offender information pursuant to this section.

(20) Child welfare agency personnel of a tribe or consortium of tribes that has entered into an agreement with the state pursuant to Section 10553.1 of the Welfare and Institutions Code and to whom the state has delegated duties under paragraph (2) of subdivision (a) of Section 272 of the Welfare and Institutions Code. The purposes for use of the information shall be for the purposes specified in Section 16504.5 of the Welfare and Institutions Code and for tribal approval or tribal licensing of foster care or adoptive homes. When an agency obtains records on the basis of name checks and fingerprint checks, final placement decisions shall be based only on the records obtained pursuant to the fingerprint check. Article 6 (commencing with Section 11140) shall apply to child welfare agency personnel receiving criminal record offender information pursuant to this section.

(21) An officer providing conservatorship investigations pursuant to Sections 5351, 5354, and 5356 of the Welfare and Institutions Code.

(22) A court investigator providing investigations or reviews in conservatorships pursuant to Section 1826, 1850, 1851, or 2250.6 of the Probate Code.

(23) A person authorized to conduct a guardianship investigation pursuant to Section 1513 of the Probate Code.

(24) A humane officer pursuant to Section 14502 of the Corporations Code for the purposes of performing his or her duties.

(25) A public agency described in subdivision (b) of Section 15975 of the Government Code, for the purpose of oversight and enforcement policies with respect to its contracted providers.

(c) The Attorney General may furnish state summary criminal history information and, when specifically authorized by this subdivision, federal level criminal history information upon a showing of a compelling need to any of the following, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any other entity in fulfilling employment, certification, or licensing duties, Chapter 1321 of the Statutes of 1974 and Section 432.7 of the Labor Code shall apply:

(1) Any public utility, as defined in Section 216 of the Public Utilities Code, that operates a nuclear energy facility when access is needed in order to assist in employing persons to work at the facility, provided that, if the Attorney General supplies the data, he or she shall furnish a copy of the data to the person to whom the data relates.

(2) To a peace officer of the state other than those included in subdivision (b).

(3) To an illegal dumping enforcement officer as defined in subdivision (j) of Section 830.7.

(4) To a peace officer of another country.

(5) To public officers, other than peace officers, of the United States, other states, or possessions or territories of the United States, provided that access to records similar to state summary criminal history information is expressly authorized by a statute of the United States, other states, or possessions or territories of the United States if the information is needed for the performance of their official duties.



(6) To any person when disclosure is requested by a probation, parole, or peace officer with the consent of the subject of the state summary criminal history information and for purposes of furthering the rehabilitation of the subject.

(7) The courts of the United States, other states, or territories or possessions of the United States.

(8) Peace officers of the United States, other states, or territories or possessions of the United States.

(9) To any individual who is the subject of the record requested if needed in conjunction with an application to enter the United States or any foreign nation.

(10) (A) (i) Any public utility, as defined in Section 216 of the Public Utilities Code, or any cable corporation as defined in subparagraph (B), if receipt of criminal history information is needed in order to assist in employing current or prospective employees, contract employees, or subcontract employees who, in the course of their employment, may be seeking entrance to private residences or adjacent grounds. The information provided shall be limited to the record of convictions and any arrest for which the person is released on bail or on his or her own recognizance pending trial.

(ii) If the Attorney General supplies the data pursuant to this paragraph, the Attorney General shall furnish a copy of the data to the current or prospective employee to whom the data relates.

(iii) Any information obtained from the state summary criminal history is confidential and the receiving public utility or cable corporation shall not disclose its contents, other than for the purpose for which it was acquired. The state summary criminal history information in the possession of the public utility or cable corporation and all copies made from it shall be destroyed not more than 30 days after employment or promotion or transfer is denied or granted, except for those cases where a current or prospective employee is out on bail or on his or her own recognizance pending trial, in which case the state summary criminal history information and all copies shall be destroyed not more than 30 days after the case is resolved.

(iv) A violation of this paragraph is a misdemeanor, and shall give the current or prospective employee who is injured by the violation a cause of action against the public utility or cable corporation to recover damages proximately caused by the violations. Any public utility's or cable corporation's request for state summary criminal history information for purposes of employing current or prospective employees who may be seeking entrance to private residences or adjacent grounds in the course of their employment shall be deemed a "compelling need" as required to be shown in this subdivision.

(v) This section shall not be construed as imposing any duty upon public utilities or cable corporations to request state summary criminal history information on any current or prospective employees.

(B) For purposes of this paragraph, "cable corporation" means any corporation or firm that transmits or provides television, computer, or telephone services by cable, digital, fiber optic, satellite, or comparable technology to subscribers for a fee.

(C) Requests for federal level criminal history information received by the Department of Justice from entities authorized pursuant to subparagraph (A) shall be forwarded to the Federal Bureau of Investigation by the Department of Justice. Federal level criminal history information received or compiled by the Department of Justice may then be disseminated to the entities referenced in subparagraph (A), as authorized by law.

(D) (i) Authority for a cable corporation to request state or federal level criminal history information under this paragraph shall commence July 1, 2005.

(ii) Authority for a public utility to request federal level criminal history information under this paragraph shall commence July 1, 2005.

(11) To any campus of the California State University or the University of California, or any four year college or

university accredited by a regional accreditation organization approved by the United States Department of Education, if needed in conjunction with an application for admission by a convicted felon to any special education program for convicted felons, including, but not limited to, university alternatives and halfway houses. Only conviction information shall be furnished. The college or university may require the convicted felon to be fingerprinted, and any inquiry to the department under this section shall include the convicted felon's fingerprints and any other information specified by the department.

(12) To any foreign government, if requested by the individual who is the subject of the record requested, if needed in conjunction with the individual's application to adopt a minor child who is a citizen of that foreign nation. Requests for information pursuant to this paragraph shall be in accordance with the process described in Sections 11122 to 11124, inclusive. The response shall be provided to the foreign government or its designee and to the individual who requested the information.

(d) Whenever an authorized request for state summary criminal history information pertains to a person whose fingerprints are on file with the Department of Justice and the department has no criminal history of that person, and the information is to be used for employment, licensing, or certification purposes, the fingerprint card accompanying the request for information, if any, may be stamped "no criminal record" and returned to the person or entity making the request.

(e) Whenever state summary criminal history information is furnished as the result of an application and is to be used for employment, licensing, or certification purposes, the Department of Justice may charge the person or entity making the request a fee that it determines to be sufficient to reimburse the department for the cost of furnishing the information. In addition, the Department of Justice may add a surcharge to the fee to fund maintenance and improvements to the systems from which the information is obtained. Notwithstanding any other law, any person or entity required to pay a fee to the department for information received under this section may charge the applicant a fee sufficient to reimburse the person or entity for this expense. All moneys received by the department pursuant to this section, Sections 11105.3 and 26190, and former Section 13588 of the Education Code shall be deposited in a special account in the General Fund to be available for expenditure by the department to offset costs incurred pursuant to those sections and for maintenance and improvements to the systems from which the information is obtained upon appropriation by the Legislature.

(f) Whenever there is a conflict, the processing of criminal fingerprints and fingerprints of applicants for security guard or alarm agent registrations or firearms qualification permits submitted pursuant to Section 7583.9, 7583.23, 7596.3, or 7598.4 of the Business and Professions Code shall take priority over the processing of other applicant fingerprints.

(g) It is not a violation of this section to disseminate statistical or research information obtained from a record, provided that the identity of the subject of the record is not disclosed.

(h) It is not a violation of this section to include information obtained from a record in (1) a transcript or record of a judicial or administrative proceeding or (2) any other public record if the inclusion of the information in the public record is authorized by a court, statute, or decisional law.

(i) Notwithstanding any other law, the Department of Justice or any state or local law enforcement agency may require the submission of fingerprints for the purpose of conducting summary criminal history information checks that are authorized by law.

(j) The state summary criminal history information shall include any finding of mental incompetence pursuant to Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 arising out of a complaint charging a felony offense specified in Section 290.

(k) (1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by an authorized agency or organization and the information is to be used for peace officer employment or certification purposes. As used in this subdivision, a peace officer is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.

(2) Notwithstanding any other law, whenever state summary criminal history information is initially furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant.

(B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.

(C) Every arrest or detention, except for an arrest or detention resulting in an exoneration, provided, however, that where the records of the Department of Justice do not contain a disposition for the arrest, the Department of Justice first makes a genuine effort to determine the disposition of the arrest.

(D) Every successful diversion.

(E) Every date and agency name associated with all retained peace officer or nonsworn law enforcement agency employee preemployment criminal offender record information search requests.

(F) Sex offender registration status of the applicant.

(l) (1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by a criminal justice agency or organization as defined in Section 13101, and the information is to be used for criminal justice employment, licensing, or certification purposes.

(2) Notwithstanding any other law, whenever state summary criminal history information is initially furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant.

(B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.

(C) Every arrest for an offense for which the records of the Department of Justice do not contain a disposition or did not result in a conviction, provided that the Department of Justice first makes a genuine effort to determine the disposition of the arrest. However, information concerning an arrest shall not be disclosed if the records of the Department of Justice indicate or if the genuine effort reveals that the subject was exonerated, successfully completed a diversion or deferred entry of judgment program, or the arrest was deemed a detention.

(D) Every date and agency name associated with all retained peace officer or nonsworn law enforcement agency employee preemployment criminal offender record information search requests.

(E) Sex offender registration status of the applicant.

(m) (1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by an authorized agency or organization pursuant to Section 1522, 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or any statute that incorporates the criteria of any of those sections or this subdivision by reference, and the information is to be used for employment, licensing, or certification purposes.

(2) Notwithstanding any other provision of law, whenever state summary criminal history information is initially

furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

- (A) Every conviction of an offense rendered against the applicant, except a conviction for which relief has been granted pursuant to Section 1203.49.
  - (B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.
  - (C) Every arrest for an offense for which the Department of Social Services is required by paragraph (1) of subdivision (a) of Section 1522 of the Health and Safety Code to determine if an applicant has been arrested. However, if the records of the Department of Justice do not contain a disposition for an arrest, the Department of Justice shall first make a genuine effort to determine the disposition of the arrest.
  - (D) Sex offender registration status of the applicant.
- (3) Notwithstanding the requirements of the sections referenced in paragraph (1) of this subdivision, the Department of Justice shall not disseminate information about an arrest subsequently deemed a detention or an arrest that resulted in either the successful completion of a diversion program or exoneration.
- (n) (1) This subdivision shall apply whenever state or federal summary criminal history information, to be used for employment, licensing, or certification purposes, is furnished by the Department of Justice as the result of an application by an authorized agency, organization, or individual pursuant to any of the following:
- (A) Paragraph (10) of subdivision (c), when the information is to be used by a cable corporation.
  - (B) Section 11105.3 or 11105.4.
  - (C) Section 15660 of the Welfare and Institutions Code.
  - (D) Any statute that incorporates the criteria of any of the statutory provisions listed in subparagraph (A), (B), or (C), or of this subdivision, by reference.
- (2) With the exception of applications submitted by transportation companies authorized pursuant to Section 11105.3, and notwithstanding any other law, whenever state summary criminal history information is initially furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:
- (A) Every conviction, except a conviction for which relief has been granted pursuant to Section 1203.49, rendered against the applicant for a violation or attempted violation of any offense specified in subdivision (a) of Section 15660 of the Welfare and Institutions Code. However, with the exception of those offenses for which registration is required pursuant to Section 290, the Department of Justice shall not disseminate information pursuant to this subdivision unless the conviction occurred within 10 years of the date of the agency's request for information or the conviction is over 10 years old but the subject of the request was incarcerated within 10 years of the agency's request for information.
  - (B) Every arrest for a violation or attempted violation of an offense specified in subdivision (a) of Section 15660 of the Welfare and Institutions Code for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.
  - (C) Sex offender registration status of the applicant.
- (o) (1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by an authorized agency or organization pursuant to Section 379 or 550 of the Financial Code, or any statute that incorporates the criteria of either of those sections or this subdivision by reference, and the information is to be used for employment, licensing, or certification purposes.

(2) Notwithstanding any other law, whenever state summary criminal history information is initially furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant for a violation or attempted violation of any offense specified in Section 550 of the Financial Code, except a conviction for which relief has been granted pursuant to Section 1203.49.

(B) Every arrest for a violation or attempted violation of an offense specified in Section 550 of the Financial Code for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.

(p) (1) This subdivision shall apply whenever state or federal criminal history information is furnished by the Department of Justice as the result of an application by an agency, organization, or individual not defined in subdivision (k), (l), (m), (n), or (o), or by a transportation company authorized pursuant to Section 11105.3, or any statute that incorporates the criteria of that section or this subdivision by reference, and the information is to be used for employment, licensing, or certification purposes.

(2) Notwithstanding any other law, whenever state summary criminal history information is initially furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant, except a conviction for which relief has been granted pursuant to Section 1203.49.

(B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.

(C) Sex offender registration status of the applicant.

(q) All agencies, organizations, or individuals defined in subdivisions (k), (l), (m), (n), (o), and (p) may contract with the Department of Justice for subsequent notification pursuant to Section 11105.2. This subdivision shall not supersede sections that mandate an agency, organization, or individual to contract with the Department of Justice for subsequent notification pursuant to Section 11105.2.

(r) This section does not require the Department of Justice to cease compliance with any other statutory notification requirements.

(s) The provisions of Section 50.12 of Title 28 of the Code of Federal Regulations are to be followed in processing federal criminal history information.

(t) Whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by an authorized agency, organization, or individual defined in subdivisions (k) to (p), inclusive, and the information is to be used for employment, licensing, or certification purposes, the authorized agency, organization, or individual shall expeditiously furnish a copy of the information to the person to whom the information relates if the information is a basis for an adverse employment, licensing, or certification decision. When furnished other than in person, the copy shall be delivered to the last contact information provided by the applicant.

*(Amended by Stats. 2014, Ch. 708, Sec. 5.5. Effective January 1, 2015.)*

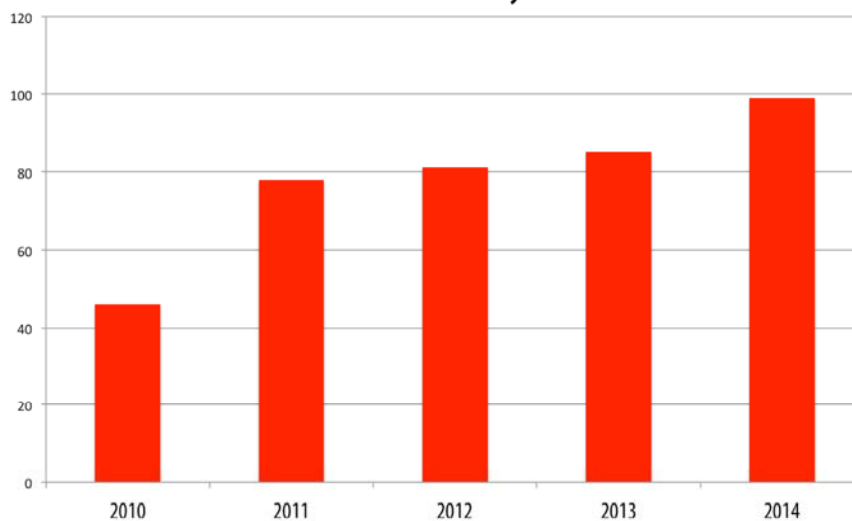
NOVEMBER 18, 2015 | BY [DAVE MAASS](#)

## Misuse Rampant, Oversight Lacking at California's Law Enforcement Network

Confirmed cases of misuse of California's sprawling unified law enforcement information network have doubled over the last five years, according to records obtained by EFF under the California Public Records Act.

That adds up to a total 389 cases between 2010 and 2014 in which an investigation concluded that a user—often a peace officer—broke the rules for accessing the California Law Enforcement Telecommunications System (CLETS), such as searching criminal records to vet potential dates or spy on former spouses. More than 20 incidents have resulted in criminal charges.

### California Law Enforcement Telecommunications System Misuse Cases by Year\*



\* These figures only represent misuse self-reported by law enforcement agencies. Many bodies have failed to turn in annual reports, including some of California's largest agencies, such as the Los Angeles Police Department. Actual totals of misuse are likely substantially higher.

Unfortunately, those figures only represent what was self-reported by government agencies to the California Attorney General. The actual number of misuse cases of CLETS are likely substantially higher since the California Attorney General's Department of Justice (CADOJ) has let many agencies slide on their annual misuse disclosures. Among the delinquent are two of California's largest law enforcement agencies: the Los Angeles Police Department (LAPD) and the Los Angeles County Sheriff's Department.

What's worse is the government body charged with overseeing disciplinary matters—the CLETS Advisory Committee (CAC)—seems to have taken no action to address the problem or ensure accountability from individual agencies.

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FEB 5 @ 10:46AM

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Law enforcement abuse of confidential databases have been a growing concern for privacy and civil liberties groups like EFF. It occurs at all levels of government. In 2013, the NSA acknowledged that agents used intelligence systems to snoop on romantic interests (a practice dubbed "LOVEINT"). Last month, a [Border Patrol supervisor](#) was arrested and charged for allegedly manipulating a Homeland Security database to retaliate against a man who had made "child-rape" allegations against the supervisor's brother.

Of the hundreds of cases of verified misuse of CLETS each year, only a handful of stories have reached the public, often years after the fact. Here are a few of the worst ways that police have abused the system in recent years:

- In 2010, a Los Angeles Police officer used LAPD's communications system, which is connected to CLETS, to pull information on witnesses who testified against his girlfriend's brother in a murder case. Chief Charlie Beck [told the press](#) the department would "vigorously prosecute" the officer. Two years later, however, the Los Angeles County District Attorney dropped the case. By then, the officer had already resigned. ([Los Angeles County District Attorney](#))
- In the fall of 2010, an officer, who had been sending his estranged wife abusive text messages, used CLETS to dig up information on her new boyfriends. His wife complained to the police. The officer ultimately pled no contest to a misdemeanor harassment charge, but the charges for violating CLETS were dropped. He was also fired. ([California Public Employee Relations Journal](#))
- Two Fairfield Police officers were investigated for using CLETS to screen women from dating sites such as Tinder, eHarmony, and Match.com. ([Daily Republic](#))
- [Court records](#) show that in 2009, a Westminster Police Officer was fired after accessing CLETS 96 times to gather information on 15 people for non-law enforcement purposes, such as meeting women and spying on his ex-wife and ex-girlfriends. In 2013, he pleaded guilty to domestic violence charges and unlawful disclosure of DMV records. ([Orange County Register](#))
- In 2013, the Madera County Sheriff's Department of Corrections staff broke the rules by using a CLETS terminal at the county jail as a regular workstation. Consequently, officials failed to receive crucial communications, leading to the accidental release of a detainee. Days later, the released man was involved in a car chase that resulted in a crash that killed an innocent civilian. ([Madera County Grand Jury](#))

EFF began investigating CLETS after reviewing official "misuse statistics" presented in public hearings that made little sense and did not seem to reflect misuse at all. Digging deeper, we learned the CLETS Advisory Committee has aggressively moved to expand the system's capabilities, while more often than not turning a blind eye to the also-growing misuse.

## What Is CLETS?

Think of CLETS as California's law enforcement "cloud."

[Coders' Rights](#)

[Free Speech Weak Links](#)

[Global Chokepoints](#)

[HTTPS Everywhere](#)

[Manila Principles](#)

[Medical Privacy Project](#)

[Open Wireless Movement](#)

[Patent Busting](#)

[Privacy Badger](#)

[Student Activism](#)

[Student Privacy](#)

[Surveillance Self-Defense](#)

[Takedown Hall of Shame](#)

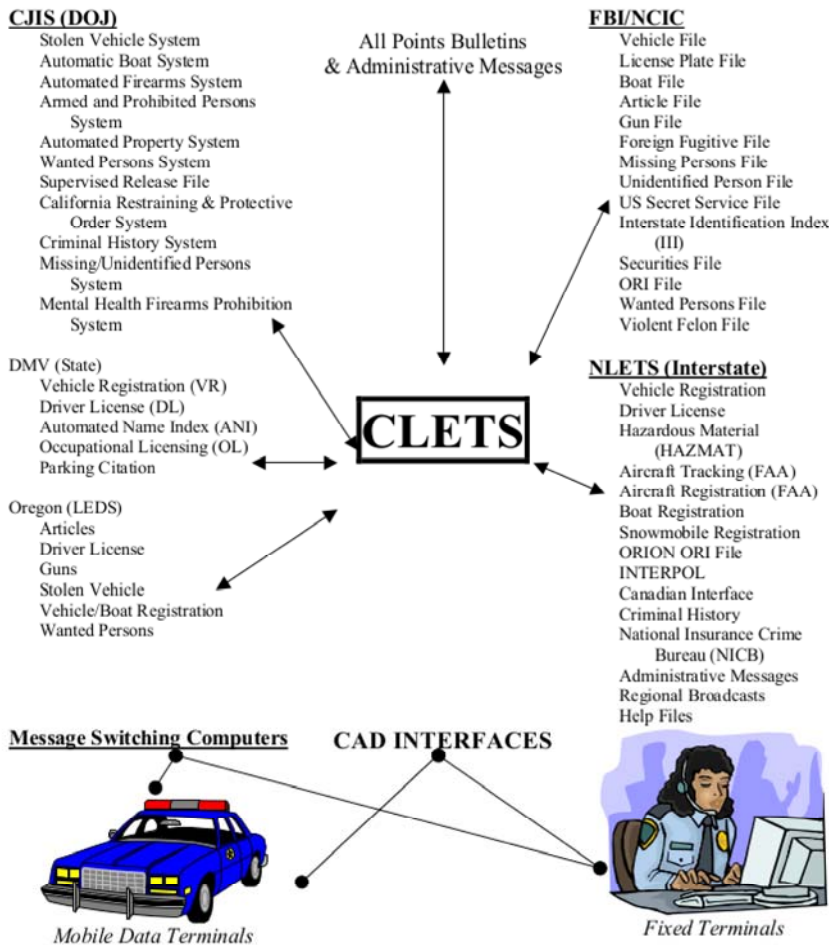
[Teaching Copyright](#)

[Transparency Project](#)

[Trolling Effects](#)

[Ways To Help](#)

## CLETS Network Diagram California Law Enforcement Telecommunications System



*Source: [Public Safety Communications Association \[pdf\]](#)*

CLETS links together more than 5,200 unique “points of presence,” such as dedicated office computers and mobile terminals in patrol cars. It’s a system so large that CADOJ told EFF it doesn’t even keep a master list of which agencies have signed agreements to access the system. In addition, many CLETS features are accessible through a web app called “SmartJustice.” The system also allows CLETS users to send millions of messages to each other every day, such as all–points–bulletins and Amber alerts.

CLETS users are granted access to whole universes of databases that don’t just contain information on Californians, but records from other states and the federal government.

If you’ve got a California–issued ID, registered a car in California, received a parking citation, have any kind of criminal history or protective order, or any kind of record in 11 other databases, then you likely have files that can be accessed from CLETS.

But that’s not all: CLETS also connects to Oregon’s equivalent network, which means if you’re an Oregonian, California police may be able to access your information too, especially if you drive a car. But those datasets pale in comparison to the access CLETS provides to an interstate database called NLETS and the FBI’s National Crime Information Center.

*A 15–part series of old–school CLETS training videos, chock–full of reenactments and animation, are available through Lemoore Police Department’s Vimeo page.*

### Who Oversees CLETS?



Under state law, there are two government bodies in charge of overseeing CLETS.

The legislature assigned the California Attorney General the responsibility of administering CLETS on behalf of the state's law enforcement agencies. But lawmakers also decided that the attorney general would take direction on policy and disciplinary matters from CAC (again, that stands for the CLETS Advisory Committee), a nine-member body that meets several times a year. Currently, members representing law enforcement and local government lobby groups have a voting majority. There are no members representing civil liberties or privacy organizations.

Agencies that sign up for CLETS agree to follow the CLETS "Policies, Procedures and Practices"—essentially the system's terms of use. According to this rulebook, when a law enforcement agency investigates a CLETS violation, it is supposed to report what happened and what action was taken to the attorney general, which in turn is supposed to present the information to CAC. At that point, CAC is supposed to recommend a course of action for the CADOJ, which could include issuing a letter of censure, temporarily suspending the agency's access to CLETS, or discontinuing access altogether. CAC can also call the head of the agency (say, the chief of police) before the committee to explain what happened.

Over the last five years, CAC has never once pursued any of those measures against an agency over misuse of the system. In fact, there is nothing in CAC's meeting minutes to indicate that the body has ever publicly discussed the growing cases of misuse.

Based on our research and discussions with CADOJ, it seems the agency is not enforcing reporting requirements, nor is it presenting what information it does collect to CAC. Meanwhile, CAC doesn't seem to mind that it's not being provided this information. The problem is circular: CADOJ can't take action against misuse unless it has been directed to do so by CAC. And CAC can't recommend an action against misuse unless CADOJ provides the committee with misuse reports. As a result, neither body seems to be addressing the issue.

(EFF could only identify one instance where CAC even discussed a particular misuse case, although it wasn't characterized as misuse at the time. In 2014, a Madera County Grand Jury investigation concluded that misuse of the CLETS terminal at the county jail resulted in the accidental release of an arrestee, who later killed a bystander during a car chase. According to CAC meeting minutes [.pdf], CADOJ only told the committee that Madera County was "not compliant with security awareness training" and would be given six months to get it together.)

The CLETS agreement also requires each agency to file an annual report of misuse statistics. The information in these reports includes: number of misuse complaints the agency received, whether those complaints were received from internal or external sources, the outcome of the investigation, and what actions were taken. If criminal charges were filed, the agency must report if prosecution resulted in a conviction.

CADOJ has not passed these statistics onto the oversight committee either. Instead, at each meeting, CADOJ staff present the committee with a series of numbers that they call "Misuse Statistics," but are really nothing of the sort.

Here's an example of a slide presented by CADOJ at the March CAC meeting:

## CLETS Misuse Statistics

November 1, 2014 – February 28, 2015

• Journal search requests	56
• Searches for possible misuse within own agency	98
• Searches for possible misuse for another agency	12
• Searches for other purposes	173

CAC generally glosses over this information during its meetings without asking questions. However, when EFF asked what these numbers actually mean, CADOJ staff explained that these numbers only show how many times the access log was checked for misuse. It does not, in any way, indicate actual misuse.

So, EFF filed a request under the California Public Records Act to get the real numbers for CLETS misuse.

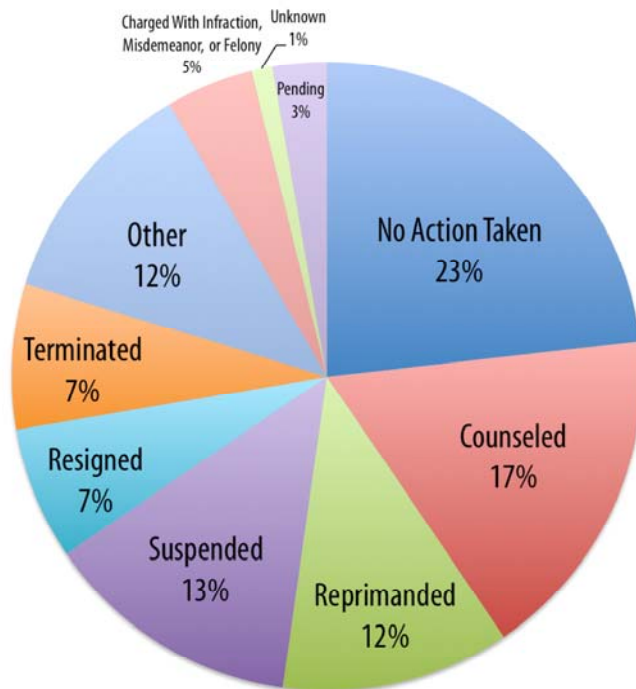
### What We Know About CLETS Misuse

The data was astounding: CLETS abuse more than doubled between 2010 and 2014.

Agencies received 641 complaints over that period and between 586 and 619 investigations were conducted (the data is internally inconsistent). Approximately two-thirds of those investigations resulted in an affirmative finding that misuse had indeed occurred.

Of those 389 cases of confirmed misuse, 109 resulted in no action taken at all. As for the rest:

## California Law Enforcement Telecommunications System Misuse Investigation Outcomes 2010 - 2014\*



\* These statistics only represent misuse investigations self-reported by law enforcement agencies. Many bodies failed to turn in annual reports, including some of California's largest agencies, such as the Los Angeles Police Department. In addition, many investigations listed on the annual disclosures had not concluded by the time the reports were filed. Since the data has not been updated, the outcomes of those investigations are not known and not represented in this chart. The "pending" category on this chart refers to cases in which misuse was found to have occurred but the sanctions had yet to be assigned at the time the report was filed.

- 6 cases resulted in a felony charge
- 15 cases resulted in a misdemeanor charge
- 35 cases resulted in terminations
- 32 cases resulted in resignations
- 62 cases resulted in suspension
- 136 cases resulted in reprimands or counseling.
- 56 cases were simply listed as resulting in "other" action

Even these numbers fail to paint a complete picture of the problem. Currently, 143 misuse investigations remain mysteries; their outcomes are listed as simply "pending," and the documents were never updated after the investigations were concluded. Of the 21 cases where users faced criminal charges, only four so far have resulted in convictions, with the dispositions of the remaining cases undisclosed.

In addition, even when an agency says it recorded zero CLETS misuse, that doesn't necessarily mean there was none. For example, Madera County didn't report the 2013 jail case in its statistics because it didn't start an investigation until a year after the incident (after the grand jury slammed the sheriff for failing to conduct an investigation). Furthermore, there are places where the numbers provided by agencies don't seem to add up.

More alarmingly, however, was our discovery that many agencies hadn't filed disclosures at all. Because CADOJ doesn't keep a master list of agencies that should be reporting, EFF had no way to determine how many agencies were delinquent.

We were, however, able to confirm the Los Angeles County Sheriff's Department did not file any disclosures between 2010 and 2014. LAPD—which caught an officer digging up information on murder witnesses in 2010—only filed a form once, in 2012. Calls to the sheriff department went unreturned, while LAPD staff could not determine who was responsible for filing the forms. Meanwhile, there's nothing to indicate either the CADOJ or CAC ever followed up.

There's one further reason to be wary of the data: the source material no longer exists.

In our initial request, we asked for [each individual annual misuse report](#). Instead CADOJ provided us a series of tables, explaining that "once received, the data is entered onto a spreadsheet and the form destroyed." Throwing out the original records makes it difficult, if not impossible, to double-check inconsistencies in the data.

[Download CLETS misuse data for the years 2010 through 2014 \[.zip\]](#).

### What Is CAC Doing Instead of Overseeing Misuse?

CAC does provide critical oversight in one capacity: ensuring agencies are in compliance with CLETS and FBI security standards—such as encryption, password strength, and training. For example, a [March 2014 audit](#) by the FBI found widespread compliance issues among 10 agencies, including failure to conduct appropriate training, failure to fingerprint all personnel with access to the system, and failure using sophisticated encryption. Many of these issues remained unresolved more than a year after they had been identified.

Despite the skyrocketing misuse and the ongoing cybersecurity challenges, CAC has spent the last year coming up with new ways to expand CLETS. In December 2014, for example, CAC authorized CADOJ to link CLETS to an interstate driver license photo-sharing system, granting California police access to DMV photos from across the country. At CAC's July 2015 meeting, the body quietly approved the 2015 Strategic Plan, which calls for expanding biometric data capture and sharing real time and historical GPS data on offenders statewide.

### Can Anything Be Done?

EFF would like to see the California Attorney General and CAC do their jobs by properly monitoring CLETS and holding agencies responsible for misuse.

CADOJ should collect the misuse information it is supposed to, stop destroying the original records, and provide that data to the official oversight committee. CAC, in turn, should openly discuss how CLETS policies can be improved to reduce the potential for abuse and recommend action against agencies that fail to comply. Sadly, these bodies have demonstrated they see little value in enforcing the rules and even less value in public participation.

All year, EFF has been trying to ensure accountability with CLETS—filing public records requests, sending letters, and addressing the committee during public comment. Our goal so far has been to fight CLETS expansion plans and to demand greater transparency in how it conducts its meetings.

In March 2015, EFF [demanded](#) CAC drop its plans to integrate facial recognition technology with the California DMV photo database and share DMV photos with other states. After 1,500 supporters sent emails to CAC, the committee [removed that goal](#) from its strategic plan.

We were joined by the ACLU of California, Californians Aware, and First Amendment Coalition in [a letter](#) warning the committee that the way it is conducting its hearings is likely in violation of the state's open meetings laws. At its July 2015 meeting, CAC responded that "convenience" for its members trumped the public's right to meaningfully access and participate in decisions regarding CLETS. Then CAC voted to pass a [2015 Strategic Plan](#)—a document that had never been publicly released or announced on an agenda before being finalized.

It may be time for the California legislature to step in to protect the privacy of their constituents. Measures could include holding investigative hearings, adding new, non-law enforcement members to the committees, and requiring full and public disclosures of misuse statistics.

In the meantime, you can count on EFF to remain vigilant. Stay tuned, because we may need your help.

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# **Domestic Violence RUPRO Proposals**



## JUDICIAL COUNCIL OF CALIFORNIA

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### MEMORANDUM

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<b>Date</b> February 11, 2016	<b>Action Requested</b> Please review
<b>To</b> Family and Juvenile Advisory Committee	<b>Deadline</b> February 18, 2016
<b>From</b> Frances Ho, Attorney Center for Families, Children & the Courts	<b>Contact</b> Frances Ho Center for Families, Children & the Courts 415-865-7662 phone frances.ho@jud.ca.gov
<b>Subject</b> Summary of key issues raised in comments and recommendations for DV proposal	

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#### **Background**

In December of 2015, this committee circulated for comment a proposal that contained various changes to the domestic violence restraining order forms to implement changes made to the Domestic Violence Prevention Act. Specifically, the legislature 1) created a remedy that will allow the court to transfer the rights associated with a cell phone number; 2) provided more conditions on restrained persons ordered to complete a batterers intervention program; and, 3) in the case of mutual restraining orders, require both parties to submit an application for a restraining order to satisfy the requirement that both parties submit written evidence of abuse.

The proposal also contained a recommendation to include an advisement on forms DV-110 and DV-130 to notify the restrained party of the possible immigration consequences for violating a restraining order. This recommendation came from judicial officers assigned to domestic violence cases.

#### **Comments**

The proposal was circulated December 11, 2015 through January 22, 2016 as part of the regular winter comment cycle. Fifteen individuals or organizations submitted comments on the proposal.



Two agreed with the proposal, eight agreed with the proposal if modified, five did not indicate a position and none did not agree with the proposal. The full text of the comments received and staff's proposed committee responses are attached.

## **Key Issues Raised in Comments**

### **Rights to Wireless Phone Number (AB 1407)**

#### 1. Potential fees and costs

Some commentators are concerned about the fees and costs that the new account holder may be responsible for. One commentator suggests that the form should clarify that the new account holder will be financially responsible for any future charges or costs on the account and "not be liable for any debt, charges, fees or missed payments incurred by the restrained party prior to the effective date of this order" and suggests including in the order that the requesting party request a statement of rights and responsibilities before the provider completes the transfer.

*Staff comment:* Family Code section 6347 provides the court with the authority to order a transfer and does not grant the court authority to assign debt but states that "this section shall not affect the ability of the court to apportion the assets and debts of the parties as provided for in law." Under section 6324, the court has the authority to issue orders "determining the temporary use, possession, and control of real or personal property of the parties and the payment of any liens or encumbrances coming due during the period the order is in effect." Orders made under section 6324 can be issued ex parte or at a noticed hearing.

*Proposed committee response:* Family Code section 6347 does not provide the court with any authority to assign debt other than the authority it already had under section 6324. The committee recommends adding an item to the forms to provide the requestor with the ability to ask the court to order that the other party be financially responsible for the cell phone account.

#### 2. When is protected person financially responsible for the account?

One commentator is concerned that it is not clear if the intent is to make the recipient financially responsible as of the date of transfer and not as of the date of the order.

*Proposed committee response:* The committee recommends that the order form allow the court to indicate the start date for which the protected person would be financially liable for the account.

3. Allow requesting party to request to cancel order after order is made

Because it may not be clear to the requesting party what the financial obligations will be and there may be no way of finding out before a transfer order is made, some commentators suggest providing the requesting party with the ability to rescind the request and cancel the order after the order is made and order the service provider to provide the requesting party with a statement of rights and responsibilities including a statement of all financial costs associated with the transfer.

*Staff comment:* Family code section 6347 does not provide the court with the authority to rescind the order or the ability of the court to order the service provider to send the requesting party a statement of rights and responsibilities. After the order is made, the requester could file a motion to reconsider, subject to the requirements contained in CCP 1008(a).

4. Length of time it will take service provider to process transfer

Some commentators are concerned about the length of time it will take for service providers to process these transfers. One commentator suggests including information for the protected person as to the length of time needed for an account to be transferred to their name.

*Proposed committee response:* Because the court will not have accurate information as to the length of time it will take service providers to process transfers specifying this information on the form is not necessary. Major service carriers are working together on implementation of this bill. Committee staff will be in communication with these carriers to provide feedback on the process.

5. Form DV-901- Mandatory or Optional

If adopted, nine commentators recommended that the form be mandatory, two recommended that the form be optional, one commentator believed that the form should not be adopted and three did not indicate a position.

*Proposed committee response:* To promote uniformity and ensure that adequate information is provided to cell phone service providers, the committee recommends adopting form DV-901 as a mandatory form.

6. Create information sheet

Several commentators are concerned about the protected person's ability to successfully navigate through this process, especially after an order of transfer is made. One option is to create an information sheet to help explain the process. Another option is to provide information in the self-help section of the Judicial Council's website.

*Proposed committee response:* The committee recognizes that this process may be challenging for litigants to navigate, especially self-represented litigants. The committee proposes to provide information on the Judicial Council's website, in the self-help section, as information becomes available. The committee will consider developing an information sheet in the future, if the need arises.

### **Batterers Intervention Program (AB 439)**

1. Should form DV-815 be adopted? And if so, should it be mandatory or optional?  
FLEXCOM, the sponsor of AB 439, believes the adoption of form DV-815 would go beyond the intent of the legislation. The new law does not require the restrained person to seek out a report from the batterers program nor does it obligate treatment providers to take any affirmative steps to report to the court.

#### Form DV-815- Mandatory or Optional

Two commentators, including FLEXCOM, do not recommend adopting form DV-815. Seven commentators indicated that form DV-815, if adopted, be a mandatory form and one commentator recommended form DV-815, if adopted, be an optional form. One commentator stated that having a mandatory form would provide consistency in reporting, saving additional court time and resources that would result from interpreting different reports and processing incomplete forms for filing. Also, allowing programs to provide their own report, in lieu of completing form DV-815, "could open the door for an agency to inadvertently release information that should not be disclosed and is not needed by the court."

*Proposed committee response:* The committee recommends that form DV-815 be adopted as mandatory form to help litigants, especially self-represented litigants, provide information to the court when the court orders the restrained person to provide the court with progress. For example, courts may set regular review hearings to monitor compliance and/or review compliance for purposes of overcoming the presumption against custody under to Family Code section 3044. Having a mandatory form available to litigants and courts will promote access to the court process and uniformity.

3. Form DV-805- If adopted, should the form be mandatory or optional and should the form contain other information not required under the new statute?

If adopted, nine commentators recommended that the form be mandatory, one commentator recommended that the form be optional, four did not indicate a position and one believed that a form that include the mandates of AB 439 should be mandatory, noting that two items

included in form DV-805 are not required under the new statute (date of first class and compliance with other orders made by the court).

Staff comment: To promote uniformity, the committee should adopt form DV-805 as a mandatory form. Items on the form that are not required to be provided to the court should be preceded by a check box.

### **Mutual Restraining Orders (AB 536)**

#### 1. Is notice of application required?

One commentator believes that the court does not have the power to grant a restraining order against a party who does not have notice of the request.

Proposed committee response: Under Family Code section 6300 and 240 et seq., the court has the authority to issue ex parte orders on a temporary basis pending a hearing. The example provided in the invitation to comment was meant to illustrate the possibility of the court granting a temporary restraining order based on a written statement or testimony of the respondent. The requirements of Family Code section 6305 only apply if the court is issuing mutual restraining orders. The committee agrees that any party requesting a domestic violence restraining order is afforded the right to proper notice and opportunity to be heard before permanent orders can be made.

#### 2. Primary aggressor versus primarily be acting as an aggressor

One of the findings that a court must make in issuing mutual restraining orders is to find that both parties acted as primary aggressors and neither acted in self-defense. One commentator argues that the term “primary aggressor” is different than “primarily acting as an aggressor” and that the latter be used to illustrate the requirement in Family Code section 6305 because the former “can lead to misconceptions about what constitutes aggression and abuse in domestic violence cases.”

Section 6305 requires the court to make “*detailed findings of fact indicating that both parties acted as a primary aggressor and that neither party acted primarily in self-defense...in determining if both parties acted primarily as aggressors, the court shall consider the provisions concerning dominant aggressors set forth in paragraph (3) of subdivision (c) of Section 836 of the Penal Code.*”

Section 6305 seems to use the terms “primary aggressor” and “primarily be acting as an aggressor” interchangeably.

#### 3. Should form DV-120-INFO include information regarding mutual restraining orders?

One commentator believes that the changes made to form DV-120-INFO are too complicated and a simple advisement to use the DV application would be sufficient. Another

commentator is concerned that providing information on mutual restraining orders can increase cross filings that are motivated by retaliation.

### **Immigration Consequences**

Some commentators expressed concern over adding an advisement regarding immigration consequences. One commentator cautions that the language must be carefully balanced because while the information could help deter violations it could also deter immigrant survivors from coming forward and requesting a restraining order.

Another commentator believes that the court does not have expertise or jurisdiction over immigration issues and therefore should not include an advisement regarding immigration consequences.

Two commentators suggest revising the language to clarify that the state court does not have jurisdiction over immigration matters and believes the current language can lead to confusion regarding the state court's role and implies that the state court is reporting to ICE (Immigration and Customs Enforcement).

*Staff comment:* Judicial officers who suggested including this advisement believed that its deterrent value would enhance the integrity of these orders. A similar advisement is required in criminal proceedings before a court can accept a plea of guilty or no contest (Penal Code section 1016.5). If the committee decides to include the advisement, the following language is recommended to address the concerns stated above:

Under Federal law, if a civil or criminal court finds that you violated a domestic violence restraining order and you are NOT a U.S. citizen, you may or will be:

- Deported by immigration officials (not the state court);
- Unable to return lawfully to the U.S., after leaving the U.S. for any reason; and
- Unable to become a U.S. citizen.

### **Other proposed changes**

The following are suggestions made by commentators and others during the comment process that are not related to the proposal but are suggested changes to forms contained in the proposal:

1. Form DV-100, at item 4(g), requesters needing to attach a separate sheet of paper should use the title "DV-100, Additional Children" not "DV-100, Protected People."

2. Form DV-100, at item 5(b), add EPO to the examples of protective orders that may be in effect and provide space for the requester to include the date the order was made.
3. One commentator pointed out that there is no specific section on DV-110 for the court to shorten time for service. However, the request form does have a section on shortening time for service, at item 24.

- a. Proposal: Add to DV-110, at item 24:

**24. Time for Service**

This order must be served on the person in 2(circle) at least five days before the hearing, unless the court orders a shorter time for service (*stated below*):

4. Include a space on form DV-100 to allow the requester to indicate how long the order is requested for. If this question is added, then a corresponding item would need to be added to form DV-120, *Response to Request for Domestic Violence Restraining Order*.

Staff recommendation: This issue should be discussed by POWG and if recommended, circulated for public comment.

5. Create new form to attach to DV-130, item 26(b): Criminal Protective Order to allow more space to provide case number, issuing county, and expiration date.

Staff recommendation: A better practice is for litigants to obtain a copy of the CPO. Creating a new form for this purpose is unnecessary.

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## INVITATION TO COMMENT

[ItC prefix as assigned]-\_\_

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**Title**

Domestic Violence Restraining Orders: New and Updated Forms to Reflect Recent Legislative Changes

**Action Requested**

Review and submit comments by January 22, 2016

**Proposed Rules, Forms, Standards, or Statutes**

Adopt forms DV-805, DV-815; adopt forms DV-900, DV-901; revise forms DV-100, DV-110, DV-120, DV-120-INFO, DV-130

**Proposed Effective Date**

July 1, 2016

**Contact**

Frances Ho, Attorney  
[frances.ho@jud.ca.gov](mailto:frances.ho@jud.ca.gov)  
(415) 865-7662

**Proposed by**

Family and Juvenile Law Advisory Committee  
Hon. Jerilyn L. Borack, Cochair  
Hon. Mark A. Juhas, Cochair

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### Executive Summary and Origin

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council adopt four forms and revise five forms used in Domestic Violence Prevention Act (DVPA) cases to implement changes made by Assembly Bill 439, Assembly Bill 536, and Assembly Bill 1407. The committee also recommends including an additional advisement on the restraining order forms to notify the restrained party of the possible immigration consequences for violating a restraining order.

### Background

**Assembly Bill 439**

Assembly Bill 439 (Stats. 2015, ch. 72) amends section 6343 of the Family Code effective January 1, 2016, with a delayed implementation date of July 1, 2016. Currently, a person ordered to complete a 52-week batterer intervention program within a Domestic Violence Prevention Act case is not required to submit proof of enrollment or attendance records to the court or protected person. In addition, the court and protected person do not have access to compliance information unless the person ordered to complete the program has given the program permission to release

*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.*

this information. To provide the court and the protected person with access to information about the restrained person's compliance with court-ordered participation in a batterer intervention program, AB 439 amended section 6343 to require the restrained person to 1) enroll with a provider by a deadline ordered by the court or within 30 days of the court order if no specific deadline is ordered; 2) sign all necessary forms with the program to allow the court and protected person access to proof of enrollment, attendance records and completion and termination reports; and, 3) provide the court and protected person with the name, address and phone number of the program.

### ***Assembly Bill 536***

Assembly Bill 536 (Stats. 2015, ch. 73) amends section 6305 of the Family Code effective January 1, 2016. Under existing law, the court may not issue mutual restraining orders unless certain findings and requirements are satisfied. One requirement is that both parties must submit written evidence of abuse or domestic violence. Sponsors of Assembly Bill 536 noted inconsistencies across courts in interpreting this requirement and due process concerns when the request was contained in responsive pleadings and not made on an application for restraining order form. Assembly Bill 536 clarifies that this requirement is only satisfied by presenting "an application for relief using a mandatory Judicial Council restraining order application form...written evidence of abuse or domestic violence in a responsive pleading does not satisfy the person's obligation to present written evidence of abuse or domestic violence." Assembly Bill 536 requires the Judicial Council, by July 1, 2016, to modify forms as necessary to provide notice of this new requirement.

### ***Assembly Bill 1407***

Assembly Bill 1407 (Stats. 2015, ch. 415) adds section 6347 to the Family Code effective January 1, 2016, with a delayed implementation date of July 1, 2016. The Legislature has found that victims' access to their wireless telephone is important to ensure their safety and access to community resources. The Legislature cites data that shows an increase in cell phone ownership and an overall decrease in households with landlines. The Legislature also cites a recent survey conducted by National Public Radio of 72 shelters across the nation where 85% of the shelters reported serving victims whose abusers tracked them using GPS and 75% of the shelters reported serving victims whose abusers eavesdropped on phone calls using hidden mobile applications. To address these issues, the Legislature has added section 6347 to the Family Code to provide an applicant with the ability to control his or her own cell phone account when the account holder is the proposed restrained person. The new remedy allows the person seeking protection to ask the court to transfer the cell phone account to him or her and the cell phone account of any children in the requesting person's care. If granted, the court would issue an order, directing the cell phone service provider (provider), to transfer all billing responsibilities and rights associated with the telephone numbers to the protected person. The protected person would also have to provide his/her contact information to the provider, which the court must ensure remains confidential in court proceedings.



## **The Proposal**

### ***Assembly Bill 439***

To implement changes made by AB 439, the committee proposes to adopt two new forms and revise one existing form, as follows:

#### ***NEW DV-805 (Proof of Enrollment for Batterer Intervention Program)***

- This form would be used by the person ordered to complete a 52-week batterer intervention program to prove that he or she is enrolled in a program. This form would be filed with the court and should also be served on the protected person.
- The committee is seeking comment on whether this should be a mandatory or optional form.

#### ***NEW DV-815 (Batterer Intervention Program Progress Report)***

- This form would be used by the person ordered to complete a 52-week batterer intervention program to prove compliance with court orders. The form would be completed by the program provider and filed with the court. The committee seeks to address the new requirements without creating a situation in which restrained parties or programs inadvertently release information in violation of an individual's privacy rights.
- The committee is seeking comment on whether this should be a mandatory or optional form.

#### ***Revise DV-130 (Restraining Order After Hearing- Order of Protection)***

- At Item 22, include new requirements for restrained persons ordered to complete 52-week batterer intervention program.

### ***Assembly Bill 536***

To implement changes made by AB 536, the committee proposes to revise two existing forms, as follows:

#### ***DV-120 (Response to Request for Domestic Violence Restraining Order)***

- At Item 3, add text to refer litigants to form DV-120-INFO for information on mutual restraining orders and form DV-505-INFO for information on how to apply for a restraining order.

#### ***DV-120-INFO (How Can I Respond to a Request for a Domestic Violence Restraining Order)***

- Add a new section entitled, "What if I Want a Restraining Order Against the Other Person?" This section will provide information on the legal requirements that must be satisfied in order for the court to issue mutual restraining orders and reference form DV-505-INFO (*How Do I Ask For a Temporary Restraining Order?*).

### **Assembly Bill 1407**

To implement changes made by Assembly Bill 1407, the committee proposes to adopt two new forms and revise four existing forms, as follows:

#### ***NEW DV-900 (Order Transferring Cell Phone Account)***

- This form would reflect the court's order regarding the transfer of cell phone account(s). The new statutory provision, effective July 1, 2016, requires a separate order be made by the court that is directed to the "wireless telephone service provider." This order must also include the contact information of the protected person (requesting person) which will be contained in a separate attachment that is not filed with the court (see form DV-901, listed below).

#### ***NEW DV-901 (Attachment to Order Transferring Cell Phone Account)***

- If an order of this kind is made, the cell phone service provider will need the protected person's contact information to process the transfer. This attachment form would be completed by the protected person and not filed with the court. This form and a copy of DV-901 would be sent by the protected person to the cell phone service provider. The statute requires that the order be served on "the wireless service provider's agent for service of process listed with the Secretary of State." Service providers are working to ensure that this information is available on the Secretary of State's website. The committee also proposes including links to the information on the Judicial Council's website.
- The committee is seeking comment on whether this should be a mandatory or optional form.

#### ***Revise DV-100 (Request for Domestic Violence Restraining Order)***

- At item 15, add "Transfer of Cell Phone Account," an additional remedy available to the requesting person (Note: The addition of this remedy will require adding a page to form DV-100).
- At item 15, add language to notify the requesting party of some of the financial responsibilities that would result from an order of this kind. The committee is seeking comment on whether this notice is clear and accurate.
- At item 27, expand *Description of Abuse* to allow the requesting party space to list another incident of abuse.
- Provide more space in item 23, *Other Orders*, and item 28, *Other Persons to be Protected* (explanation of why additional protected parties should be included on restraining order).
- Items renumbered after item 15.

#### ***Revise DV-110 (Temporary Restraining Order)***

- At item 15, add "Transfer of Cell Phone Account," as an order that may be made at a noticed hearing.
- Items renumbered after item 15.

***Revise DV-130 (Restraining Order After Hearing)***

- At item 15, add “Transfer of Cell Phone Account,” as an order that may be made by the court.
- Items renumbered after item 15.
- The new check boxes at the top of page 1, indicating whether the order is new (“Original”) or changed (“Amended”), and the additions to item 25 were circulated for public comment in Spring of 2015 and approved by the Judicial Council on October 27, 2015. Therefore, the committee is not seeking comment on these items.

***Revise DV-120 (Response to Request for a Domestic Violence Restraining Order)***

- At item 15, add “Transfer of Cell Phone Account,” as a possible request that the responding person would need to answer to.
- Items renumbered to reflect the addition of item 15.

***Advisement of Potential Immigration Consequences***

In response to suggestions made by judicial officers with experience in domestic violence cases, the committee proposes to include a notice to the restrained person that violation of a protective order may result in immigration consequences. A notice of this kind would help preserve the integrity of court orders by properly notifying the restrained person of the possible consequences of violating domestic violence restraining orders. The committee proposes to add language to DV-110, at page 5, and DV-130, at page 6. The committee notes that criminal courts are already required to make a similar advisement under California Penal Code section 1016.5, when accepting a plea.

**Alternatives Considered**

***Assembly Bill 439***

The committee considered not creating the two forms for proof of enrollment in and a progress report from a batterer intervention program. The committee decided that making these forms available could increase the likelihood of compliance by persons ordered to complete a 52-week batterer intervention program.

***Assembly Bill 536***

The committee considered including a notice on form DV-120 (*Response to Request for Domestic Violence Restraining Order*) that would instruct litigants *not* to use the form to request a restraining order. However, the committee concluded that this notice would not be appropriate because the new requirement enacted by Assembly Bill 536 only applies in instances where the court is going to issue mutual restraining orders pursuant to Family Code section 6305. The court continues to have discretion under Family Code section 6300, to issue restraining orders, with or without notice, based on “affidavit or testimony and any additional information provided to the court pursuant to Section 6306” if such evidence “shows, to the satisfaction of the court,

reasonable proof of a past act or acts of abuse” so long as the court is not issuing mutual restraining orders. If the court issues mutual restraining orders, then the requirements of Family Code section 6305 must be satisfied. For example, a court could issue a restraining order protecting the responding person without an affirmative application for a restraining order by the responding person so long as the court is not also issuing an order protecting the other person.

***Assembly Bill 1407***

An order transferring a cell phone account made under new Family Code section 6347 will require the court to send a separate order to the service provider that must include the name and contact information of the requesting person (protected person). In considering how to maintain the confidentiality of the protected person’s contact information, the committee considered including the contact information on the order and maintaining the entire order as confidential. However, maintaining the order as confidential would create the need to create a process by which the restrained person could obtain a redacted version of the order.

**Implementation Requirements, Costs, and Operational Impacts**

The committee anticipates that this proposal will result in some costs incurred by the courts to replace existing forms and to train court staff on new forms and requirements.

## Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?
- Does the proposed language in DV-100, item 15, adequately provide the requesting person with notice of the financial responsibilities involved in an order of this kind?
- Should form DV-900, if approved, include instructions for cell phone service providers, as reflected on page 2 of DV-900?
- Should form DV-901, if approved, be a mandatory or optional form?
- Should form DV-805, if approved, be a mandatory or optional form?
- Should form DV-815, if approved, be a mandatory or optional form?
- Does form DV-815, as proposed, meet the statutory requirements without requiring restrained parties or programs to release private or confidential medical or health information otherwise protected by law or not required to be provided under this statute?
- Is the proposed language regarding immigration consequences on DV-110 and DV-130 clear and accurate?

The advisory committee also seeks comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so please quantify.
- What would the implementation requirements be for courts? For example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems.
- Would two months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?
- Is the notice provided in plain language such that it will be accessible to a broad range of litigants, including self-represented litigants?
- Would this proposal have any positive or negative impact on low or moderate-income members of the public?

## Attachments and Links

1. Assembly Bill 439:

[http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201520160AB439](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB439)

2. Assembly Bill 536:

[http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201520160AB536](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB536)

3. Assembly Bill 1407:

[http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201520160AB1407](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB1407)

4. DV-100, at pages 9-14
5. DV-110, at pages 15-20
6. DV-120, at pages 21-24
7. DV-120-INFO, at pages 25-27
8. DV-130, at pages 28-34
9. DV-805, at page 35
10. DV-815, at page 36
11. DV-900, at pages 37-38
12. DV-901, at page 39

Clerk stamps date here when form is filed.

You must also complete Form CLETS-001, Confidential CLETS Information, and give it to the clerk when you file this Request.

DRAFT

NOT APPROVED BY THE JUDICIAL COUNCIL

1 Name of Person Asking for Protection:

Age: \_\_\_\_\_

Your lawyer in this case (if you have one):

Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Firm Name: \_\_\_\_\_

Address (If you have a lawyer for this case, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, give a different mailing address instead. You do not have to give your telephone, fax, or e-mail.):

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

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

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

Fill in court name and street address:

Superior Court of California, County of \_\_\_\_\_

Court fills in case number when form is filed.

Case Number: \_\_\_\_\_

2 Name of Person You Want Protection From:

Description of person you want protection from:

Sex: [ ] M [ ] F Height: \_\_\_\_\_ Weight: \_\_\_\_\_ Hair Color: \_\_\_\_\_ Eye Color: \_\_\_\_\_
Race: \_\_\_\_\_ Age: \_\_\_\_\_ Date of Birth: \_\_\_\_\_
Address (if known): \_\_\_\_\_
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

3 Do you want an order to protect family or household members? [ ] Yes [ ] No

If yes, list them:

Table with 5 columns: Full name, Sex, Age, Lives with you?, Relationship to you. Includes checkboxes for Yes/No.

[ ] Check here if you need more space. Attach a sheet of paper and write "DV-100, Protected People" for a title.

4 What is your relationship to the person in (2)? (Check all that apply):

- a. [ ] We are now married or registered domestic partners.
b. [ ] We used to be married or registered domestic partners.
c. [ ] We live together.
d. [ ] We used to live together.
e. [ ] We are related by blood, marriage, or adoption (specify relationship): \_\_\_\_\_
f. [ ] We are dating or used to date, or we are or used to be engaged to be married.
g. [ ] We are the parents together of a child or children under 18:
Child's Name: \_\_\_\_\_ Date of Birth: \_\_\_\_\_
Child's Name: \_\_\_\_\_ Date of Birth: \_\_\_\_\_
Child's Name: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

If you do not have one of these relationships, the court may not be able to consider your request. Read Form DV-500-INFO for help.

[ ] Check here if you need more space. Attach a sheet of paper and write "DV-100, Protected People" for a title.

h. [ ] We have signed a Voluntary Declaration of Paternity for our child or children. (Attach a copy if you have one).

This is not a Court Order.



**5 Other Court Cases**

a. Have you or any other person named in ③ been involved in another court case with the person in ②?

No  Yes *If yes, check each kind of case and indicate where and when each was filed:*

Kind of Case	County or Tribe Where Filed	Year Filed	Case Number (if known)
<input type="checkbox"/> Divorce, Nullity, Legal Separation	_____	_____	_____
<input type="checkbox"/> Civil Harassment	_____	_____	_____
<input type="checkbox"/> Domestic Violence	_____	_____	_____
<input type="checkbox"/> Criminal	_____	_____	_____
<input type="checkbox"/> Juvenile, Dependency, Guardianship	_____	_____	_____
<input type="checkbox"/> Child Support	_____	_____	_____
<input type="checkbox"/> Parentage, Paternity	_____	_____	_____
<input type="checkbox"/> Other (specify): _____	_____	_____	_____

Check here if you need more space. Attach a sheet of paper and write "DV-100, Other Court Cases" for a title.

b. Are there any domestic violence restraining/protective orders now (criminal, juvenile, family)?

No  Yes *If yes, attach a copy if you have one.*

**Check the orders you want.**

**6  Personal Conduct Orders**

I ask the court to order the person in ② not to do the following things to me or anyone listed in ③:

- a.  Harass, attack, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy personal property, disturb the peace, keep under surveillance, impersonate (on the Internet, electronically or otherwise), or block movements
- b.  Contact, either directly or indirectly, in any way, including but not limited to, by telephone, mail or e-mail or other electronic means

*The person in ② will be ordered not to take any action to get the addresses or locations of any protected person unless the court finds good cause not to make the order.*

**7  Stay-Away Order**

a. I ask the court to order the person in ② to stay at least \_\_\_\_\_ yards away from (check all that apply):

- Me
- My home
- My job or workplace
- My school
- My vehicle
- The child(ren)'s school or child care
- Each person listed in ③
- Other (specify): \_\_\_\_\_

b. If the person listed in ② is ordered to stay away from all the places listed above, will he or she still be able to get to his or her home, school, job, workplace, or vehicle?  Yes  No (If no, explain):

**8  Move-Out Order**

*(If the person in ② lives with you and you want that person to stay away from your home, you must ask for this move-out order.)*

I ask the court to order the person in ② to move out from and not return to (address):

I have the right to live at the above address because (explain):

**This is not a Court Order.**





**9 Guns or Other Firearms or Ammunition**

I believe the person in ② owns or possesses guns, firearms, or ammunition.  Yes  No  I don't know  
*If the judge approves the order, the person in ② will be ordered not to own, possess, purchase, or receive a firearm or ammunition. The person will be ordered to sell to, or store with, a licensed gun dealer, or turn in to law enforcement, any guns or firearms that he or she owns or possesses.*

**10 Record Unlawful Communications**

I ask for the right to record communications made to me by the person in ② that violate the judge's orders.

**11 Care of Animals**

I ask for the sole possession, care, and control of the animals listed below. I ask the court to order the person in ② to stay at least \_\_\_\_\_ yards away from and not take, sell, transfer, encumber, conceal, molest, attack, strike, threaten, harm, or otherwise dispose of the following animals: \_\_\_\_\_

I ask for the animals to be with me because: \_\_\_\_\_

**12 Child Custody and Visitation**

- a.  I do not have a child custody or visitation order and I want one.  
 b.  I have a child custody or visitation order and I want it changed.

*If you ask for orders, you must fill out and attach Form DV-105, Request for Child Custody and Visitation Orders.*

*You and the other parent may tell the court that you want to be legal parents of the children (use Form DV-180, Agreement and Judgment of Parentage).*

**13 Child Support (Check all that apply):**

- a.  I do not have a child support order and I want one.  
 b.  I have a child support order and I want it changed.  
 c.  I now receive or have applied for TANF, Welfare, CalWORKS, or Medi-Cal.

*If you ask for child support orders, you must fill out and attach Form FL-150, Income and Expense Declaration or Form FL-155, Financial Statement (Simplified).*

**14 Property Control**

I ask the court to give *only* me temporary use, possession, and control of the property listed here: \_\_\_\_\_

**15 Transfer of Cell Phone Account**

I ask the court to transfer the billing responsibility and rights to the following cell phone numbers to me because the account currently belongs to the person in ②:

- |  |                                    |   |
|--|------------------------------------|---|
| a. Telephone number (including area code): _____ | <input type="checkbox"/> my number | <input type="checkbox"/> child in my care |
| b. Telephone number (including area code): _____ | <input type="checkbox"/> my number | <input type="checkbox"/> child in my care |
| c. Telephone number (including area code): _____ | <input type="checkbox"/> my number | <input type="checkbox"/> child in my care |

Check here if you need more space. Attach a sheet of paper and write "DV-100, Transfer of Cell Phone Account" for a title.

*If the judge makes this order, you will be financially responsible for these accounts, including monthly service fees and costs of any mobile devices (examples: cell phones, tablets) connected to these telephone numbers. There may be other fees that you will be responsible for. You should contact the cell phone company to find out what fees you will be responsible for.*

**This is not a Court Order.**



**16**  **Debt Payment**

I ask the court to order the person in (2) to make these payments while the order is in effect:

Check here if you need more space. Attach a sheet of paper and write "DV-100, Debt Payment" for a title.

Pay to: \_\_\_\_\_ For: \_\_\_\_\_ Amount: \$ \_\_\_\_\_ Due date: \_\_\_\_\_

**17**  **Property Restraint**

**I am married to or have a registered domestic partnership with the person in (2).** I ask the judge to order that the person in (2) not borrow against, sell, hide, or get rid of or destroy any possessions or property, except in the usual course of business or for necessities of life. I also ask the judge to order the person in (2) to notify me of any new or big expenses and to explain them to the court.

**18**  **Spousal Support**

I am married to or have a registered domestic partnership with the person in (2) and no spousal support order exists. I ask the court to order the person in (2) to pay spousal support. (You must complete, file, and serve Form FL-150, Income and Expense Declaration, before your hearing).

**19**  **Insurance**

I ask the court to order the person in (2) NOT to cash, borrow against, cancel, transfer, dispose of, or change the beneficiaries of any insurance or coverage held for the benefit of me or the person in (2), or our child(ren), for whom support may be ordered, or both.

**20**  **Lawyer's Fees and Costs**

I ask that the person in (2) pay some or all of my lawyer's fees and costs.

You must complete, file, and serve Form FL-150, Income and Expense Declaration, before your hearing.

**21**  **Payments for Costs and Services**

I ask the court to order the person in (2) to pay the following:

You can ask for lost earnings or your costs for services caused directly by the person in (2) (damaged property, medical care, counseling, temporary housing, etc.). You must bring proof of these expenses to your hearing.

Pay to: \_\_\_\_\_ For: \_\_\_\_\_ Amount: \$ \_\_\_\_\_

Pay to: \_\_\_\_\_ For: \_\_\_\_\_ Amount: \$ \_\_\_\_\_

**22**  **Batterer Intervention Program**

I ask the court to order the person listed in (2) to go to a 52-week batterer intervention program and show proof of completion to the court.

**23**  **Other Orders**

What other orders are you asking for? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Check here if you need more space. Attach a sheet of paper and write "DV-100, Other Orders" for a title.

**This is not a Court Order.**



**24**  **Time for Service (Notice)**

*The papers must be personally served on the person in ② at least five days before the hearing, unless the court orders a shorter time for service. If you want there to be fewer than five days between service and the hearing, explain why below. For help, read Form DV-200-INFO, "What Is Proof of Personal Service"?*

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**25** **No Fee to Serve (Notify) Restrained Person**

*If you want the sheriff or marshal to serve (notify) the restrained person about the orders for free, ask the court clerk what you need to do.*

**26** **Court Hearing**

The court will schedule a hearing on your request. If the judge does not make the orders effective right away ("temporary restraining orders"), the judge may still make the orders after the hearing. If the judge does not make the orders effective right away, you can ask the court to cancel the hearing. Read Form DV-112, *Waiver of Hearing on Denied Request for Temporary Restraining Order*, for more information.

**27** **Describe Abuse**

Describe how the person in ② abused you. Abuse means to intentionally or recklessly cause or attempt to cause bodily injury to you; or to place you or another person in reasonable fear of imminent serious bodily injury; or to harass, attack, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, keep you under surveillance, impersonate (on the Internet, electronically or otherwise), batter, telephone, or contact you; or to disturb your peace; or to destroy your personal property. (For a complete definition, see Fam. Code, §§ 6203, 6320.)

a. Date of most recent abuse: \_\_\_\_\_

b. Who was there? \_\_\_\_\_

c. Describe how the person in ② abused you or your child(ren):

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*Check here if you need more space. Attach a sheet of paper and write "DV-100, Recent Abuse" for a title.*

d. Did the person in ② use or threaten to use a gun or any other weapon?  No  Yes (If yes, describe):

---

---

e. Describe any injuries: \_\_\_\_\_

---

---

f. Did the police come?  No  Yes

If yes, did they give you or the person in ② an Emergency Protective Order?  Yes  No  I don't know  
*Attach a copy if you have one.*

The order protects  you or  the person in ②

**This is not a Court Order.**

**27 Describe Abuse (continued)**

g. **Has the person in 2 abused you (or your child(ren)) other times?**

1. Date of abuse: \_\_\_\_\_

2. Who was there? \_\_\_\_\_

3. Describe how the person in 2 abused you or your child(ren): \_\_\_\_\_

Check here if you need more space. Attach a sheet of paper and write "DV-100, Recent Abuse" for a title.

4. Did the person in 2 use or threaten to use a gun or any other weapon?  No  Yes (If yes, describe): \_\_\_\_\_

5. Describe any injuries: \_\_\_\_\_

6. Did the police come?  No  Yes

If yes, did they give you or the person in 2 an Emergency Protective Order?

Yes  No  I don't know Attach a copy if you have one.

The order protects  you or  the person in 2

If the person in 2 abused you other times, check here  and use [Form DV-101](#), Description of Abuse or describe any previous abuse on an attached sheet of paper and write "DV-100, Previous Abuse" for a title.

**28 Other Persons to Be Protected**

The persons listed in item 3 need an order for protection because (describe): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**29** Number of pages attached to this form, if any: \_\_\_\_\_

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

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

\_\_\_\_\_  
Type or print your name

\_\_\_\_\_  
Sign your name

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

\_\_\_\_\_  
Lawyer's name, if you have one

\_\_\_\_\_  
Lawyer's signature

**This is not a Court Order.**

Clerk stamps date here when form is filed.

**DRAFT**

**NOT APPROVED  
BY THE JUDICIAL COUNCIL**

Person in ① must complete items ①, ②, and ③ only.

Fill in court name and street address:

**Superior Court of California, County of**

Court fills in case number when form is filed.

**Case Number:**

**① Name of Protected Person:**

Your lawyer in this case (if you have one):

Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Firm Name: \_\_\_\_\_

**Address** (If you have a lawyer for this case, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, give a different mailing address instead. You do not have to give your telephone, fax, or e-mail.):

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

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

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

**② Name of Restrained Person:**

**Description of restrained person:**

Sex: <input type="checkbox"/> M <input type="checkbox"/> F	Height: _____	Weight: _____	Hair Color: _____	Eye Color: _____
Race: _____	Age: _____	Date of Birth: _____		
Address (if known): _____				
City: _____	State: _____	Zip: _____		
Relationship to protected person: _____				

**③  Additional Protected Persons**

In addition to the person named in ①, the following persons are protected by temporary orders as indicated in items ⑥ and ⑦ (family or household members):

<u>Full name</u>	<u>Relationship to person in ①</u>	<u>Sex</u>	<u>Age</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Check here if there are additional protected persons. List them on an attached sheet of paper and write, "DV-110, Additional Protected Persons" as a title.

The court will complete the rest of this form.

**④ Court Hearing**

This order expires at the end of the hearing stated below:

Hearing Date: _____	Time: _____	<input type="checkbox"/> a.m. <input type="checkbox"/> p.m.
---------------------	-------------	---

**This is a Court Order.**



**5**  **Criminal Protective Order**

- a.  A criminal protective order on Form CR-160, *Criminal Protective Order—Domestic Violence*, is in effect.  
Case Number: \_\_\_\_\_ County: \_\_\_\_\_ Expiration Date: \_\_\_\_\_
- b.  No information has been provided to the judge about a criminal protective order.

**To the person in 2**

**The court has granted the temporary orders checked below. If you do not obey these orders, you can be arrested and charged with a crime. You may be sent to jail for up to one year, pay a fine of up to \$1,000, or both.**

**6** **Personal Conduct Orders**     **Not requested**     **Denied until the hearing**     **Granted as follows:**

- a. You must **not** do the following things to the person in ① and  persons in ③:
- Harass, attack, strike, threaten, assault (*sexually or otherwise*), hit, follow, stalk, molest, destroy personal property, disturb the peace, keep under surveillance, impersonate (*on the Internet, electronically or otherwise*), or block movements
  - Contact, either directly or indirectly, in any way, including but not limited to, by telephone, mail, e-mail or other electronic means
  - Take any action, directly or through others, to obtain the addresses or locations of the persons in ① and ③. (*If this item is not checked, the court has found good cause not to make this order.*)
- b. Peaceful written contact through a lawyer or process server or another person for service of Form DV-120 (*Response to Request for Domestic Violence Restraining Order*) or other legal papers related to a court case is allowed and does not violate this order.
- c.  Exceptions: Brief and peaceful contact with the person in ①, and peaceful contact with children in ③, as required for court-ordered visitation of children, is allowed unless a criminal protective order says otherwise.

**7** **Stay-Away Order**     **Not requested**     **Denied until the hearing**     **Granted as follows:**

- a. You **must** stay at least (*specify*): \_\_\_\_\_ yards away from (*check all that apply*):
- |  |  |
|--|--|
| <input type="checkbox"/> The person in ①                     | <input type="checkbox"/> School of person in ①               |
| <input type="checkbox"/> The persons in ③                    | <input type="checkbox"/> The children's school or child care |
| <input type="checkbox"/> Home of person in ①                 | <input type="checkbox"/> Other ( <i>specify</i> ): _____     |
| <input type="checkbox"/> The job or workplace of person in ① | _____  |
| <input type="checkbox"/> Vehicle of person in ①              | _____  |
- b.  Exceptions: Brief and peaceful contact with the person in ①, and peaceful contact with children in ③, as required for court-ordered visitation of children, is allowed unless a criminal protective order says otherwise.

**8** **Move-Out Order**     **Not requested**     **Denied until the hearing**     **Granted as follows:**

You must take only personal clothing and belongings needed until the hearing and move out immediately from (*address*): \_\_\_\_\_

**This is a Court Order.**

**9 No Guns or Other Firearms or Ammunition**

- a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get guns, other firearms, or ammunition.
- b. You must:
  - Sell to, or store with, a licensed gun dealer, or turn in to a law enforcement agency, any guns or other firearms within your immediate possession or control. Do so within 24 hours of being served with this order.
  - Within 48 hours of receiving this order, file with the court a receipt that proves guns have been turned in, stored, or sold. (You may use [Form DV-800, Proof of Firearms Turned In, Sold, or Stored](#), for the receipt.) Bring a court filed copy to the hearing.
- c.  The court has received information that you own or possess a firearm.

**10 Record Unlawful Communications**

Not requested  Denied until the hearing  Granted as follows:

The person in ① can record communications made by you that violate the judge’s orders.

**11 Care of Animals**

Not requested  Denied until the hearing  Granted as follows:

The person in ① is given the sole possession, care, and control of the animals listed below. The person in ② must stay at least \_\_\_\_\_ yards away from and not take, sell, transfer, encumber, conceal, molest, attack, strike, threaten, harm, or otherwise dispose of the following animals: \_\_\_\_\_

**12 Child Custody and Visitation**

Not requested  Denied until the hearing  Granted as follows:

Child custody and visitation are ordered on the attached Form DV-140, *Child Custody and Visitation Order* or (*specify other form*): \_\_\_\_\_. The parent with temporary custody of the child must not remove the child from California unless the court allows it after a noticed hearing (Fam. Code, § 3063).

**13 Child Support**

Not ordered now but may be ordered after a noticed hearing.

**14 Property Control**

Not requested  Denied until the hearing  Granted as follows:

Until the hearing, *only* the person in ① can use, control, and possess the following property: \_\_\_\_\_

**15 Transfer of Cell Phone Account**

Not ordered now but may be ordered after a noticed hearing.

**16 Debt Payment**

Not requested  Denied until the hearing  Granted as follows:

The person in ② must make these payments until this order ends:

Pay to: \_\_\_\_\_ For: \_\_\_\_\_ Amount: \$ \_\_\_\_\_ Due date: \_\_\_\_\_  
 Pay to: \_\_\_\_\_ For: \_\_\_\_\_ Amount: \$ \_\_\_\_\_ Due date: \_\_\_\_\_

**This is a Court Order.**



**17 Property Restraint**  Not requested  Denied until the hearing  Granted as follows:

If the people in ① and ② are married to each other or are registered domestic partners,

the person in ①  the person in ② must not transfer, borrow against, sell, hide, or get rid of or destroy any property, including animals, except in the usual course of business or for necessities of life. In addition, each person must notify the other of any new or big expenses and explain them to the court. *(The person in ② cannot contact the person in ① if the court has made a “no contact” order.)*

Peaceful written contact through a lawyer or a process server or other person for service of legal papers related to a court case is allowed and does not violate this order.

**18 Spousal Support**

Not ordered now but may be ordered after a noticed hearing.

**19 Insurance**

The person in ①  the person in ② is ordered NOT to cash, borrow against, cancel, transfer, dispose of, or change the beneficiaries of any insurance or coverage held for the benefit of the parties, or their child(ren), if any, for whom support may be ordered, or both.

**20 Lawyer's Fees and Costs**

Not ordered now but may be ordered after a noticed hearing.

**21 Payments for Costs and Services**

Not ordered now but may be ordered after a noticed hearing.

**22 Batterer Intervention Program**

Not ordered now but may be ordered after a noticed hearing.

**23 Other Orders**  Not requested  Denied until the hearing  Granted as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Check here if there are additional orders. List them on an attached sheet of paper and write “DV-110, Other Orders” as a title.

**24 No Fee to Serve (Notify) Restrained Person**

If the sheriff serves this order, he or she will do so for free.

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

\_\_\_\_\_  
*Judge (or Judicial Officer)*

**This is a Court Order.**





## Warnings and Notices to the Restrained Person in ②

### If You Do Not Obey This Order, You Can Be Arrested, Charged With a Crime, And You May Also Have Immigration Consequences if You Are Not a U.S. Citizen.

- If you do not obey this order, you can go to jail or prison and/or pay a fine.
- It is a felony to take or hide a child in violation of this order.
- If you travel to another state or to tribal lands or make the protected person do so, with the intention of disobeying this order, you can be charged with a federal crime.
- If the court finds that you violated this order and you are NOT a U.S. citizen, you may or will be:
  - Deported;
  - Unable to return lawfully to the U.S.; and
  - Unable to become a U.S. citizen.

### You Cannot Have Guns, Firearms, And/Or Ammunition.



You cannot own, have, possess, buy or try to buy, receive or try to receive, or otherwise get guns, other firearms, and/or ammunition while the order is in effect. If you do, you can go to jail and pay a \$1,000 fine. You must sell to or store with a licensed gun dealer or turn in to a law enforcement agency any guns or other firearms that you have or control. The judge will ask you for proof that you did so. If you do not obey this order, you can be charged with a crime. Federal law says you cannot have guns or ammunition while the order is in effect.

### Service of Order by Mail

If the judge makes a restraining order at the hearing, which has the same orders as in this form, you will get a copy of that order by mail at your last known address, which is written in ②. If this address is incorrect, or to find out if the orders were made permanent, contact the court.

### Child Custody, Visitation, and Support

- **Child custody and visitation:** If you do not go to the hearing, the judge can make custody and visitation orders for your children without hearing from you.
- **Child support:** The judge can order child support based on the income of both parents. The judge can also have that support taken directly from a parent's paycheck. Child support can be a lot of money, and usually you have to pay until the child is age 18. File and serve a *Financial Statement (Simplified)* (Form FL-155) or an *Income and Expense Declaration* (Form FL-150) if you want the judge to have information about your finances. Otherwise, the court may make support orders without hearing from you.
- **Spousal support:** File and serve an *Income and Expense Declaration* (Form FL-150) so the judge will have information about your finances. Otherwise, the court may make support orders without hearing from you.

## Instructions for Law Enforcement

This order is effective when made. It is enforceable by any law enforcement agency that has received the order, is shown a copy of the order, or has verified its existence on the California Law Enforcement Telecommunications System (CLETS). If the law enforcement agency has not received proof of service on the restrained person, and the restrained person was not present at the court hearing, the agency shall advise the restrained person of the terms of the order and then shall enforce it. Violations of this order are subject to criminal penalties.

**This is a Court Order.**



**Arrest Required if Order Is Violated**

If an officer has probable cause to believe that the restrained person had notice of the order and has disobeyed the order, the officer must arrest the restrained person. (Pen. Code, §§ 836(c)(1), 13701(b).) A violation of the order may be a violation of Penal Code section 166 or 273.6.

**If the Protected Person Contacts the Restrained Person**

Even if the protected person invites or consents to contact with the restrained person, the orders remain in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The orders can be changed only by another court order. (Pen. Code, § 13710(b).)

**Conflicting Orders—Priorities for Enforcement**

**If more than one restraining order has been issued protecting the protected person from the restrained person, the orders must be enforced according to the following priorities (see Pen. Code, § 136.2, and Fam. Code, §§ 6383(h), 6405(b)):**

1. *EPO*: If one of the orders is an *Emergency Protective Order* (Form EPO-001), and it is more restrictive than other restraining or protective orders, it has precedence in enforcement over all other orders.
2. *No-Contact Order*: If there is no EPO, a no-contact order that is included in a restraining or protective order has precedence in enforcement over any other restraining or protective order.
3. *Criminal Order*: If none of the orders includes a no-contact order, a domestic violence protective order issued in a criminal case takes precedence in enforcement over any conflicting civil court order. Any nonconflicting terms of the civil restraining order remain in effect and enforceable.
4. *Family, Juvenile, or Civil Order*: If more than one family, juvenile, or other civil restraining or protective order has been issued, the one that was issued last must be enforced.

**Child Custody and Visitation**

- The custody and visitation orders are on Form DV-140, items ③ and ④. They are sometimes also written on additional pages or referenced in DV-140 or other orders that are not part of the restraining order.
- **Forms DV-100 and DV-105 are not orders. Do not enforce them.**

**Certificate of Compliance With VAWA**

This temporary protective order meets all “full faith and credit” requirements of the Violence Against Women Act, 18 U.S.C. § 2265 (1994) (VAWA), upon notice of the restrained person. This court has jurisdiction over the parties and the subject matter; the restrained person has been or will be afforded notice and a timely opportunity to be heard as provided by the laws of this jurisdiction. **This order is valid and entitled to enforcement in each jurisdiction throughout the 50 states of the United States, the District of Columbia, all tribal lands, and all U.S. territories, commonwealths, and possessions and shall be enforced as if it were an order of that jurisdiction.**

(Clerk will fill out this part.)

**—Clerk's Certificate—**

Clerk's Certificate  
[seal]

I certify that this *Temporary Restraining Order* is a true and correct copy of the original on file in the court.

Date: \_\_\_\_\_ Clerk, by \_\_\_\_\_, Deputy

**This is a Court Order.**

Clerk stamps date here when form is filed.

DRAFT

NOT APPROVED BY THE JUDICIAL COUNCIL

Fill in court name and street address:

Superior Court of California, County of

Fill in case number:

Case Number:

1 Name of Person Asking for Protection:

(See Form DV-100, item 1):

2 Your Name:

Your lawyer in this case (if you have one):

Name: State Bar No.:

Firm Name:

Address (If you have a lawyer for this case, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, give a different mailing address instead. You do not have to give your telephone, fax, or e-mail.):

Address:

City: State: Zip:

Telephone: Fax:

E-Mail Address:

3 Use this form to respond to the Request for Domestic Violence Restraining Order (Form DV-100).

- Fill out this form and take it to the court clerk.
Have the person in 1 served by mail with a copy of this form and any attached pages.
For more information, read Form DV-120-INFO, How Can I Respond to a Request for Domestic Violence Restraining Order?
Notice: This form is for a response to a restraining order request.

The judge will consider your Response at the hearing.

Write your hearing date, time, and place from Form DV-109, Notice of Court Hearing, item 3, here:

Hearing Date -> Date: Time: Dept.: Room:

You must obey the orders in Form DV-110, Temporary Restraining Order, until the hearing. At the hearing, the court may make restraining orders against you that could last up to five years and could be renewed.

4 Relationship to Person Asking for Protection

- I agree to the relationship listed in item 4 on Form DV-100.
I do not agree that the other party and I have or had the relationship listed in item 4 on Form DV-100. (Specify your reasons in item 25, page 4, of this form.)

5 Other Protected People

- I agree to the order requested.
I do not agree to the order requested. (Specify your reasons in item 25, page 4, of this form.)

6 Personal Conduct Orders

- I agree to the orders requested.
I do not agree to the orders requested. (Specify your reasons in item 25, page 4, of this form.)

This is not a Court Order.



**7**  **Stay-Away Order**

- a.  I agree to the order requested.
- b.  I do not agree to the order requested. *(Specify your reasons in item 25, page 4, of this form.)*

**8**  **Move-Out Order**

- a.  I agree to the order requested.
- b.  I do not agree to the order requested. *(Specify your reasons in item 25, page 4, of this form.)*

**9**  **Guns or Other Firearms or Ammunition**

*If you were served with Form DV-110, Temporary Restraining Order, you must turn in any guns or firearms in your immediate possession or control. You must file a receipt with the court from a law enforcement agency or a licensed gun dealer within 48 hours after you received Form DV-110.*

- a.  I do not own or have any guns or firearms.
- b.  I ask for an exemption from the firearms prohibition under Family Code section 6389(h) because *(specify):* \_\_\_\_\_
- c.  I have turned in my guns and firearms to law enforcement or sold them to, or stored them with, a licensed gun dealer. A copy of the receipt showing that I turned in, sold, or stored my firearms *(check all that apply):*
- is attached       has already been filed with the court.

**10**  **Record Unlawful Communications**

- a.  I agree to the order requested.
- b.  I do not agree to the order requested. *(Specify your reasons in item 25, page 4, of this form.)*

**11**  **Care of Animals**

- a.  I agree to the order requested.
- b.  I do not agree to the order requested. *(Specify your reasons in item 25, page 4, of this form.)*

**12**  **Child Custody and Visitation**

- a.  I agree to the order requested.
- b.  I do not agree to the order requested. *(Specify your reasons in item 25, page 4, of this form.)*
- c.  I am not the parent of the child listed in Form DV-105, *Request for Child Custody and Visitation Orders*.
- d.  I ask for the following custody order *(specify):* \_\_\_\_\_
- e.  I do  I do not agree to the orders requested to limit the child's travel as listed in Form DV-108, *Request for Order: No Travel with Children*.

*You and the other parent may tell the court that you want to be legal parents of the children (use Form DV-180, Agreement and Judgment of Parentage).*

**13**  **Child Support** *(Check all that apply):*

- a.  I agree to the order requested.
- b.  I do not agree to the order requested. *(Specify your reasons in item 25, page 4, of this form.)*
- c.  I agree to pay guideline child support.

*Whether or not you agree to pay support, you must fill out, serve, and file Form FL-150, Income and Expense Declaration, or FL-155, Financial Statement (Simplified).*

**This is not a Court Order.**



- 14**  **Property Control**
- a.  I agree to the order requested.
- b.  I do not agree to the order requested. *(Specify your reasons in item 25, page 4, of this form.)*

- 15**  **Transfer of Cell Phone Account**
- a.  I agree to the order requested.
- b.  I do not agree to the order requested. *(Specify your reasons in item 25, page 4, of this form.)*

- 16**  **Debt Payment**
- a.  I agree to the order requested.
- b.  I do not agree to the order requested. *(Specify your reasons in item 25, page 4, of this form.)*

- 17**  **Property Restraint**
- a.  I agree to the order requested.
- b.  I do not agree to the order requested. *(Specify your reasons in item 25, page 4, of this form.)*

- 18**  **Spousal Support**
- a.  I agree to the order requested.
- b.  I do not agree to the order requested. *(Specify your reasons in item 25, page 4, of this form.)*
- Whether or not you agree, you must fill out, serve, and file Form FL-150, Income and Expense Declaration.*

- 19**  **Insurance**
- a.  I agree to the order requested.
- b.  I do not agree to the order requested. *(Specify your reasons in item 25, page 4, of this form.)*

- 20**  **Lawyer's Fees and Costs**
- a.  I agree to the order requested.
- b.  I do not agree to the order requested. *(Specify your reasons in item 25, page 4, of this form.)*
- c.  I request the court to order payment of my lawyer's fees and costs.
- Whether or not you agree, you must fill out, serve, and file Form FL-150, Income and Expense Declaration.*

- 21**  **Payments for Costs and Services**
- a.  I agree to the order requested.
- b.  I do not agree to the order requested. *(Specify your reasons in item 25, page 4, of this form.)*

- 22**  **Batterer Intervention Program**
- a.  I agree to the order requested.
- b.  I do not agree to the order requested. *(Specify your reasons in item 25, page 4, of this form.)*

- 23**  **Other Orders** *(see item 22 on Form DV-100)*
- a.  I agree to the order requested.
- b.  I do not agree to the order requested. *(Specify your reasons in item 25, page 4, of this form.)*

**This is not a Court Order.**





**DV-120-INFO** **How Can I Respond to a Request for Domestic Violence Restraining Order?****What is a Domestic Violence Restraining Order?**

It is a court order that helps protect people who have been abused or threatened with abuse.

**What are the legal requirements?**

A Domestic Violence Restraining Order is available if:

- A person has been abused or threatened with abuse, and
- The person who was abused has a certain relationship with the person who did the abuse (married, divorced, separated, registered domestic partnership, have a child together, dating or used to date, live together or used to live together as more than just roommates), or are closely related (mother or mother-in-law, father or father-in-law, child or stepchild, grandparent or grandparent-in-law, grandchild or grandchild-in-law, sister or sister-in-law, brother or brother-in-law, stepparent, daughter-in-law or son-in-law). (See Fam. Code, § 6211).

**What is abuse?**

Abuse means to intentionally or recklessly cause or attempt to cause bodily injury to the protected person; or sexually assault the protected person; or to place the protected person or another person in reasonable fear of imminent serious bodily injury; or to molest, attack, hit, stalk, threaten, batter, harass, telephone, or contact the protected person; or to disturb the protected person's peace; or to destroy the protected person's personal property. Abuse can be spoken, written, or physical.

**What if the legal requirements are not met?**

There are other kinds of orders that might apply:

- Civil harassment order (can be used for neighbors, roommates, cousins, uncles, and aunts)
- Dependent adult or elder abuse restraining order
- Workplace violence order

**What can a restraining order do?**

The court can order the restrained person to:

- Not contact or harm the protected person, including children listed as protected people
- Stay away from all protected people
- Not have any guns or ammunition
- Move out of the house
- Follow child custody and visitation orders
- Pay child support
- Pay spousal support
- Obey property orders

**How do I tell my side of the story?**

File Form DV-120, *Response to Request for Domestic Violence Restraining Order*, before the hearing date. Also, have someone mail it to the person who asked for the order or to the person's lawyer. This is "Service." The person who mails it must fill out and sign a *Proof of Service by Mail* (Form DV-250). File the *Proof of Service* with the court clerk. Keep a copy. Then, bring a copy of your response on Form DV-120, and the filed *Proof of Service* (Form DV-250), to the hearing.

**What if I also have criminal charges against me?**

See a lawyer. Anything you say or write, including in this case, can be used against you in your criminal case.



# DV-120-INFO How Can I Respond to a Request for Domestic Violence Restraining Order?

## How long does the order last?

If the court makes a temporary restraining order, it will last until the hearing date. At that time, the judge will decide to continue or cancel the order. The restraining order can last for up to five years. Custody, visitation, child support, and spousal support orders can last longer than five years, and they do not end when the restraining order ends.

## Is there a cost to file my Response (Form DV-120)?

No.

## What if I have a gun or ammunition?

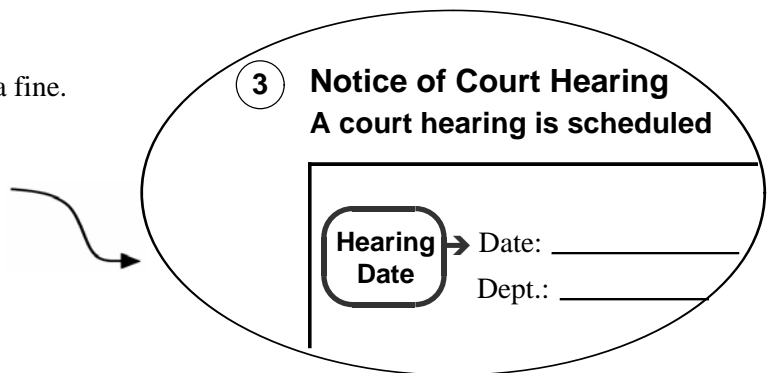
If a restraining order is issued, you cannot own, possess, or have a gun, other firearm, or ammunition while it is in effect. If you have a gun or other firearm in your immediate possession or control, you must sell it to, or store it with, a licensed gun dealer, or turn it in to a law enforcement agency. Read Form DV-800-INFO, *How Do I Turn In, Sell, or Store My Firearms?*

## What if I don't obey the court order?

The police can arrest you. You can go to jail and/or pay a fine.

## Should I go to the court hearing?

If you do not go to court, the judge can make the orders without hearing from you. If you object to the orders being made, go to court on the hearing date listed on page 1 of Form DV-109, *Notice of Court Hearing*.



## What if the person seeking protection contacts me?

No matter what, you have to follow the court order. The order says only what you can do or cannot do.

## Will I see the person seeking protection at the court hearing?

If the protected person comes to the hearing, you will see him or her. Do not talk to the protected person unless the judge or that person's lawyer says you can.

## Do I need a lawyer?

Having a lawyer is always a good idea, especially if you have children, but it is not required. You are not entitled to a free court-appointed lawyer. Ask the clerk how to find free or low-cost legal services and self-help centers in your county. You can also go to the Family Law Facilitator for help with child support.

## Can I bring a witness or other document to the court hearing?

Yes. You can bring witnesses or documents that support your case to the hearing. The judge may or may not let a witness speak at the hearing. So you should also bring copies of the witnesses' written statements of what they saw or heard, signed under penalty of perjury, and provide the other party and the judge with a copy. Your witness can use Form MC-030, *Declaration*, to write a statement.

## If we agree, can the person seeking protection and I cancel the order?

No. Once the order is issued, only the judge can change or cancel it.





# DV-120-INFO How Can I Respond to a Request for Domestic Violence Restraining Order?

## What if I do not speak English?

When you file your papers, ask the clerk if a court interpreter is available. If an interpreter is not available for your court date, bring someone to interpret for you. Do not ask a child, a witness, or anyone to be protected by the order to interpret for you.

## What if I do not have a Green Card or U.S. Citizenship?

The order is valid even if you are not a U.S. citizen or lawful permanent resident (Green Card holder). If you are worried about your immigration status, talk to an immigration lawyer.

## Can I use the restraining order to get divorced or terminate a registered domestic partnership?

No. These forms will not end your marriage or registered domestic partnership. You must file other forms to end your marriage or registered domestic partnership. The court staff can tell you where to get legal help.

## What if I have children with the person to be protected?

The judge can make temporary orders for child custody and visitation. If the judge makes a temporary order for child custody, the parent with custody may not remove the child from California before notice to the other parent and a court hearing. Read the order for any other limits. There are some exceptions. Ask a lawyer.

## What if I want to leave the county or state?

You must still comply with the restraining order. The restraining order is valid anywhere in the United States.

## What if I am deaf or hard of hearing?



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

## What if I want a restraining order against the other person?

In order for the court to grant a restraining order, the court must find that the legal requirements are met (see page 1 of this form). If the court finds that both parties have been abused by the other party the court can grant restraining orders protecting both parties from the other, also called mutual restraining orders, but ONLY if:

- 1) Both people are in court at the hearing;
- 2) Each person gives the court written evidence of abuse or domestic violence on Form DV-100; and,
- 3) The judge finds that neither party acted primarily in self-defense and both acted as "primary aggressors."

For more information on how to ask your own restraining order read Form DV-505-INFO (*How Do I Ask For a Temporary Restraining Order?*).

## What if I am a victim of domestic violence?

Ask the court clerk about free or low-cost legal help. For a referral to a local domestic violence or legal assistance program, call the National Domestic Violence Hotline:

**1-800-799-7233**

**TDD: 1-800-787-3224**

It's free and private.

They can help you in more than 100 languages.

### For help in your area, contact:

[Local information may be inserted]

Clerk stamps date here when form is filed.

Original Order Amended Order

DRAFT -

NOT APPROVED BY THE JUDICIAL COUNCIL

Fill in court name and street address:

Superior Court of California, County of

Clerk fills in case number when form is filed.

Case Number:

1 Name of Protected Person:

Your lawyer in this case (if you have one):

Name: State Bar No.:

Firm Name:

Address (If you have a lawyer for this case, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, give a different mailing address instead. You do not have to give your telephone, fax, or e-mail.):

Address:

City: State: Zip:

Telephone: Fax:

E-Mail Address:

2 Name of Restrained Person:

Description of restrained person:

Sex: M F Height: Weight: Hair Color: Eye Color:

Race: Age: Date of Birth:

Mailing Address (if known):

City: State: Zip:

Relationship to protected person:

3 Additional Protected Persons

In addition to the person named in 1, the following persons are protected by orders as indicated in items 6 and 7 (family or household members):

Table with 4 columns: Full name, Relationship to person in 1, Sex, Age

Check here if there are additional protected persons. List them on an attached sheet of paper and write, "DV-130, Additional Protected Persons," as a title.

4 Expiration Date

The orders, except as noted below, end on

(date): at (time): a.m. p.m. or midnight

- If no date is written, the restraining order ends three years after the date of the hearing in item 5(a).
If no time is written, the restraining order ends at midnight on the expiration date.
Note: Custody, visitation, child support, and spousal support orders remain in effect after the restraining order ends.
The court orders are on pages 2, 3, 4, and 5 and attachment pages (if any).

This order complies with VAWA and shall be enforced throughout the United States. See page 5.

This is a Court Order.



**5 Hearings**

- a. The hearing was on (date): \_\_\_\_\_ with (name of judicial officer): \_\_\_\_\_
- b. These people were at the hearing (check all that apply):
  - The person in ①       The lawyer for the person in ①(name): \_\_\_\_\_
  - The person in ②       The lawyer for the person in ②(name): \_\_\_\_\_
- c. The people in ① and ② must **return to Dept.** \_\_\_\_\_ **of the court** on (date): \_\_\_\_\_  
 at (time): \_\_\_\_\_  a.m.    p.m. to review (specify issues): \_\_\_\_\_

**To the person in ② :**

The court has granted the orders checked below. Item ⑨ is also an order. If you do not obey these orders, you can be arrested and charged with a crime. You may be sent to jail for up to one year, pay a fine of up to \$1,000, or both.

**6 Personal Conduct Orders**

- a. The person in ② must **not** do the following things to the protected people in ① and ③:
  - Harass, attack, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy personal property, disturb the peace, keep under surveillance, impersonate (on the Internet, electronically or otherwise), or block movements.
  - Contact, either directly or indirectly, by any means, including, but not limited to, by telephone, mail, e-mail, or other electronic means.
  - Take any action, directly or through others, to obtain the addresses or locations of any protected persons. (If this item is not checked, the court has found good cause not to make this order.)
- b. Peaceful written contact through a lawyer or process server or another person for service of legal papers related to a court case is allowed and does not violate this order.
- c.  Exceptions: Brief and peaceful contact with the person in ①, and peaceful contact with children in ③, as required for court-ordered visitation of children, is allowed unless a criminal protective order says otherwise.

**7 Stay-Away Order**

- a. The person in ② **must** stay at least (specify): \_\_\_\_\_ yards away from (check all that apply):
  - The person in ①       School of person in ①
  - The persons in ③       The child(ren)'s school or child care
  - Home of person in ①       Other (specify): \_\_\_\_\_
  - The job or workplace of person in ①      \_\_\_\_\_
  - Vehicle of person in ①      \_\_\_\_\_
- b.  Exceptions: Brief and peaceful contact with the person in ①, and peaceful contact with children in ③, as required for court-ordered visitation of children, is allowed unless a criminal protective order says otherwise.

**8 Move-Out Order**

The person in ② must move out immediately from (address): \_\_\_\_\_

**9 No Guns or Other Firearms or Ammunition**

- a. The person in ② cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get guns, other firearms, or ammunition.

**This is a Court Order.**

- 9 b. The person in ② must:
- Sell to, or store with, a licensed gun dealer, or turn in to a law enforcement agency, any guns or other firearms within his or her immediate possession or control. Do so within 24 hours of being served with this order.
  - Within 48 hours of receiving this order, file with the court a receipt that proves guns have been turned in, sold, or stored. ([Form DV-800](#), *Proof of Firearms Turned In, Sold, or Stored*, may be used for the receipt.) Bring a court filed copy to the hearing.
- c.  The court has received information that the person in ② owns or possesses a firearm.
- d.  The court has made the necessary findings and applies the firearm relinquishment exemption under Family Code section 6389(h). Under California law, the person in ② is not required to relinquish this firearm (*specify make, model, and serial number of firearm*): \_\_\_\_\_  
 The firearm must be in his or her physical possession only during scheduled work hours and during travel to and from his or her place of employment. Even if exempt under California law, the person in ② may be subject to federal prosecution for possessing or controlling a firearm.

10  **Record Unlawful Communications**  
 The person in ① has the right to record communications made by the person in ② that violate the judge’s orders.

11  **Care of Animals**  
 The person in ① is given the sole possession, care, and control of the animals listed below. The person in ② must stay at least \_\_\_\_\_ yards away from and not take, sell, transfer, encumber, conceal, molest, attack, strike, threaten, harm, or otherwise dispose of the following animals: \_\_\_\_\_

12  **Child Custody and Visitation**  
 Child custody and visitation are ordered on the attached Form DV-140, *Child Custody and Visitation Order* or (*specify other form*): \_\_\_\_\_

13  **Child Support**  
 Child support is ordered on the attached Form FL-342, *Child Support Information and Order Attachment* or (*specify other form*): \_\_\_\_\_

14  **Property Control**  
 Only the person in ① can use, control, and possess the following property: \_\_\_\_\_

15  **Transfer of Cell Phone Account**  
 The court has made an order transferring one or more wireless service accounts from the person in ② to the person in ①. These orders are contained in a separate order (Form DV-900).

16  **Debt Payment**  
 The person in ② must make these payments until this order ends:

Pay to: _____	For: _____	Amount: \$ _____	Due date: _____
Pay to: _____	For: _____	Amount: \$ _____	Due date: _____
Pay to: _____	For: _____	Amount: \$ _____	Due date: _____

Check here if more payments are ordered. List them on an attached sheet of paper and write “DV-130, Debt Payments” as a title.

**This is a Court Order.**



**17**  **Property Restraint**

The  person in **1**  person in **2** must not transfer, borrow against, sell, hide, or get rid of or destroy any property, including animals, except in the usual course of business or for necessities of life. In addition, the person must notify the other of any new or big expenses and explain them to the court. *(The person in **2** cannot contact the person in **1** if the court has made a “No-Contact” order.)*

Peaceful written contact through a lawyer or a process server or other person for service of legal papers related to a court case is allowed and does not violate this order.

**18**  **Spousal Support**

Spousal support is ordered on the attached Form FL-343, *Spousal, Partner, or Family Support Order Attachment* or *(specify other form)*: \_\_\_\_\_

**19**  **Insurance**

The person in **1**  the person in **2** is ordered NOT to cash, borrow against, cancel, transfer, dispose of, or change the beneficiaries of any insurance or coverage held for the benefit of the parties, or their child(ren), if any, for whom support may be ordered, or both.

**20**  **Lawyer's Fees and Costs**

The person in **2** must pay the following lawyer’s fees and costs:

Pay to: \_\_\_\_\_ For: \_\_\_\_\_ Amount: \$ \_\_\_\_\_ Due date: \_\_\_\_\_  
Pay to: \_\_\_\_\_ For: \_\_\_\_\_ Amount: \$ \_\_\_\_\_ Due date: \_\_\_\_\_

**21**  **Payments for Costs and Services**

The person in **2** must pay the following:

Pay to: \_\_\_\_\_ For: \_\_\_\_\_ Amount: \$ \_\_\_\_\_ Due date: \_\_\_\_\_  
Pay to: \_\_\_\_\_ For: \_\_\_\_\_ Amount: \$ \_\_\_\_\_ Due date: \_\_\_\_\_  
Pay to: \_\_\_\_\_ For: \_\_\_\_\_ Amount: \$ \_\_\_\_\_ Due date: \_\_\_\_\_

*Check here if more payments are ordered. List them on an attached sheet of paper and write “DV-130, Payments for Costs and Services” as a title.*

**22**  **Batterer Intervention Program**

The person in **2** must go to and pay for a 52-week batterer intervention program and show written proof of completion to the court. This program must be approved by the probation department.

**23**  **Other Orders**

Other orders *(specify)*: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**24** **No Fee to Serve (Notify) Restrained Person**

If the sheriff or marshal serves this order, he or she will do it for free.

**This is a Court Order.**



**25 Service**

- a.  The people in ① and ② were at the hearing or agreed in writing to this order. No other proof of service is needed.
- b.  The person in ① was at the hearing on the request for original orders. The person in ② was not present.
  - (1)  Proof of service of Form DV-109 and Form DV-110 (if issued) was presented to the court. The judge’s orders in this form are the same as in Form DV-110 except for the end date. The person in ② must be served. This order can be served by mail.
  - (2)  Proof of service of Form DV-109 and Form DV-110 (if issued) was presented to the court. The judge’s orders in this form are different from the orders in Form DV-110, or Form DV-110 was not issued. The person in ② must be personally “served” (given) a copy of this order.
- c.  Proof of service of Form FL-300 to modify the orders in Form DV-130 was presented to the court.
  - (1)  The people in ① and ② were at the hearing or agreed in writing to this order. No other proof of service is needed.
  - (2)  The person in  ①  ② was not at the hearing and must be personally “served” (given) a copy of this amended order.

**26 Criminal Protective Order**

- a.  Form CR-160, *Criminal Protective Order—Domestic Violence*, is in effect.  
Case Number: \_\_\_\_\_ County: \_\_\_\_\_ Expiration Date: \_\_\_\_\_
- b.  Other Criminal Protective Order in effect (*specify*): \_\_\_\_\_  
Case Number: \_\_\_\_\_ County: \_\_\_\_\_ Expiration Date: \_\_\_\_\_  
*(List other orders on an attached sheet of paper. Write “DV-130, Other Criminal Protective Orders” as a title.)*
- c.  No information has been provided to the judge about a criminal protective order.

**27 Attached pages are orders.**

- Number of pages attached to this six-page form: \_\_\_\_\_
- All of the attached pages are part of this order.
- Attachments include (*check all that apply*):
  - DV-140    DV-145    DV-150    FL-342    FL-343
  - Other (*specify*): \_\_\_\_\_

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

\_\_\_\_\_  
*Judge (or Judicial Officer)*

**Certificate of Compliance With VAWA**

This restraining (protective) order meets all “full faith and credit” requirements of the Violence Against Women Act, 18 U.S.C. § 2265 (1994) (VAWA) upon notice of the restrained person. This court has jurisdiction over the parties and the subject matter; the restrained person has been or will be afforded notice and a timely opportunity to be heard as provided by the laws of this jurisdiction. **This order is valid and entitled to enforcement in each jurisdiction throughout the 50 states of the United States, the District of Columbia, all tribal lands, and all U.S. territories, commonwealths, and possessions and shall be enforced as if it were an order of that jurisdiction.**

**This is a Court Order.**



**Warnings and Notices to the Restrained Person in ②****If You Do Not Obey This Order, You Can Be Arrested, Charged With a Crime, And You May Also Have Immigration Consequences if You Are Not a U.S. Citizen.**

- If you do not obey this order, you can go to jail or prison and/or pay a fine.
- It is a felony to take or hide a child in violation of this order.
- If you travel to another state or to tribal lands or make the protected person do so, with the intention of disobeying this order, you can be charged with a federal crime.
- If the court finds that you violated this order and you are NOT a U.S. citizen, you may or will be:
  - Deported;
  - Unable to return lawfully to the U.S.; and
  - Unable to become a U.S. citizen.

**You cannot have guns, firearms, and/or ammunition.**

**You cannot own, have, possess, buy or try to buy, receive or try to receive, or otherwise get guns, other firearms, and/or ammunition while the order is in effect. If you do, you can go to jail and pay a \$1,000 fine. Unless the court grants an exemption, you must sell to, or store with, a licensed gun dealer, or turn in to a law enforcement agency, any guns or other firearms that you have or control. The judge will ask you for proof that you did so. If you do not obey this order, you can be charged with a crime. Federal law says you cannot have guns or ammunition while the order is in effect. Even if exempt under California law, you may be subject to federal prosecution for possessing or controlling a firearm.**

**Instructions for Law Enforcement****Start Date and End Date of Orders**

The orders *start* on the earlier of the following dates:

- The hearing date in item ⑤ (a) on page 2, or
- The date next to the judge's signature on this page.

The orders *end* on the expiration date in item ④ on page 1. If no date is listed, they end three years from the hearing date.

**Arrest Required if Order Is Violated**

If an officer has probable cause to believe that the restrained person had notice of the order and has disobeyed the order, the officer must arrest the restrained person. (Pen. Code, §§ 836(c)(1), 13701(b).) A violation of the order may be a violation of Penal Code section 166 or 273.6.

**Notice/Proof of Service**

Law enforcement must first determine if the restrained person had notice of the orders. If notice cannot be verified, the restrained person must be advised of the terms of the orders. If the restrained person then fails to obey the orders, the officer must enforce them. (Fam. Code, § 6383.)

Consider the restrained person "served" (notified) if:

- The officer sees a copy of the *Proof of Service* or confirms that the *Proof of Service* is on file; or
- The restrained person was at the restraining order hearing or was informed of the order by an officer. (Fam. Code, § 6383; Pen. Code, § 836(c)(2).) An officer can obtain information about the contents of the order in the Domestic Violence Restraining Order System (DVROS). (Fam. Code, § 6381(b)-(c).)

**This is a Court Order.**

### If the Protected Person Contacts the Restrained Person

Even if the protected person invites or consents to contact with the restrained person, the orders remain in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The orders can be changed only by another court order. (Pen. Code, § 13710(b).)

### Child Custody and Visitation

The custody and visitation orders are on Form DV-140, items ③ and ④. They are sometimes also written on additional pages or referenced in DV-140 or other orders that are not part of the restraining order.

### Enforcing the Restraining Order in California

Any law enforcement officer in California who receives, sees, or verifies the orders on a paper copy, in the California Law Enforcement Telecommunications System (CLETS), or in an NCIC Protection Order File must enforce the orders.

### Conflicting Orders—Priorities for Enforcement

**If more than one restraining order has been issued protecting the protected person from the restrained person, the orders must be enforced in the following priority (see Pen. Code, § 136.2 and Fam. Code, §§ 6383(h)(2), 6405(b)):**

1. *EPO*: If one of the orders is an *Emergency Protective Order* (Form EPO-001) and it is more restrictive than other restraining or protective orders, it has precedence in enforcement over all other orders.
2. *No-Contact Order*: If there is no EPO, a no-contact order that is included in a restraining or protective order has precedence in enforcement over any other restraining or protective order.
3. *Criminal Order*: If none of the orders includes a no-contact order, a domestic violence protective order issued in a criminal case takes precedence in enforcement over any conflicting civil court order. Any nonconflicting terms of the civil restraining order remain in effect and enforceable.
4. *Family, Juvenile, or Civil Order*: If more than one family, juvenile, or other civil restraining or protective order has been issued, the one that was issued last must be enforced.

(Clerk will fill out this part.)

#### —Clerk's Certificate—

Clerk's Certificate  
[seal]

I certify that this *Restraining Order After Hearing (Order of Protection)* is a true and correct copy of the original on file in the court.

Date: \_\_\_\_\_ Clerk, by \_\_\_\_\_, Deputy

**This is a Court Order.**



Clerk stamps date here when form is filed.

**DRAFT**  
**NOT APPROVED  
BY THE JUDICIAL  
COUNCIL**

Fill in court name and street address:

**Superior Court of California, County of**

Court fills in case number when form is filed.

**Case Number:**

**1 Protected Person**

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

**2 Restrained Person**

a. Your Name: \_\_\_\_\_

Your Lawyer (if you have one for this case): \_\_\_\_\_

Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Firm Name: \_\_\_\_\_

b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or e-mail.):

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

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

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

**3 To the Restrained Person:**

If the court has ordered you to complete a 52-week batterer intervention program, you may use this form to prove to the court that you have obeyed its orders. After the order is made, you must enroll in a program by the date ordered by the judge. If the judge did not order you to enroll by a certain date, then you must enroll no later than 30 days after the judge made the order.

**4 Batterer Intervention Program**

a.  I have enrolled in a batterer intervention program:

Name of provider: \_\_\_\_\_

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

Telephone number: \_\_\_\_\_

b.  This program has been approved by the probation department.

c.  I have signed all necessary forms with the program, allowing the program to release proof of enrollment, attendance records, and completion or termination reports to the court and the protected party, or his or her attorney.

d.  My first class is/was:

e.  Other (list any other order made by the court that you have completed):

\_\_\_\_\_  
\_\_\_\_\_

f.  You must provide the protected party with the information listed in ①. You can do so by mailing the protected party a copy of this form.

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

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

\_\_\_\_\_  
Type or print your name



\_\_\_\_\_  
Sign your name

Clerk stamps date here when form is filed.

DRAFT
NOT APPROVED BY THE JUDICIAL COUNCIL

1 Name of Protected Person:

2 Name of Restrained Person:

Lawyer for Restrained Person (if applicable):
Name: State Bar No.:
Address (Address of lawyer or address of restrained person. Do not provide an address that should be kept private.):

City: State: Zip:
Telephone: Fax:
E-mail Address:

Fill in court name and street address:

Superior Court of California, County of

3 Batterer Intervention Program (items 3 through 5 must be completed by the program)

a. Name of Program:
Address:
City: State: Zip:
Telephone:
Report date: Intake date: Class start date:

Court fills in case number when form is filed.

Case Number:

b. This 52-week program is approved by the probation department under Penal Code section 1203.097.

TO PROGRAM STAFF: If you choose to provide another report that contains all the information in 4, skip to 5 and attach you report. Do not forget to provide your name, signature and date at the end of this form.

4 Program Attendance and Progress

a. Number of sessions completed: Number of sessions missed:
Of the sessions missed, how many excused?

b. The person in 2 is participating and expected to finish by (date):

c. The person in 2 successfully completed on (date):

d. The person in 2 was terminated from the program on (date), for the following reason (explain):

5 Optional Report

The attached report includes all information required under California Family code section 6343.

NOTICE TO PROGRAM PROVIDER

This form should NOT be used to disclose information that is protected under state and federal laws without appropriate written authorization from the person in 2 (example: medical information)

The above information is true and correct to the best of my knowledge.

Date:

(TYPE OR PRINT NAME AND TITLE)



(Signature of program staff)

*Clerk stamps date here when form is filed.*

**TO THE CELL PHONE SERVICE PROVIDER:** This order is made under California Family Code section 6347. This order applies to the following cell phone service provider:

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

Address (*see service provider's agent for service of process listed with Secretary of State*):  
 \_\_\_\_\_

The **current account holder** to the telephone number(s) listed in item ① is:  
 Name: \_\_\_\_\_

Billing account telephone number: \_\_\_\_\_

**DRAFT****NOT APPROVED  
BY THE JUDICIAL  
COUNCIL***Fill in court name and street address:***Superior Court of California, County of**  
 \_\_\_\_\_

**THE COURT ORDERS THE FOLLOWING:  
 TRANSFER OF RIGHTS AND RESPONSIBILITIES**

*Fills in case number:***Case Number:**  
 \_\_\_\_\_

① **This order applies to the following cell phone number(s):**

Telephone number (*include area code*): \_\_\_\_\_

Telephone number (*include area code*): \_\_\_\_\_

Telephone number (*include area code*): \_\_\_\_\_

Telephone number (*include area code*): \_\_\_\_\_

Telephone number (*include area code*): \_\_\_\_\_

Check box to include attachment with additional telephone number(s).

② All rights and responsibilities for the accounts listed in ①, including all financial responsibility for the telephone numbers, monthly service costs, and costs for any mobile device associated with the telephone numbers, must be transferred to:

**(Name of new account holder):** \_\_\_\_\_, effective (specify date): \_\_\_\_\_

The new account holder's information is contained on the attached confidential form.

③ The requesting party must send this order to the cell phone service provider listed above.

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

\_\_\_\_\_  
*Judicial Officer*

**This is a Court Order.**

Case Number:

---

### INSTRUCTIONS FOR CELL PHONE SERVICE PROVIDER

The orders contained on page 1 of this form must be performed unless the cell phone service provider (provider) cannot operationally or technically effectuate the order due to certain circumstances, including, but not limited to, any of the following:

- When the current account holder has already terminated the account;
- When differences in network technology prevent the functionality of a device on the network; and
- When there are geographic or other limitations on network or service availability

If the provider determines that transfer CANNOT occur, then the provider MUST notify the person in ② within 72 hours of receipt of this order (California Family Code section 6347).

**This is a Court Order.**

Your name: \_\_\_\_\_

Case Number: \_\_\_\_\_

**ATTACHMENT TO  
ORDER TRANSFERRING CELL PHONE ACCOUNT (form DV-900)**

**Confidential Information**

**DO NOT FILE THIS FORM WITH THE COURT**

**ATTENTION PROTECTED PERSON:** This form should not be filed with the court. Complete this form and send it to the cell phone service provider (*service provider*). You must also send a copy of the order (Form DV-900) with this form.

**To be completed by Protected Person:**

① Your name (*New account holder*): \_\_\_\_\_

② Your contact information (*This information will be used by the cell phone service provider only. The service provider will use this information to contact you to set up your account*):

The best phone number to reach me at is: \_\_\_\_\_

Another phone number to reach me at is (*list a phone number that is not controlled by the restrained person*):

Email address (*optional*): \_\_\_\_\_

Mailing address (*optional*): \_\_\_\_\_

③ The Restrained Person is (*name*): \_\_\_\_\_

**WHERE SHOULD I SEND FORM DV-900 AND THIS FORM (DV-901)?**

To find out where to send these forms, go to the Secretary of State’s website at (*link inserted once available*) OR check at (*link to Judicial Council’s website inserted once available*) and search for your service provider. You will be able to send the forms by mail, email or fax, depending on who the provider is. The account(s) will NOT be transferred to you if you do not send these forms to the service provider.

**ATTENTION CELL PHONE SERVICE PROVIDER**

Under the Domestic Violence Prevention Act, California Family Code section 6347, the information contained on this form is **CONFIDENTIAL** and must not be disclosed to the Restrained Person (*listed in ③*).

Clerk stamps date here when form is filed.

You must also complete form CLETS-001, Confidential CLETS Information, and give it to the clerk when you file this Request.

DRAFT

NOT APPROVED BY THE JUDICIAL COUNCIL

1 Name of Person Asking for Protection:

Age: \_\_\_\_\_

Your lawyer in this case (if you have one):

Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Firm Name: \_\_\_\_\_

Address (If you have a lawyer for this case, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, give a different mailing address instead. You do not have to give your telephone, fax, or e-mail.):

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

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

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

Fill in court name and street address:

Superior Court of California, County of \_\_\_\_\_

Court fills in case number when form is filed.

Case Number: \_\_\_\_\_

2 Name of Person You Want Protection From:

Description of person you want protection from:

Sex:  M  F Height: \_\_\_\_\_ Weight: \_\_\_\_\_ Hair Color: \_\_\_\_\_ Eye Color: \_\_\_\_\_

Race: \_\_\_\_\_ Age: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Address (if known): \_\_\_\_\_

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

3 Do you want an order to protect family or household members?  Yes  No

If yes, list them:

Table with columns: Full name, Sex, Age, Lives with you?, Relationship to you. Includes checkboxes for Yes/No.

Check here if you need more space. Attach a sheet of paper and write "DV-100, Protected People" for a title.

4 What is your relationship to the person in (2)? (Check all that apply):

- a.  We are now married or registered domestic partners.
b.  We used to be married or registered domestic partners.
c.  We live together.
d.  We used to live together.
e.  We are related by blood, marriage, or adoption (specify relationship):
f.  We are dating or used to date, or we are or used to be engaged to be married.
g.  We are the parents together of a child or children under 18:

If you do not have one of these relationships, the court may not be able to consider your request. Read form DV-500-INFO for help.

Child's Name: \_\_\_\_\_ Date of Birth: \_\_\_\_\_
Child's Name: \_\_\_\_\_ Date of Birth: \_\_\_\_\_
Child's Name: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Check here if you need more space. Attach a sheet of paper and write "DV-100, Protected People" for a title. Additional Children

h.  We have signed a Voluntary Declaration of Paternity for our child or children. (Attach a copy if you have one).

This is not a Court Order.



**5 Other Court Cases and Restraining Orders**

a. Have you or any other person named in (3) been involved in another court case with the person in (2)?  
 No  Yes *If yes, check each kind of case and indicate where and when each was filed:*

Kind of Case	County or Tribe Where Filed	Year Filed	Case Number (if known)
<input type="checkbox"/> Divorce, Nullity, Legal Separation	_____	_____	_____
<input type="checkbox"/> Civil Harassment	_____	_____	_____
<input type="checkbox"/> Domestic Violence	_____	_____	_____
<input type="checkbox"/> Criminal	_____	_____	_____
<input type="checkbox"/> Juvenile, Dependency, Guardianship	_____	_____	_____
<input type="checkbox"/> Child Support	_____	_____	_____
<input type="checkbox"/> Parentage, Paternity	_____	_____	_____
<input type="checkbox"/> Other (specify): _____	_____	_____	_____
<input type="checkbox"/> Check here if you need more space. Attach a sheet of paper and write "DV-100, Other Court Cases" for a title.			

b. Are there any restraining/protective orders currently in place OR that have expired in the last six months (emergency protective orders, criminal, juvenile, family)?

No  Yes (date of order): \_\_\_\_\_ and (expiration date): \_\_\_\_\_ (Attach a copy if you have one).

**Check the orders you want.**

**6  Personal Conduct Orders**

I ask the court to order the person in (2) not to do the following things to me or anyone listed in (3):

- a.  Harass, attack, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy personal property, disturb the peace, keep under surveillance, impersonate (on the Internet, electronically or otherwise), or block movements
- b.  Contact, either directly or indirectly, in any way, including but not limited to, by telephone, mail or e-mail or other electronic means

*The person in (2) will be ordered not to take any action to get the addresses or locations of any protected person unless the court finds good cause not to make the order.*

**7  Stay-Away Order**

a. I ask the court to order the person in (2) to stay at least \_\_\_\_\_ yards away from (check all that apply):

- Me  My vehicle
- My home  The child(ren)'s school or child care
- My job or workplace  Each person listed in (3)
- My school  Other (specify): \_\_\_\_\_

b. If the person listed in (2) is ordered to stay away from all the places listed above, will he or she still be able to get to his or her home, school, job, workplace, or vehicle?  Yes  No (If no, explain): \_\_\_\_\_

**8  Move-Out Order**

*(If the person in (2) lives with you and you want that person to stay away from your home, you must ask for this move-out order.)*

I ask the court to order the person in (2) to move out from and not return to (address): \_\_\_\_\_

I have the right to live at the above address because (explain): \_\_\_\_\_

**This is not a Court Order.**



**9 Guns or Other Firearms or Ammunition**  
 I believe the person in (2) owns or possesses guns, firearms, or ammunition.  Yes  No  I don't know  
*If the judge approves the order, the person in (2) will be ordered not to own, possess, purchase, or receive a firearm or ammunition. The person will be ordered to sell to, or store with, a licensed gun dealer, or turn in to law enforcement, any guns or firearms that he or she owns or possesses.*

**10**  **Record Unlawful Communications**  
 I ask for the right to record communications made to me by the person in (2) that violate the judge's orders.

**11**  **Care of Animals**  
 I ask for the sole possession, care, and control of the animals listed below. I ask the court to order the person in (2) to stay at least \_\_\_\_\_ yards away from and not take, sell, transfer, encumber, conceal, molest, attack, strike, threaten, harm, or otherwise dispose of the following animals:

\_\_\_\_\_

\_\_\_\_\_

I ask for the animals to be with me because:

\_\_\_\_\_

\_\_\_\_\_

**12**  **Child Custody and Visitation**  
 a.  I do not have a child custody or visitation order and I want one.  
 b.  I have a child custody or visitation order and I want it changed.  
*If you ask for orders, you must fill out and attach form DV-105, Request for Child Custody and Visitation Orders. You and the other parent may tell the court that you want to be legal parents of the children (use form DV-180, Agreement and Judgment of Parentage).*

**13**  **Child Support** (Check all that apply):  
 a.  I do not have a child support order and I want one.  
 b.  I have a child support order and I want it changed.  
 c.  I now receive or have applied for TANF, Welfare, CalWORKS, or Medi-Cal.  
*If you ask for child support orders, you must fill out and attach form FL-150, Income and Expense Declaration or form FL-155, Financial Statement (Simplified).*

**14**  **Property Control**  
 I ask the court to give *only* me temporary use, possession, and control of the property listed here:

\_\_\_\_\_

\_\_\_\_\_

**15**  **Debt Payment**  
 I ask the court to order the person in (2) to make these payments while the order is in effect:  
 Check here if you need more space. Attach a sheet of paper and write "DV-100, Debt Payment" for a title.  
 Pay to: \_\_\_\_\_ For: \_\_\_\_\_ Amount: \$ \_\_\_\_\_ Due date: \_\_\_\_\_

**16**  **Property Restraint**  
 I am married to or have a registered domestic partnership with the person in (2). I ask the judge to order that the person in (2) not borrow against, sell, hide, or get rid of or destroy any possessions or property, except in the usual course of business or for necessities of life. I also ask the judge to order the person in (2) to notify me of any new or big expenses and to explain them to the court.

**17**  **Spousal Support**  
 I am married to or have a registered domestic partnership with the person in (2) and no spousal support order exists. I ask the court to order the person in (2) to pay spousal support. (You must complete, file, and serve form FL-150, Income and Expense Declaration, before your hearing).

**This is not a Court Order.**





**18**  **Rights to Cell Phone and Cell Phone Account**

**a.**  **Property control of cell phone and account**

I ask the court to give **only** me temporary use, possession and control of the following wireless devices (*describe cell phone/tablet*): \_\_\_\_\_ and the cell phone account for the following cell phone numbers because the account currently belongs to the person in **(2)**:

- 1. (including area code): \_\_\_\_\_  my number  number of child in my care
- (including area code): \_\_\_\_\_  my number  number of child in my care
- (including area code): \_\_\_\_\_  my number  number of child in my care

Check here if you need more space. Attach a sheet of paper and write "DV-100, Transfer of Cell Phone Account" for a title.

**b.**  **Debt Payment**

I ask the court to order the person in **(2)** to make the payments for the cell phone accounts listed in **(1)** because:

Name of the cell phone service provide is: \_\_\_\_\_ Amount: \$ \_\_\_\_\_ Due Date: \_\_\_\_\_

*If you are requesting this order, you must complete, file and serve Form FL-150, Income and Expense Declaration, before your hearing.*

**c.**  **Transfer of Cell Phone Account**

At the hearing, I ask the court to order the cell phone service provider to transfer the billing responsibility and rights to the cell phone numbers listed in **(1)** to me because the account currently belongs to the person in **(2)**.

*If the judge makes this order, you will be financially responsible for these accounts, including monthly service fees and costs of any mobile devices connected to these telephone numbers (examples: cell phone, tablet). You may be responsible for other fees. You should contact the cell phone company to find out what fees you will be responsible for and whether you are eligible for an account.* service provider

**19**  **Insurance**

I ask the court to order the person in **(2)** NOT to cash, borrow against, cancel, transfer, dispose of, or change the beneficiaries of any insurance or coverage held for the benefit of me or the person in **(2)**, or our child(ren), for whom support may be ordered, or both.

**20**  **Lawyer's Fees and Costs**

I ask that the person in **(2)** pay some or all of my lawyer's fees and costs.  
*You must complete, file, and serve form FL-150, Income and Expense Declaration, before your hearing.*

**21**  **Payments for Costs and Services**

I ask the court to order the person in **(2)** to pay the following:  
*You can ask for lost earnings or your costs for services caused directly by the person in **(2)** (damaged property, medical care, counseling, temporary housing, etc.). You must bring proof of these expenses to your hearing.*

Pay to: \_\_\_\_\_ For: \_\_\_\_\_ Amount: \$ \_\_\_\_\_

Pay to: \_\_\_\_\_ For: \_\_\_\_\_ Amount: \$ \_\_\_\_\_

**22**  **Batterer Intervention Program**

I ask the court to order the person listed in **(2)** to go to a 52-week batterer intervention program and show proof of completion to the court.

**23**  **Other Orders**

What other orders are you asking for? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Check here if you need more space. Attach a sheet of paper and write "DV-100, Other Orders" for a title.

**This is not a Court Order.**



**24**  **Time for Service (Notice)**

The papers must be personally served on the person in **(2)** at least five days before the hearing, unless the court orders a shorter time for service. If you want there to be fewer than five days between service and the hearing, explain why below. For help, read form DV-200-INFO, "What Is Proof of Personal Service"?

\_\_\_\_\_

\_\_\_\_\_

**25** **No Fee to Serve (Notify) Restrained Person**

If you want the sheriff or marshal to serve (notify) the restrained person about the orders for free, ask the court clerk what you need to do.

**26** **Court Hearing**

The court will schedule a hearing on your request. If the judge does not make the orders effective right away ("temporary restraining orders"), the judge may still make the orders after the hearing. If the judge does not make the orders effective right away, you can ask the court to cancel the hearing. Read form DV-112, *Waiver of Hearing on Denied Request for Temporary Restraining Order*, for more information.

**27** **Describe Abuse**

Describe how the person in **(2)** abused you. Abuse means to intentionally or recklessly cause or attempt to cause bodily injury to you; or to place you or another person in reasonable fear of imminent serious bodily injury; or to harass, attack, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, keep you under surveillance, impersonate (on the Internet, electronically or otherwise), batter, telephone, or contact you; or to disturb your peace; or to destroy your personal property. (For a complete definition, see Fam. Code, §§ 6203, 6320.)

a. Date of most recent abuse: \_\_\_\_\_

1. Who was there? \_\_\_\_\_

2. Describe how the person in **(2)** abused you or your child(ren):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Check here if you need more space. Attach a sheet of paper and write "DV-100, Recent Abuse" for a title.

3. Did the person in **(2)** use or threaten to use a gun or any other weapon?  No  Yes (If yes, describe):  
\_\_\_\_\_  
\_\_\_\_\_

4. Describe any injuries: \_\_\_\_\_  
\_\_\_\_\_

5. Did the police come?  No  Yes  
If yes, did they give you or the person in **(2)** an Emergency Protective Order?  Yes  No  I don't know  
Attach a copy if you have one.

The order protects  you or  the person in **(2)**

**This is not a Court Order.**



**27 Describe Abuse (continued)**

Has the person in (2) abused you (or your child(ren)) other times?

b. Date of abuse: \_\_\_\_\_

1. Who was there? \_\_\_\_\_

2. Describe how the person in (2) abused you or your child(ren):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Check here if you need more space. Attach a sheet of paper and write "DV-100, Recent Abuse" for a title.

3. Did the person in (2) use or threaten to use a gun or any other weapon?  No  Yes (If yes, describe):

4. Describe any injuries: \_\_\_\_\_

5. Did the police come?  No  Yes

If yes, did they give you or the person in (2) an Emergency Protective Order?

Yes  No  I don't know Attach a copy if you have one.

The order protects  you or  the person in (2)

If the person in (2) abused you other times, check here  and use [form DV-101](#), Description of Abuse or describe any previous abuse on an attached sheet of paper and write "DV-100, Previous Abuse" for a title.

**28 Other Persons to Be Protected**

The persons listed in item (3) need an order for protection because (describe): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**29** Number of pages attached to this form, if any: \_\_\_\_\_

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

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

\_\_\_\_\_  
Type or print your name

\_\_\_\_\_  
Sign your name

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

\_\_\_\_\_  
Lawyer's name, if you have one

\_\_\_\_\_  
Lawyer's signature

**This is not a Court Order.**

Clerk stamps date here when form is filed.

Person in 1 must complete items 1, 2, and 3 only.

1 Name of Protected Person:

Your lawyer in this case (if you have one):

Name: State Bar No.:

Firm Name:

Address (If you have a lawyer for this case, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, give a different mailing address instead. You do not have to give your telephone, fax, or e-mail.):

Address:

City: State: Zip:

Telephone: Fax:

E-mail Address:

DRAFT

NOT APPROVED BY THE JUDICIAL COUNCIL

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

2 Name of Restrained Person:

Description of restrained person:

Sex: M F Height: Weight: Hair Color: Eye Color:

Race: Age: Date of Birth:

Address (if known):

City: State: Zip:

Relationship to protected person:

3 Additional Protected Persons

In addition to the person named in 1, the following persons are protected by temporary orders as indicated in items 6 and 7 (family or household members):

Full name Relationship to person in 1 Sex Age

Table with 4 columns: Full name, Relationship to person in 1, Sex, Age. Two empty rows for entry.

Check here if there are additional protected persons. List them on an attached sheet of paper and write, "DV-110, Additional Protected Persons" as a title.

The court will complete the rest of this form.

4 Court Hearing

This order expires at the end of the hearing stated below:

Hearing Date: Time: a.m. p.m.

This is a Court Order.



- 5**  **Criminal Protective Order**
- a.  A criminal protective order on form CR-160, *Criminal Protective Order—Domestic Violence*, is in effect.  
 Case Number: \_\_\_\_\_ County: \_\_\_\_\_ Expiration Date: \_\_\_\_\_
- b.  No information has been provided to the judge about a criminal protective order.

**To the person in 2**

The court has granted the temporary orders checked below. If you do not obey these orders, you can be arrested and charged with a crime. You may be sent to jail for up to one year, pay a fine of up to \$1,000, or both. *If you are NOT a U.S. citizen, you may have immigration consequences.*

- 6** **Personal Conduct Orders**  Not requested  Denied until the hearing  Granted as follows:

- a. You must **not** do the following things to the person in ① and  persons in ③:
- Harass, attack, strike, threaten, assault (*sexually or otherwise*), hit, follow, stalk, molest, destroy personal property, disturb the peace, keep under surveillance, impersonate (*on the Internet, electronically or otherwise*), or block movements
  - Contact, either directly or indirectly, in any way, including but not limited to, by telephone, mail, e-mail or other electronic means
  - Take any action, directly or through others, to obtain the addresses or locations of the persons in ① and ③. (*If this item is not checked, the court has found good cause not to make this order.*)
- b. Peaceful written contact through a lawyer or process server or another person for service of form DV-120 (*Response to Request for Domestic Violence Restraining Order*) or other legal papers related to a court case is allowed and does not violate this order.
- c.  Exceptions: Brief and peaceful contact with the person in ①, and peaceful contact with children in ③, as required for court-ordered visitation of children, is allowed unless a criminal protective order says otherwise.

- 7** **Stay-Away Order**  Not requested  Denied until the hearing  Granted as follows:

- a. You **must** stay at least (*specify*): \_\_\_\_\_ yards away from (*check all that apply*):
- The person in ①
  - The persons in ③
  - Home of person in ①
  - The job or workplace of person in ①
  - Vehicle of person in ①
  - School of person in ①
  - The children's school or child care
  - Other (*specify*): \_\_\_\_\_
- b.  Exceptions: Brief and peaceful contact with the person in ①, and peaceful contact with children in ③, as required for court-ordered visitation of children, is allowed unless a criminal protective order says otherwise.

- 8** **Move-Out Order**  Not requested  Denied until the hearing  Granted as follows:

You must take only personal clothing and belongings needed until the hearing and move out immediately from (*address*): \_\_\_\_\_

**This is a Court Order.**





- 9 No Guns or Other Firearms or Ammunition**
- a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get guns, other firearms, or ammunition.
- b. You must:
- Sell to, or store with, a licensed gun dealer, or turn in to a law enforcement agency, any guns or other firearms within your immediate possession or control. Do so within 24 hours of being served with this order.
  - Within 48 hours of receiving this order, file with the court a receipt that proves guns have been turned in, stored, or sold. (You may use [form DV-800](#), *Proof of Firearms Turned In, Sold, or Stored*, for the receipt.) Bring a court filed copy to the hearing.
- c.  The court has received information that you own or possess a firearm.

- 10 Record Unlawful Communications**
- Not requested  Denied until the hearing  Granted as follows:
- The person in ① can record communications made by you that violate the judge's orders.

- 11 Care of Animals**  Not requested  Denied until the hearing  Granted as follows:
- The person in ① is given the sole possession, care, and control of the animals listed below. The person in ② must stay at least \_\_\_\_\_ yards away from and not take, sell, transfer, encumber, conceal, molest, attack, strike, threaten, harm, or otherwise dispose of the following animals:
- 

- 12 Child Custody and Visitation**  Not requested  Denied until the hearing  Granted as follows:
- Child custody and visitation are ordered on the attached form DV-140, *Child Custody and Visitation Order* or (*specify other form*): \_\_\_\_\_. The parent with temporary custody of the child must not remove the child from California unless the court allows it after a noticed hearing (Fam. Code, § 3063).

- 13 Child Support**
- Not ordered now but may be ordered after a noticed hearing.

- 14 Property Control**  Not requested  Denied until the hearing  Granted as follows:
- Until the hearing, *only* the person in ① can use, control, and possess the following property:
- 

- 15 Debt Payment**  Not requested  Denied until the hearing  Granted as follows:
- The person in ② must make these payments until this order ends:
- Pay to: \_\_\_\_\_ For: \_\_\_\_\_ Amount: \$ \_\_\_\_\_ Due date: \_\_\_\_\_
- Pay to: \_\_\_\_\_ For: \_\_\_\_\_ Amount: \$ \_\_\_\_\_ Due date: \_\_\_\_\_

- 16 Property Restraint**  Not requested  Denied until the hearing  Granted as follows:
- If the people in ① and ② are married to each other or are registered domestic partners,  the person in ①  the person in ② must not transfer, borrow against, sell, hide, or get rid of or destroy any property, including animals, except in the usual course of business or for necessities of life. In addition, each person must notify the other of any new or big expenses and explain them to the court. (*The person in ② cannot contact the person in ① if the court has made a "no contact" order.*)

Peaceful written contact through a lawyer or a process server or other person for service of legal papers related to a court case is allowed and does not violate this order.

**This is a Court Order.**



**17 Spousal Support**

Not ordered now but may be ordered after a noticed hearing.

**18 Rights to Cell Phone and Cell Phone Account**

**a. Property control of cell phone & account**  Not requested  Denied until the hearing

Granted as follows:

Until the hearing, only the person in (1) can use, control and possess the following property:

Wireless device (describe) \_\_\_\_\_ and account (phone number): \_\_\_\_\_

Wireless device (describe) \_\_\_\_\_ and account (phone number): \_\_\_\_\_

Check here if you need more space. Attach a sheet of paper and write "DV-110 Rights to Cell Phone and Account" as a title.

**b. Debt Payment**  Not requested  Denied until the hearing  Granted as follows:

The person in (2) must make these payments until this order ends:

Pay to (cell phone service provider): \_\_\_\_\_ Amount: \$ \_\_\_\_\_ Due date: \_\_\_\_\_

**c. Transfer of Cell Phone Account**

Not ordered now but may be ordered after a noticed hearing.

**19 Insurance**

The person in (1)  the person in (2) is ordered NOT to cash, borrow against, cancel, transfer, dispose of, or change the beneficiaries of any insurance or coverage held for the benefit of the parties, or their child(ren), if any, for whom support may be ordered, or both.

**20 Lawyer's Fees and Costs**

Not ordered now but may be ordered after a noticed hearing.

**21 Payments for Costs and Services**

Not ordered now but may be ordered after a noticed hearing.

**22 Batterer Intervention Program**

Not ordered now but may be ordered after a noticed hearing.

**23 Other Orders**  Not requested  Denied until the hearing  Granted as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Check here if there are additional orders. List them on an attached sheet of paper and write "DV-110, Other Orders" as a title.

**24 No Fee to Serve (Notify) Restrained Person**

If the sheriff serves this order, he or she will do so for free.

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

add: This order must be served on the person in (2) at least five days before the hearing, unless the court orders a shorter time for service: \_\_\_\_\_  
25

**This is a Court Order.**

Judge (or Judicial Officer)



**Warnings and Notices to the Restrained Person in 2****If You Do Not Obey This Order, You Can Be Arrested, Charged With a Crime, And You May Also Have Immigration Consequences if You Are Not a U.S. Citizen.**

- If you do not obey this order, you can go to jail or prison and/or pay a fine.
- It is a felony to take or hide a child in violation of this order.
- If you travel to another state or to tribal lands or make the protected person do so, with the intention of disobeying this order, you can be charged with a federal crime.
- If the court finds that you violated this order and you are NOT a U.S. citizen, you may or will be:
  - Deported;
  - Unable to return lawfully to the U.S.; and
  - Unable to become a U.S. citizen.

**You Cannot Have Guns, Firearms, And/Or Ammunition.**

You cannot own, have, possess, buy or try to buy, receive or try to receive, or otherwise get guns, other firearms, and/or ammunition while the order is in effect. If you do, you can go to jail and pay a \$1,000 fine. You must sell to or store with a licensed gun dealer or turn in to a law enforcement agency any guns or other firearms that you have or control. The judge will ask you for proof that you did so. If you do not obey this order, you can be charged with a crime. Federal law says you cannot have guns or ammunition while the order is in effect.

**Service of Order by Mail**

If the judge makes a restraining order at the hearing, which has the same orders as in this form, you will get a copy of that order by mail at your last known address, which is written in 2. If this address is incorrect, or to find out if the orders were made permanent, contact the court.

**Child Custody, Visitation, and Support**

- **Child custody and visitation:** If you do not go to the hearing, the judge can make custody and visitation orders for your children without hearing from you.
- **Child support:** The judge can order child support based on the income of both parents. The judge can also have that support taken directly from a parent's paycheck. Child support can be a lot of money, and usually you have to pay until the child is age 18. File and serve a *Financial Statement (Simplified)* (form FL-155) or an *Income and Expense Declaration* (form FL-150) if you want the judge to have information about your finances. Otherwise, the court may make support orders without hearing from you.
- **Spousal support:** File and serve an *Income and Expense Declaration* (form FL-150) so the judge will have information about your finances. Otherwise, the court may make support orders without hearing from you.

**Instructions for Law Enforcement**

This order is effective when made. It is enforceable by any law enforcement agency that has received the order, is shown a copy of the order, or has verified its existence on the California Law Enforcement Telecommunications System (CLETS). If the law enforcement agency has not received proof of service on the restrained person, and the restrained person was not present at the court hearing, the agency shall advise the restrained person of the terms of the order and then shall enforce it. Violations of this order are subject to criminal penalties.

**This is a Court Order.**

**Temporary Restraining Order  
(CLETS—TRO)  
(Domestic Violence Prevention)**





**Arrest Required if Order Is Violated**

If an officer has probable cause to believe that the restrained person had notice of the order and has disobeyed the order, the officer must arrest the restrained person. (Pen. Code, §§ 836(c)(1), 13701(b).) A violation of the order may be a violation of Penal Code section 166 or 273.6.

**If the Protected Person Contacts the Restrained Person**

Even if the protected person invites or consents to contact with the restrained person, the orders remain in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The orders can be changed only by another court order. (Pen. Code, §13710(b).)

**Conflicting Orders—Priorities for Enforcement**

**If more than one restraining order has been issued protecting the protected person from the restrained person, the orders must be enforced according to the following priorities (see Pen. Code, § 136.2, and Fam. Code, §§ 6383(h), 6405(b)):**

1. *EPO*: If one of the orders is an *Emergency Protective Order* (form EPO-001), and it is more restrictive than other restraining or protective orders, it has precedence in enforcement over all other orders.
2. *No-Contact Order*: If there is no EPO, a no-contact order that is included in a restraining or protective order has precedence in enforcement over any other restraining or protective order.
3. *Criminal Order*: If none of the orders includes a no-contact order, a domestic violence protective order issued in a criminal case takes precedence in enforcement over any conflicting civil court order. Any nonconflicting terms of the civil restraining order remain in effect and enforceable.
4. *Family, Juvenile, or Civil Order*: If more than one family, juvenile, or other civil restraining or protective order has been issued, the one that was issued last must be enforced.

**Child Custody and Visitation**

- The custody and visitation orders are on form DV-140, items ③ and ④. They are sometimes also written on additional pages or referenced in DV-140 or other orders that are not part of the restraining order.
- **Forms DV-100 and DV-105 are not orders. Do not enforce them.**

**Certificate of Compliance With VAWA**

This temporary protective order meets all “full faith and credit” requirements of the Violence Against Women Act, 18 U.S.C. § 2265 (1994) (VAWA), upon notice of the restrained person. This court has jurisdiction over the parties and the subject matter; the restrained person has been or will be afforded notice and a timely opportunity to be heard as provided by the laws of this jurisdiction. **This order is valid and entitled to enforcement in each jurisdiction throughout the 50 states of the United States, the District of Columbia, all tribal lands, and all U.S. territories, commonwealths, and possessions and shall be enforced as if it were an order of that jurisdiction.**

*(Clerk will fill out this part.)*

**—Clerk's Certificate—**

*Clerk's Certificate*  
[seal]

I certify that this *Temporary Restraining Order* is a true and correct copy of the original on file in the court.

Date: \_\_\_\_\_ Clerk, by \_\_\_\_\_, Deputy

**This is a Court Order.**

Clerk stamps date here when form is filed.

1 Name of Person Asking for Protection:

(See Form DV-100, item 1):

DRAFT

NOT APPROVED BY THE JUDICIAL COUNCIL

2 Your Name:

Your lawyer in this case (if you have one):

Name: State Bar No.:

Firm Name:

Address (If you have a lawyer for this case, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, give a different mailing address instead. You do not have to give your telephone, fax, or e-mail.):

Address:

City: State: Zip:

Telephone: Fax:

E-Mail Address:

Fill in court name and street address:

Superior Court of California, County of

Fill in case number:

Case Number:

3 Use this form to respond to the Request for Domestic Violence Restraining Order (Form DV-100).

- Fill out this form and take it to the court clerk.
Have the person in 1 served by mail with a copy of this form and any attached pages.
For more information, read Form DV-120-INFO, How Can I Respond to a Request for Domestic Violence Restraining Order?
Notice: This form is for a response to a restraining order request.

The judge will consider your Response at the hearing.

Write your hearing date, time, and place from Form DV-109, Notice of Court Hearing, item 3, here:

Hearing Date -> Date: Time: Dept.: Room:

You must obey the orders in Form DV-110, Temporary Restraining Order, until the hearing. At the hearing, the court may make restraining orders against you that could last up to five years and could be renewed.

4 Relationship to Person Asking for Protection

- I agree to the relationship listed in item 4 on Form DV-100.
I do not agree that the other party and I have or had the relationship listed in item 4 on Form DV-100. (Specify your reasons in item 25, page 4, of this form.)

5 Other Protected People

- I agree to the order requested.
I do not agree to the order requested. (Specify your reasons in item 25, page 4, of this form.)

6 Personal Conduct Orders

- I agree to the orders requested.
I do not agree to the orders requested. (Specify your reasons in item 25, page 4, of this form.)

This is not a Court Order.



- 7**  **Stay-Away Order**  
a.  I agree to the order requested.  
b.  I do not agree to the order requested. *(Specify your reasons in item 25, page 4, of this form.)*
- 8**  **Move-Out Order**  
a.  I agree to the order requested.  
b.  I do not agree to the order requested. *(Specify your reasons in item 25, page 4, of this form.)*
- 9**  **Guns or Other Firearms or Ammunition**  
*If you were served with Form DV-110, Temporary Restraining Order, you must turn in any guns or firearms in your immediate possession or control. You must file a receipt with the court from a law enforcement agency or a licensed gun dealer within 48 hours after you received Form DV-110.*  
a.  I do not own or have any guns or firearms.  
b.  I ask for an exemption from the firearms prohibition under Family Code section 6389(h) because *(specify):* \_\_\_\_\_  
c.  I have turned in my guns and firearms to law enforcement or sold them to, or stored them with, a licensed gun dealer. A copy of the receipt showing that I turned in, sold, or stored my firearms *(check all that apply):*  
 is attached     has already been filed with the court.
- 10**  **Record Unlawful Communications**  
a.  I agree to the order requested.  
b.  I do not agree to the order requested. *(Specify your reasons in item 25, page 4, of this form.)*
- 11**  **Care of Animals**  
a.  I agree to the order requested.  
b.  I do not agree to the order requested. *(Specify your reasons in item 25, page 4, of this form.)*
- 12**  **Child Custody and Visitation**  
a.  I agree to the order requested.  
b.  I do not agree to the order requested. *(Specify your reasons in item 25, page 4, of this form.)*  
c.  I am not the parent of the child listed in Form DV-105, *Request for Child Custody and Visitation Orders*.  
d.  I ask for the following custody order *(specify):* \_\_\_\_\_  
e.  I do     I do not    agree to the orders requested to limit the child's travel as listed in Form DV-108, *Request for Order: No Travel with Children*.  
  
*You and the other parent may tell the court that you want to be legal parents of the children (use Form DV-180, Agreement and Judgment of Parentage).*
- 13**  **Child Support** *(Check all that apply):*  
a.  I agree to the order requested.  
b.  I do not agree to the order requested. *(Specify your reasons in item 25, page 4, of this form.)*  
c.  I agree to pay guideline child support.  
  
*Whether or not you agree to pay support, you must fill out, serve, and file Form FL-150, Income and Expense Declaration, or FL-155, Financial Statement (Simplified).*

**This is not a Court Order.**



- 14**  **Property Control**
- a.  I agree to the order requested.
- b.  I do not agree to the order requested. *(Specify your reasons in item 25, page 4, of this form.)*
- 15**  **Debt Payment**
- a.  I agree to the order requested.
- b.  I do not agree to the order requested. *(Specify your reasons in item 25, page 4, of this form.)*
- 16**  **Property Restraint**
- a.  I agree to the order requested.
- b.  I do not agree to the order requested. *(Specify your reasons in item 25, page 4, of this form.)*
- 17**  **Spousal Support**
- a.  I agree to the order requested.
- b.  I do not agree to the order requested. *(Specify your reasons in item 25, page 4, of this form.)*
- Whether or not you agree, you must fill out, serve, and file Form FL-150, Income and Expense Declaration.*
- 18**  **Rights to Cell Phone and Cell Phone Account**
- a.  I agree to the order requested.
- b.  I agree to some of the orders requested. Which orders do <sup>you</sup> NOT agree with?
- c.  I do not agree to any of the orders requested. *(Specify your reasons in item 25, page 4 of this form.)*
- 19**  **Insurance**
- a.  I agree to the order requested.
- b.  I do not agree to the order requested. *(Specify your reasons in item 25, page 4, of this form.)*
- 20**  **Lawyer's Fees and Costs**
- a.  I agree to the order requested.
- b.  I do not agree to the order requested. *(Specify your reasons in item 25, page 4, of this form.)*
- c.  I request the court to order payment of my lawyer's fees and costs.
- Whether or not you agree, you must fill out, serve, and file Form FL-150, Income and Expense Declaration.*
- 21**  **Payments for Costs and Services**
- a.  I agree to the order requested.
- b.  I do not agree to the order requested. *(Specify your reasons in item 25, page 4, of this form.)*
- 22**  **Batterer Intervention Program**
- a.  I agree to the order requested.
- b.  I do not agree to the order requested. *(Specify your reasons in item 25, page 4, of this form.)*
- 23**  **Other Orders** *(see item 22 on Form DV-100)*
- a.  I agree to the order requested.
- b.  I do not agree to the order requested. *(Specify your reasons in item 25, page 4, of this form.)*

**This is not a Court Order.**



**24**  **Out-of-Pocket Expenses**

I ask the court to order payment of my out-of-pocket expenses because the temporary restraining order was issued without enough supporting facts. The expenses are:

Item: \_\_\_\_\_ Amount: \$ \_\_\_\_\_ Item: \_\_\_\_\_ Amount: \$ \_\_\_\_\_

*You must fill out, serve, and file Form FL-150, Income and Expense Declaration.*

**25**  **Reasons I Do Not Agree to the Orders Requested**

Explain your answers to each of the orders requested (*give specific facts and reasons*):

*Check here if there is not enough space below for your answer. Put your complete answer on an attached sheet of paper and write, "DV-120, Reasons I Do Not Agree" as a title.*

\_\_\_\_\_  
\_\_\_\_\_  
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\_\_\_\_\_  
\_\_\_\_\_

**26** Number of pages attached to this form, if any: \_\_\_\_\_

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

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

\_\_\_\_\_  
*Type or print your name*

\_\_\_\_\_  
*Sign your name*

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

\_\_\_\_\_  
*Lawyer's name, if you have one*

\_\_\_\_\_  
*Lawyer's signature*

**This is not a Court Order.**

## **DV-120-INFO** How Can I Respond to a Request for Domestic Violence Restraining Order?

### **What is a Domestic Violence Restraining Order?**

It is a court order that can help protect people who have been abused or threatened with abuse.

Abuse can be physical or emotional. It can be spoken or written.

### **What does the order do?**

The court can order you to:

- Not contact or harm the protected person, including children or others listed as protected people
- Stay away from all protected people
- Not have any guns or ammunition
- Move out of the place that you share with the protected person
- Follow custody and visitation orders
- Pay child support
- Pay spousal support
- Obey property orders
- Follow other types of orders (listed on *Form DV-100*)

### **Who can ask for a domestic violence restraining order?**

The person requesting the order must have a relationship with you:

- Someone you date or used to date
- Married, registered domestic partners, separated, engaged or divorced
- Someone you live or lived with (more than just a roommate)
- A parent, grandparent, sibling, child or grandchild, related by blood, marriage or adoption

### **I've been served with a request for domestic violence restraining order. What do I do now?**

Read the papers very carefully. You must follow all the orders the judge made. The *Notice of Court Hearing* tells you when to appear in court. You should go to the hearing, if you do not agree to the orders requested. If you do not go to the hearing,

the judge can make orders against you without hearing from you.

### **What if I don't obey the order?**

The police can arrest you. You can go to jail and pay a fine. If you are not a U.S. citizen there may be immigration consequences. You must still follow the orders even if you are not a U.S. citizen. If you are worried about your immigration status, talk to an immigration lawyer.

Commented [HF1]: For Fam/liv discussion

### **How long does the order last?**

If there is a *Temporary Restraining Order* in effect, it will last until the hearing date. At the hearing, the judge will decide whether to extend the order or cancel the order. The judge can extend the order for up to five years. Custody, visitation, child support and spousal support orders can last longer than five years and they do not end when the restraining order ends.

### **What if I don't agree with what the order says?**

You still must obey the orders until the hearing. If you do NOT agree with the orders the person is asking for, fill out Form DV-120, *Response to Request for Domestic Violence Restraining Order*. After you fill out the form, file it with the court clerk and "serve" the form on the person asking for the restraining order. "Serve" means to have someone 18 years or older- **not you**- mail a copy to the other party. The person who serves your form must fill out Form DV-250, *Proof of Service by Mail*. After Form DV-250 is completed, make sure it is filed with the court clerk. You will also have a chance at the hearing to tell your side of the story. For more information on how to prepare for the hearing, read Form DV-520-INFO, *Get Ready for the Restraining Order Court Hearing*.

### **Is there a cost to file my Response (Form DV-120)?**

No.

## **DV-120-INFO** How Can I Respond to a Request for Domestic Violence Restraining Order?

### **What if I also have criminal charges against me?**

See a lawyer. Anything you say or write, including in this case, can be used against you in your criminal case.

### **What if I have a gun or ammunition?**

If a restraining order was issued, you cannot own, possess, or have a gun, other firearm, or ammunition while the order is in effect. If you have a gun or other firearm in your immediate possession or control, you must sell it to, or store it with, a licensed gun dealer, or turn it in to a law enforcement agency. You must also prove to the court that you turned in or sold your gun. Read Form DV-800-INFO, *How Do I Turn In, Sell or Store My Firearms?*, for more information.

### **Do I need a lawyer?**

You are not entitled to a free court-appointed lawyer for this case but having a lawyer represent you or getting legal advice from a lawyer is a good idea, especially if you have children. If you cannot afford a lawyer, you can represent yourself. There is free or low-cost help available in every county. For help, ask the court clerk how to find free or low-cost legal services and self-help centers in your area. You can also get free help with child support at your local Family Law Facilitator's Office.

### **What if I do not speak English?**

When you file Form DV-120, ask the court clerk if a court interpreter is available for your hearing. If an interpreter is not available, bring someone to interpret for you. Do NOT ask a child, a witness or anyone to be protected by the order to interpret for you.

### **What if I am deaf or hard of hearing?**

(insert graphic and language)

### **Can I use the restraining order to get divorced or terminate a domestic partnership?**

No. These forms will not end your marriage or registered domestic partnership. You must file other forms to end your marriage or registered domestic partnership.

### **What if I have children with the other person?**

The judge can make temporary orders for child custody and visitation. If the judge makes a temporary order for child custody, the parent with custody may not remove the child from California before notice to the other parent and a court hearing. Read the order for any other restrictions. There may be some exceptions. Ask a lawyer for more information.

### **What if I want to leave the county or state?**

You must still comply with the restraining order, including custody and visitation orders. The restraining order is valid anywhere in the United States.

### **Will I see the person who asked for the order at the court hearing?**

Yes. Assume that the person who is asking for the order will attend the hearing. Do not talk to him or her unless the judge or that person's attorney says that you can. Any temporary restraining order made by the court is in effect until the end of the hearing.

### **What if I am a victim of domestic violence?**

For a referral to a local domestic violence or legal assistance program, call the National Domestic Violence Hotline:

**1-800-799-7233**

**TDD: 1-800-787-3224**

It's free and private. They can help you in more than 100 languages.



**DV-120-INFO** **How Can I Respond to a Request for Domestic Violence Restraining Order?**

**For help in your area, contact:**  
[Local information may be inserted]

**What if I need a restraining order against the other person?**

Do not use this form to request a domestic violence restraining order. For information on how to file your own restraining order, read Form DV-505-INFO. You can also ask the court clerk about free or low-cost legal help.

Draft



Restraining Order After Hearing (Order of Protection)

Original Order Amended Order

1 Name of Protected Person:

Your lawyer in this case (if you have one):

Name: State Bar No.:

Firm Name:

Address (If you have a lawyer for this case, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, give a different mailing address instead. You do not have to give your telephone, fax, or e-mail.):

Address:

City: State: Zip:

Telephone: Fax:

E-Mail Address:

Clerk stamps date here when form is filed. DRAFT - NOT APPROVED BY THE JUDICIAL COUNCIL

Fill in court name and street address: Superior Court of California, County of

Clerk fills in case number when form is filed. Case Number:

2 Name of Restrained Person:

Description of restrained person:

Sex: M F Height: Weight: Hair Color: Eye Color: Race: Age: Date of Birth: Mailing Address (if known): City: State: Zip: Relationship to protected person:

3 Additional Protected Persons

In addition to the person named in 1, the following persons are protected by orders as indicated in items 6 and 7 (family or household members):

Table with columns: Full name, Relationship to person in 1, Sex, Age

Check here if there are additional protected persons. List them on an attached sheet of paper and write, "DV-130, Additional Protected Persons," as a title.

4 Expiration Date

The orders, except as noted below, end on

(date): at (time): a.m. p.m. or midnight

- If no date is written, the restraining order ends three years after the date of the hearing in item 5(a). If no time is written, the restraining order ends at midnight on the expiration date. Note: Custody, visitation, child support, and spousal support orders remain in effect after the restraining order ends. Custody, visitation, and child support orders usually end when the child is 18. The court orders are on pages 2, 3, 4, and 5 and attachment pages (if any).

This order complies with VAWA and shall be enforced throughout the United States. See page 5.

This is a Court Order.



**5 Hearings**

- a. The hearing was on (date): \_\_\_\_\_ with (name of judicial officer): \_\_\_\_\_
- b. These people were at the hearing (check all that apply):
  - The person in ①  The lawyer for the person in ① (name): \_\_\_\_\_
  - The person in ②  The lawyer for the person in ② (name): \_\_\_\_\_
- c. The people in ① and ② must return to Dept. \_\_\_\_\_ of the court on (date): \_\_\_\_\_ at (time): \_\_\_\_\_  a.m.  p.m. to review (specify issues): \_\_\_\_\_

**To the person in ②:**

The court has granted the orders checked below. Item ⑨ is also an order. If you do not obey these orders, you can be arrested and charged with a crime. You may be sent to jail for up to one year, pay a fine of up to \$1,000, or both.

**6 Personal Conduct Orders**

- a. The person in ② must not do the following things to the protected people in ① and ③:
  - Harass, attack, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy personal property, disturb the peace, keep under surveillance, impersonate (on the Internet, electronically or otherwise), or block movements.
  - Contact, either directly or indirectly, by any means, including, but not limited to, by telephone, mail, e-mail, or other electronic means.
  - Take any action, directly or through others, to obtain the addresses or locations of any protected persons. (If this item is not checked, the court has found good cause not to make this order.)
- b. Peaceful written contact through a lawyer or process server or another person for service of legal papers related to a court case is allowed and does not violate this order.
- c.  Exceptions: Brief and peaceful contact with the person in ①, and peaceful contact with children in ③, as required for court-ordered visitation of children, is allowed unless a criminal protective order says otherwise.

**7 Stay-Away Order**

- a. The person in ② must stay at least (specify): \_\_\_\_\_ yards away from (check all that apply):
  - The person in ①  School of person in ①
  - The persons in ③  The child(ren)'s school or child care
  - Home of person in ①  Other (specify): \_\_\_\_\_
  - The job or workplace of person in ① \_\_\_\_\_
  - Vehicle of person in ① \_\_\_\_\_
- b.  Exceptions: Brief and peaceful contact with the person in ①, and peaceful contact with children in ③, as required for court-ordered visitation of children, is allowed unless a criminal protective order says otherwise.

**8 Move-Out Order**

The person in ② must move out immediately from (address): \_\_\_\_\_

**9 No Guns or Other Firearms or Ammunition**

- a. The person in ② cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get guns, other firearms, or ammunition.

**This is a Court Order.**

- 9 b. The person in 2 must:
- Sell to, or store with, a licensed gun dealer, or turn in to a law enforcement agency, any guns or other firearms within his or her immediate possession or control. Do so within 24 hours of being served with this order.
  - Within 48 hours of receiving this order, file with the court a receipt that proves guns have been turned in, sold, or stored. (Form DV-800, Proof of Firearms Turned In, Sold, or Stored, may be used for the receipt.) Bring a court filed copy to the hearing.
- c.  The court has received information that the person in 2 owns or possesses a firearm.
- d.  The court has made the necessary findings and applies the firearm relinquishment exemption under Family Code section 6389(h). Under California law, the person in 2 is not required to relinquish this firearm (specify make, model, and serial number of firearm): \_\_\_\_\_  
 The firearm must be in his or her physical possession only during scheduled work hours and during travel to and from his or her place of employment. Even if exempt under California law, the person in 2 may be subject to federal prosecution for possessing or controlling a firearm.

10  **Record Unlawful Communications**  
 The person in 1 has the right to record communications made by the person in 2 that violate the judge's orders.

11  **Care of Animals**  
 The person in 1 is given the sole possession, care, and control of the animals listed below. The person in 2 must stay at least \_\_\_\_\_ yards away from and not take, sell, transfer, encumber, conceal, molest, attack, strike, threaten, harm, or otherwise dispose of the following animals: \_\_\_\_\_

12  **Child Custody and Visitation**  
 Child custody and visitation are ordered on the attached Form DV-140, Child Custody and Visitation Order or (specify other form): \_\_\_\_\_

13  **Child Support**  
 Child support is ordered on the attached Form FL-342, Child Support Information and Order Attachment or (specify other form): \_\_\_\_\_

14  **Property Control**  
 Only the person in 1 can use, control, and possess the following property: \_\_\_\_\_

15  **Debt Payment**  
 The person in 2 must make these payments until this order ends:

Pay to: _____	For: _____	Amount: \$ _____	Due date: _____
Pay to: _____	For: _____	Amount: \$ _____	Due date: _____
Pay to: _____	For: _____	Amount: \$ _____	Due date: _____

Check here if more payments are ordered. List them on an attached sheet of paper and write "DV-130, Debt Payments" as a title.

16  **Property Restraint**  
 The  person in 1  person in 2 must not transfer, borrow against, sell, hide, or get rid of or destroy any property, including animals, except in the usual course of business or for necessities of life. In addition, the person must notify the other of any new or big expenses and explain them to the court. (The person in 2 cannot contact the person in 1 if the court has made a "No-Contact" order.)  
 Peaceful written contact through a lawyer or a process server or other person for service of legal papers related to a court case is allowed and does not violate this order.

**This is a Court Order.**



**17**  **Spousal Support**  
Spousal support is ordered on the attached Form FL-343, *Spousal, Partner, or Family Support Order Attachment* or (specify other form): \_\_\_\_\_

**18**  **Rights to Cell Phone and Cell Phone Account**

**a.**  **Property Control of Cell Phone and Account**

Only the person in **(1)** can use, control, and possess the following property:

Wireless device (describe) \_\_\_\_\_ and account (phone number): \_\_\_\_\_

Wireless device (describe) \_\_\_\_\_ and account (phone number): \_\_\_\_\_

Check here if you need more space. Attach a sheet of paper and write "DV-130 Rights to Cell Phone and Account" as a title.

**b.**  **Debt Payment**

The person in **(2)** must make these payments until this order ends:

Pay to (cell phone service provider): \_\_\_\_\_ Amount: \$ \_\_\_\_\_ Due date: \_\_\_\_\_

**c.**  **Transfer of Cell Phone Account**

The court has made an order transferring one or more wireless service accounts from the person in **(2)** to the person in **(1)**. These orders are contained in a separate order (Form DV-900).

**19**  **Insurance**

The person in **(1)**  the person in **(2)** is ordered NOT to cash, borrow against, cancel, transfer, dispose of, or change the beneficiaries of any insurance or coverage held for the benefit of the parties, or their child(ren), if any, for whom support may be ordered, or both.

**20**  **Lawyer's Fees and Costs**

The person in **(2)** must pay the following lawyer's fees and costs:

Pay to: \_\_\_\_\_ For: \_\_\_\_\_ Amount: \$ \_\_\_\_\_ Due date: \_\_\_\_\_

Pay to: \_\_\_\_\_ For: \_\_\_\_\_ Amount: \$ \_\_\_\_\_ Due date: \_\_\_\_\_

**21**  **Payments for Costs and Services**

The person in **(2)** must pay the following:

Pay to: \_\_\_\_\_ For: \_\_\_\_\_ Amount: \$ \_\_\_\_\_ Due date: \_\_\_\_\_

Pay to: \_\_\_\_\_ For: \_\_\_\_\_ Amount: \$ \_\_\_\_\_ Due date: \_\_\_\_\_

Pay to: \_\_\_\_\_ For: \_\_\_\_\_ Amount: \$ \_\_\_\_\_ Due date: \_\_\_\_\_

Check here if more payments are ordered. List them on an attached sheet of paper and write "DV-130, Payments for Costs and Services" as a title.

**22**  **Batterer Intervention Program**

The person in **(2)** must go to and pay for a 52-week batterer intervention program and show written proof of completion to the court. This program must be approved by the probation department. *The person in (2) must enroll by (date): \_\_\_\_\_ or if no date is listed, must enroll within 30*

**23**  **Other Orders** *days after the order is made. The person in (2) must complete, file*

Other orders (specify): *and serve Form 805, Proof of Enrollment for Batterer Intervention Program.*

**24**  **No Fee to Serve (Notify) Restrained Person**

If the sheriff or marshal serves this order, he or she will do it for free.

**This is a Court Order.**



**25 Service**

- a.  The people in ① and ② were at the hearing or agreed in writing to this order. No other proof of service is needed.
- b.  The person in ① was at the hearing on the request for original orders. The person in ② was not present.
  - (1)  Proof of service of Form DV-109 and Form DV-110 (if issued) was presented to the court. The judge's orders in this form are the same as in Form DV-110 except for the end date. The person in ② must be served. This order can be served by mail.
  - (2)  Proof of service of Form DV-109 and Form DV-110 (if issued) was presented to the court. The judge's orders in this form are different from the orders in Form DV-110, or Form DV-110 was not issued. The person in ② must be personally "served" (given) a copy of this order.
- c.  Proof of service of Form FL-300 to modify the orders in Form DV-130 was presented to the court.
  - (1)  The people in ① and ② were at the hearing or agreed in writing to this order. No other proof of service is needed.
  - (2)  The person in  ①  ② was not at the hearing and must be personally "served" (given) a copy of this amended order.

**26  Criminal Protective Order**

- a.  Form CR-160, *Criminal Protective Order—Domestic Violence*, is in effect.  
Case Number: \_\_\_\_\_ County: \_\_\_\_\_ Expiration Date: \_\_\_\_\_
- b.  Other Criminal Protective Order in effect (*specify*): \_\_\_\_\_  
Case Number: \_\_\_\_\_ County: \_\_\_\_\_ Expiration Date: \_\_\_\_\_  
*(List other orders on an attached sheet of paper. Write "DV-130, Other Criminal Protective Orders" as a title.)*
- c.  No information has been provided to the judge about a criminal protective order.

**27  Attached pages are orders. *seven***

- Number of pages attached to this ~~six~~-page form: \_\_\_\_\_
- All of the attached pages are part of this order.
- Attachments include (*check all that apply*):
  - DV-140  DV-145  DV-150  FL-342  FL-343
  - Other (*specify*): \_\_\_\_\_

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

\_\_\_\_\_  
*Judge (or Judicial Officer)*

**Certificate of Compliance With VAWA**

This restraining (protective) order meets all "full faith and credit" requirements of the Violence Against Women Act, 18 U.S.C. § 2265 (1994) (VAWA) upon notice of the restrained person. This court has jurisdiction over the parties and the subject matter; the restrained person has been or will be afforded notice and a timely opportunity to be heard as provided by the laws of this jurisdiction. **This order is valid and entitled to enforcement in each jurisdiction throughout the 50 states of the United States, the District of Columbia, all tribal lands, and all U.S. territories, commonwealths, and possessions and shall be enforced as if it were an order of that jurisdiction.**

**This is a Court Order.**





**Warnings and Notices to the Restrained Person in 2****If You Do Not Obey This Order, You Can Be Arrested, Charged With a Crime, And You May Also Have Immigration Consequences if You Are Not a U.S. Citizen.**

- If you do not obey this order, you can go to jail or prison and/or pay a fine.
- It is a felony to take or hide a child in violation of this order.
- If you travel to another state or to tribal lands or make the protected person do so, with the intention of disobeying this order, you can be charged with a federal crime.
- *Under Federal law, if a civil or criminal court* If the court finds that you violated this order and you are NOT a U.S. citizen, you may or will be:
  - Deported, *by immigration officials (not the state court);*
  - Unable to return lawfully to the U.S.; and *after leaving the U.S. for any reason*
  - Unable to become a U.S. citizen.

**You cannot have guns, firearms, and/or ammunition.**

You cannot own, have, possess, buy or try to buy, receive or try to receive, or otherwise get guns, other firearms, and/or ammunition while the order is in effect. If you do, you can go to jail and pay a \$1,000 fine. Unless the court grants an exemption, you must sell to, or store with, a licensed gun dealer, or turn in to a law enforcement agency, any guns or other firearms that you have or control. The judge will ask you for proof that you did so. If you do not obey this order, you can be charged with a crime. Federal law says you cannot have guns or ammunition while the order is in effect. Even if exempt under California law, you may be subject to federal prosecution for possessing or controlling a firearm.

**Instructions for Law Enforcement****Start Date and End Date of Orders**

The orders *start* on the earlier of the following dates:

- The hearing date in item ⑤ (a) on page 2, or
- The date next to the judge's signature on this page.

The orders *end* on the expiration date in item ④ on page 1. If no date is listed, they end three years from the hearing date.

**Arrest Required if Order Is Violated**

If an officer has probable cause to believe that the restrained person had notice of the order and has disobeyed the order, the officer must arrest the restrained person. (Pen. Code, §§ 836(c)(1), 13701(b).) A violation of the order may be a violation of Penal Code section 166 or 273.6.

**Notice/Proof of Service**

Law enforcement must first determine if the restrained person had notice of the orders. If notice cannot be verified, the restrained person must be advised of the terms of the orders. If the restrained person then fails to obey the orders, the officer must enforce them. (Fam. Code, § 6383.)

Consider the restrained person "served" (notified) if:

- The officer sees a copy of the *Proof of Service* or confirms that the *Proof of Service* is on file; or
- The restrained person was at the restraining order hearing or was informed of the order by an officer. (Fam. Code, § 6383; Pen. Code, § 836(c)(2).) An officer can obtain information about the contents of the order in the Domestic Violence Restraining Order System (DVROS). (Fam. Code, § 6381(b)-(c).)

**This is a Court Order.**

**If the Protected Person Contacts the Restrained Person**

Even if the protected person invites or consents to contact with the restrained person, the orders remain in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The orders can be changed only by another court order. (Pen. Code, § 13710(b).)

**Child Custody and Visitation**

The custody and visitation orders are on Form DV-140, items ③ and ④. They are sometimes also written on additional pages or referenced in DV-140 or other orders that are not part of the restraining order.

**Enforcing the Restraining Order in California**

Any law enforcement officer in California who receives, sees, or verifies the orders on a paper copy, in the California Law Enforcement Telecommunications System (CLETS), or in an NCIC Protection Order File must enforce the orders.

**Conflicting Orders—Priorities for Enforcement**

If more than one restraining order has been issued protecting the protected person from the restrained person, the orders must be enforced in the following priority (see Pen. Code, § 136.2 and Fam. Code, §§ 6383(h)(2), 6405(b)):

1. *EPO*: If one of the orders is an *Emergency Protective Order* (Form EPO-001) and it is more restrictive than other restraining or protective orders, it has precedence in enforcement over all other orders.
2. *No-Contact Order*: If there is no EPO, a no-contact order that is included in a restraining or protective order has precedence in enforcement over any other restraining or protective order.
3. *Criminal Order*: If none of the orders includes a no-contact order, a domestic violence protective order issued in a criminal case takes precedence in enforcement over any conflicting civil court order. Any nonconflicting terms of the civil restraining order remain in effect and enforceable.
4. *Family, Juvenile, or Civil Order*: If more than one family, juvenile, or other civil restraining or protective order has been issued, the one that was issued last must be enforced.

(Clerk will fill out this part.)

**—Clerk's Certificate—**

Clerk's Certificate  
[seal]

I certify that this *Restraining Order After Hearing (Order of Protection)* is a true and correct copy of the original on file in the court.

Date: \_\_\_\_\_ Clerk, by \_\_\_\_\_, Deputy

**This is a Court Order.**

Clerk stamps date here when form is filed.

1 Protected Person

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

2 Restrained Person

a. Your Name: \_\_\_\_\_

Your Lawyer (if you have one for this case):

Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Firm Name: \_\_\_\_\_

b. Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or e-mail.):

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

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

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

DRAFT

NOT APPROVED BY THE JUDICIAL COUNCIL

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

3 To the Restrained Person:

If the court has ordered you to complete a 52-week batterer intervention program, you must complete and file this form to prove to the court that you have obeyed its orders. After the order is made, you must enroll in a program by the date ordered by the judge. If the judge did not order you to enroll by a certain date, then you must enroll no later than 30 days after the judge made the order.

I, \_\_\_\_\_, declare as follows: \_\_\_\_\_

Type or print your name

a. I have enrolled in a batterer intervention program that is approved by the probation department.

Name of provider: \_\_\_\_\_

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

Telephone number: \_\_\_\_\_

b. I have signed all necessary forms with the program, allowing the program to release proof of enrollment, attendance records, and completion or termination reports to the court and the protected party, or his or her attorney.

c.  My first class is/was:

d.  Other (list any other order made by the court that you have completed):

\_\_\_\_\_

4 You must provide the protected party with the information listed in 3a. Have someone else mail a copy of this form to the protected person. The person who mails it must complete Form DV-250. File Form VD-250 with the clerk and keep a copy for yourself.

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

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



Sign your name



1 Name of Protected Person: \_\_\_\_\_

2 Name of Restrained Person: \_\_\_\_\_  
 Lawyer for Restrained Person (if applicable):  
 Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_  
 Address (Address of lawyer or address of restrained person. Do not provide an address that should be kept private.):  
 \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_  
 E-mail Address: \_\_\_\_\_

**DRAFT**

**NOT APPROVED BY THE JUDICIAL COUNCIL**

Fill in court name and street address:  
**Superior Court of California, County of**  
 \_\_\_\_\_

3 Batterer Intervention Program (items 3 through 5 must be completed by the program)

a. Name of Program: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Telephone: \_\_\_\_\_  
 Report date: \_\_\_\_\_ Intake date: \_\_\_\_\_ Class start date: \_\_\_\_\_

Court fills in case number when form is filed.  
**Case Number:**  
 \_\_\_\_\_

b. This 52-week program is approved by the probation department under Penal Code section 1203.097.  
*TO PROGRAM STAFF: If you choose to provide another report that contains all the information in 4, skip to 5 and attach your report. Do not forget to provide your name, title, signature and date at the end of this form.*

4 Program Attendance and Progress

a. Number of sessions completed: \_\_\_\_\_ Number of sessions missed: \_\_\_\_\_  
 Of the sessions missed, how many excused? \_\_\_\_\_

b.  The person in 2 is participating and expected to finish by (date): \_\_\_\_\_

c.  The person in 2 successfully completed on (date): \_\_\_\_\_

d.  The person in 2 was terminated from the program on (date): \_\_\_\_\_, for the following reason (explain): \_\_\_\_\_

5 Optional Report

The attached report includes all information required under California Family code section 6343.

**NOTICE TO PROGRAM PROVIDER**

This form should NOT be used to disclose information (example: medical or health information) that is protected under state and federal laws without appropriate written authorization from the person in 2.

I declare under penalty of perjury under the laws of the State of CA that the above information is true and correct to the best of my knowledge.  
 Date: \_\_\_\_\_

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

\_\_\_\_\_  
 (Signature of program staff)

Clerk stamps date here when form is filed.

**TO THE CELL PHONE SERVICE PROVIDER:** This order is made under California Family Code section 6347.

**DRAFT**

**NOT APPROVED  
BY THE JUDICIAL  
COUNCIL**

**THE COURT ORDERS THE FOLLOWING:**

① This order applies to the following cell phone service provider:  
Name of cell phone service provider: \_\_\_\_\_

② This order applies to the following cell phone number(s):  
Telephone number (include area code): \_\_\_\_\_  
Telephone number (include area code): \_\_\_\_\_  
Telephone number (include area code): \_\_\_\_\_  
Telephone number (include area code): \_\_\_\_\_  
Telephone number (include area code): \_\_\_\_\_

Check box to include attachment with additional telephone number(s).

③ This order applies to the following persons:  
a. Name of current account holder: \_\_\_\_\_  
b. Name of new account holder: \_\_\_\_\_

Fill in court name and street address:

Superior Court of California, County of \_\_\_\_\_

Fill in case number:

Case Number: \_\_\_\_\_

**④ TRANSFER OF RIGHTS AND RESPONSIBILITIES**

All rights and responsibilities for the accounts listed in ②, including all financial responsibility for the telephone numbers, monthly service costs, and costs for any mobile device associated with the telephone numbers, must be immediately transferred to the new account holder (person in 3b).

The person in 3b will be financially responsible for the accounts listed in 2 starting:

- the date the account is transferred by the service provider OR
- (specify date) \_\_\_\_\_

⑤ The person in 3b must send this order and a completed copy of form DV-901 to the service provider listed in ①. Form DV-901 is a confidential form and must NOT be filed with the court. For information on where to send this form, see form DV-901.

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

\_\_\_\_\_  
Judicial Officer

**ATTENTION CELL PHONE SERVICE PROVIDER**

The new account holder's (person in 3b) contact information, including information on form DV-901, must NOT be disclosed to the current account holder (person in 3a). This order is made under California's Domestic Violence Prevention Act.

**This is a Court Order.**



**INSTRUCTIONS FOR CELL PHONE SERVICE PROVIDER**

The orders contained on page 1 of this form must be <sup>followed</sup> performed unless the cell phone service provider (provider) cannot operationally or technically effectuate the order due to certain circumstances, including, but not limited to, any of the following:

- When the current account holder has already terminated the account;
- When differences in network technology prevent the functionality of a device on the network; and
- When there are geographic or other limitations on network or service availability

If the provider determines that transfer CANNOT occur, then the provider MUST notify the person in ② within 72 hours of receipt of this order (California Family Code section 6347).

*(Clerk will fill out this part.)*

**—Clerk's Certificate—**

*Clerk's Certificate*  
*[seal]*

I certify that this *Temporary Restraining Order* is a true and correct copy of the original on file in the court.

Date: \_\_\_\_\_ Clerk, by \_\_\_\_\_, Deputy

**This is a Court Order.**

Your name: \_\_\_\_\_

Case Number: \_\_\_\_\_

ATTACHMENT TO  
ORDER TRANSFERRING CELL PHONE ACCOUNT (form DV-900)

Confidential Information

**DO NOT FILE THIS FORM WITH THE COURT**

*DO NOT PLACE IN COURT FILE*

**ATTENTION PROTECTED PERSON:** This form should not be filed with the court. Complete this form and send it to the cell phone service provider (*service provider*). ~~You must also send a copy of the order (Form DV-900) with this form.~~ *along with*

To be completed by Protected Person:

1 Your name (*New account holder*): \_\_\_\_\_

2 Your contact information (*This information will be used by the cell-phone service provider only. The service provider will use this information to contact you to set up your account*):

The best phone number to reach me at is: \_\_\_\_\_

Another phone number to reach me at is *↓* (*list a phone number that is not controlled by the restrained person*):

Email address (*optional*): \_\_\_\_\_

Mailing address (*optional*): \_\_\_\_\_

3 The Restrained Person is (*name*): \_\_\_\_\_

4 *Name of service provider:* \_\_\_\_\_  
*(i-talked)*

**WHERE SHOULD I SEND FORM DV-900 AND THIS FORM (DV-901)?**

To find out where to send these forms, go to the Secretary of State's website at (*link inserted once available*) OR check at (*link to Judicial Council's website inserted once available*) and search for your service provider. You will be able to send the forms by mail, email or fax, depending on who the provider is. The account(s) will NOT be transferred to you if you do not send these forms to the service provider. *service*

**ATTENTION CELL PHONE SERVICE PROVIDER**

Under the Domestic Violence Prevention Act, California Family Code section 6347, the information contained on this form is **CONFIDENTIAL** and must not be disclosed to the Restrained Person (*listed in 3*).

**ITC W16-05**

**Domestic Violence Restraining Orders: New and Updated Forms to Reflect Recent Legislative Changes**

All comments are verbatim unless indicated by an asterisk (\*).

	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
1.	California Partnership to End Domestic Violence By Krista Niemczyk, Public Policy Manager	NI	<p><b>Mutual Restraining Orders</b> 1. On page 3 of the DV-120-INFO, the proposed added language states that mutual restraining orders can only be issued if: “(1) Both people are in court at the hearing; (2) Each person gives the court written evidence of abuse or domestic violence on Form DV-100; and (3) The judge finds that neither party acted primarily in self-defense and both acted as “primary aggressors.” The “primary aggressor” language can be challenging because it can lead to misconceptions about what constitutes aggression and abuse in domestic violence cases. The mutual restraining order law (Family Code 6305) states the court has to find that “both parties acted primarily as aggressors and that neither party acted primarily in self-defense.” Saying that a person had to primarily be acting as an aggressor is not the same as saying they were a “primary aggressor.” We therefore propose that the new language should mirror the statutory language by stating, “The judge finds that both parties acted primarily as aggressors and neither party acted primarily in self-defense.”</p> <p><b>Rights to Wireless Telephone Number</b> 2. Does the proposed language in DV-100, item 15, adequately provide the requesting person with notice of the financial responsibilities involved in an order of this kind? We believe it is important to advise the person asking for this order that they could also potentially be responsible for past due charges</p>	<p>1. Committee discussion</p> <p>2. The committee believes that the current language sufficiently notifies the requesting party that he/she may be responsible for other fees. The committee recognizes that this process may be challenging for litigants to navigate and proposes to provide information on the Judicial Council’s website, in the self-help section, to inform litigants of the process.</p>

**ITC W16-05**

**Domestic Violence Restraining Orders: New and Updated Forms to Reflect Recent Legislative Changes**

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	Commentator	Position	Comment	Committee Response
			<p>and fees because these could be significant. We recommend that the language in this section should be changed to: <i>If the judge makes this order, you will be financially responsible for these accounts, including monthly service fees and costs . . . There may be other fees that you will be responsible for, including past due charges and fees.</i></p> <p>3. We further recommend including language advising the protected person that they may have to take additional safety precautions with regards to the restrained party’s ability to monitor and/or track via the electronic device’s GPS, and that a change in billing alone may not resolve this.</p> <p>4. Should form DV-900, if approved, be a mandatory or optional form? If approved, this should be a mandatory form. We believe that one of the implementation challenges of AB 1407 is that it enables a court to issue an order against a third party cell phone service provider without requiring that the provider be joined as a party to the case or giving the provider any notice whatsoever. In the absence of such due process protections, there should, at a minimum, be mandatory forms that ensure that third party cell phone service providers be given adequate notice of and information regarding the order that they are now being asked to comply with, including information about what they can do if they cannot comply with the order. As written, the</p>	<p>3. The committee proposes to provide this information on the Judicial Council’s website, in the self-help section.</p> <p>4. The committee agrees and is recommending that form DV-900 be adopted for mandatory use.</p>

**ITC W16-05**

**Domestic Violence Restraining Orders: New and Updated Forms to Reflect Recent Legislative Changes**

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	Commentator	Position	Comment	Committee Response
			<p>proposed form appears to include all of the information required by the new law. As this new law is implemented, we may need to re-visit this form to determine if any additional changes are needed to enhance the process.</p> <p>5. Should the form DV-901, if approved, be a mandatory or optional form? If approved, this should be a mandatory form for the reasons stated above. As written, the proposed form instructs the service provider to keep the information confidential, but does not provide specific details about this obligation and what this entails. We wonder if there is additional clarifying information that should be included for the service providers. As with the DV-900, we recognize that this form may need to be re-visited to determine if any additional changes are needed as implementation begins.</p> <p><b>Batterers Intervention Program</b> 6. Should form DV-805, if approved, be a mandatory or optional form? If approved, this should be a mandatory form. AB 439 was passed to address the problem that a person ordered to complete a 52-week batterer intervention program (BIP) was not required to submit any proof of enrollment or participation in a BIP and that, in such cases, the court and protected party should be provided with some basic information. Making DV-805 a mandatory form reinforces to the person subject to the order that s/he is now required to submit proof of enrollment, participation and/or completion</p>	<p>5. To promote uniformity and ensure that adequate information is provided to cell phone service providers, the committee recommends adopting form DV-901 as a mandatory form.</p> <p>6. The committee agrees and is recommending that form DV-805 be adopted for mandatory use.</p>

**ITC W16-05**

**Domestic Violence Restraining Orders: New and Updated Forms to Reflect Recent Legislative Changes**

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	Commentator	Position	Comment	Committee Response
			<p>in a BIP and ensures that the court and protected party are provided with the information specified under the law. Otherwise, the person subject to the order may end up submitting information that is inadequate or incomplete, which would not be a productive use of time, and would fail to meet the goals of this legislation.</p> <p>7. We would also recommend adding language to the form advising the person subject to the order that the failure to abide by the court’s order constitutes a violation of the restraining order for which there may be potential consequences.</p> <p>8. Should form DV-815, if approved, be a mandatory or optional form? If approved, this should be a mandatory form, for the same reasons stated above.</p> <p>9. Does form DV-815, as proposed, meet the statutory requirements without requiring restrained parties or programs to release private or confidential medical or health information otherwise protected by law or not required to be provided under this statute? Yes. We believe that the “Notice to Program Provider” above the signature line clearly states that no confidential information should be released without the restrained party’s written</p>	<p>7. The committee believes that the existing advisements on form DV-130 regarding a failure to obey the court’s orders are sufficient.</p> <p>8. The committee recommends that form DV-815 be adopted as a mandatory form. The use of the form would be mandatory in cases where a restrained person is ordered to provide progress to the court, in addition to the requirements under Family Code section 6343.</p> <p>9. No response required.</p>



**ITC W16-05**

**Domestic Violence Restraining Orders: New and Updated Forms to Reflect Recent Legislative Changes**

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	Commentator	Position	Comment	Committee Response
			<p>consent.</p> <p>10. Is the proposed language regarding immigration consequences on DV-110 and DV-130 clear and accurate? We think that the language is clear and accurate. However, we would caution that this language must be carefully balanced. Including information about potential immigration consequences can help deter some restrained persons from violating the restraining order. The language may also deter some immigrant survivors from coming forward and requesting a restraining order out of fear of the potential immigration consequences for themselves or the restrained party. We raise this as a caution, so that we all will continue to be mindful of the unintended consequences.</p>	<p>10. Committee discussion</p>
2.	<p>Fariba Soroosh, Supervising Attorney Self-Help Center/Family Law Facilitator’s Office Superior Court of Santa Clara County</p>		<p><b>Batterers Intervention Program</b></p> <p>DV-130 1. Item 22: I suggest that brief s be included here re actions and forms mandated by AB439. This is the most likely place that the restrained person will look at first for details about the order to attended a BIP (batterer intervention program).</p> <p>DV-805 and 815 2. As one of the persons involved in drafting AB439, the intent of the legislation is different than reflected in these forms. We did not intend to create more work for the Court or the BIP’s.</p>	<p>1. The committee agrees to revise the text in item 22 to provide notice of the legal mandates of Family Code section 6343.</p> <p>2. The committee agrees that there should be a mandatory form to help restrained persons comply with the requirements set forth in Family Code section 6343. The committee recommends that</p>

**ITC W16-05**

**Domestic Violence Restraining Orders: New and Updated Forms to Reflect Recent Legislative Changes**

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	Commentator	Position	Comment	Committee Response
			<p>The burden to report is on the restrained party (RP) and the burden to follow up on any violations of the order is on the protected party once he/she has received the mandated information from the RP. I agree that there should be a mandatory form based on AB439 to help the restrained persons with the reporting requirements. Making it mandatory will help the courts and protected parties because the information provided will be consistent and easy to locate on the form rather than individually prepared declarations/letters submitted to the court.</p> <p>DV-805</p> <p>3. Item 3: If the form is mandatory, the RP should not be told that they “may use this form . . .”. I suggest that the mandates in AB439 be stated in this item.</p> <p>4. Item 4: I would change the title of this item to, for example, “Restrained party declares that.” Items “d” and “e” are not required and may confuse the RP.</p> <p>5. Item “f” should require RP to provide the information to the court as well as the other party. It also erroneously refers to “information listed in 1” rather than “3”.</p>	<p>form DV-805 be adopted as a mandatory form.</p> <p>3. The committee recommends that form DV-805 be adopted as a mandatory form. The language in item 3 has been changed to reflect this.</p> <p>4. The committee has combined items 3 and 4 to address this suggestion. The committee has revised the form so that any item not required by the law is preceded by a check box and any item required by law is not preceded by a check box.</p> <p>5. The restrained person will provide notice to the court by filing the form therefore this language is not necessary and could be confusing to litigants. The committee has corrected the typographical error referring to 1 rather than 3.</p>

**ITC W16-05**

**Domestic Violence Restraining Orders: New and Updated Forms to Reflect Recent Legislative Changes**

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	Commentator	Position	Comment	Committee Response
			<p>6. DV-815- As I previously stated, the new legislation was not intended to obligate the program to do anything at all. Further, RP is not required to obtain a report from the BIP. Once the RP has done what is mandated in AB439 (register, sign release forms, and identify the specific BIP), then it is up to the PP to follow up with the program and come to court if the RP has not complied with those orders. I believe that each provider has a progress report template and should be allowed to use those if the PP and RP request one for submission to the court. Therefore, I recommend that this form be omitted.</p> <p><b>Mutual Restraining Orders</b></p> <p>7. DV-120-INFO- As one of the persons involved in drafting AB536, I think the new segment in this form corresponding to that change in the law is far too complicated. I suggest that the language be a simple admonishment about using the DV application forms to apply for a restraining order. I don't think there is a need to inform respondent about the standard the court uses to grant a restraining order. I also think the use of "mutual restraining orders" here makes it look like a specific kind of order rather than just a</p>	<p>6. The committee recommends that form DV-815 be adopted as mandatory form to help litigants, especially self-represented litigants, provide information to the court when the court orders the restrained person to provide the court with progress. For example, courts may set regular review hearings to monitor compliance and/or review compliance for purposes of overcoming the presumption against custody under to Family Code section 3044. Having a mandatory form available to litigants and courts will promote access to the court process and uniformity. Programs can still use their own report template and can attach a copy of their report to this form and check item 5. Without a form available for this purpose, restrained persons submitting their progress report for filing with the court would still need to attach the provider's report to another approved form or pleading.</p> <p>7. Committee discussion</p>

**ITC W16-05**

**Domestic Violence Restraining Orders: New and Updated Forms to Reflect Recent Legislative Changes**

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	Commentator	Position	Comment	Committee Response
			<p>description of the situation where each party to a case has their own restraining order against the other party. I propose that in this section, responding party simply be referred to DV-505 to find out what forms to use if they think the meet the requirements for filing an application for a restraining order against the other party.</p> <p><b>Other Comments</b></p> <p>8. DV-100- Starting with item 6: Although nothing is being changed in this item, I have been asking for an inquiry about how long the applicant wants the order to last (up to five years). I have seen the opposing party and/or judicial officer asking for the order to be for less than the maximum of 5 years and taking the applicant by surprise. After all the judicial officer does have discretion to set the duration less than the maximum even sua sponte. This type of an inquiry gives the applicant time to consider her options and be ready to defend her choice at hearing in case opposing or judicial officer brings it up.</p> <p>DV-120-Starting with item 6: If you add an inquiry about duration of the RO, please include the same item on this form to solicit a response.</p> <p>10. DV-100, Item 27: I find the current format confusing. I suggest Indent “b” through “f” and renumber them another way. Then current inquiry “g” can be “b” and the date of another incident with the same inquiries as current “b” through “f” renumbered the same way.</p>	<p>8. The committee would like to receive public comment on this suggestion. The committee will consider this suggestion in a future proposal.</p> <p>10. The committee has corrected the formatting in item 27, as suggested by the commentator.</p>

**ITC W16-05**

**Domestic Violence Restraining Orders: New and Updated Forms to Reflect Recent Legislative Changes**

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	Commentator	Position	Comment	Committee Response
3.	Legal Aid Fondation of Los Angeles By Jimena S Vasquez, Attorney	NI	<p><b>Rights to Wireless Telephone Number</b></p> <p>1. Transfer of Cell Phone Account is misleading. The heading of Item 15 in DV-100 "Transfer of Cell Phone Account" is misleading. The legislation as passed is to transfer the phone and billing responsibilities. In most cases, the protected party will need to open a new account with the wireless provider but will be able to maintain the cell phone and phone number. It should be made clearer by eliminating the word account and leaving it as Transfer of Cell Phone Rights.</p> <p>2. Additionally, the notice of billing responsibilities should add that account balances and new account charges may apply.</p> <p>3. The title of Item 15 in DV-110, DV-120, and DV-130 should be changed to "Transfer of Cell Phone Rights" as well.</p> <p>4. DV 901 should be a mandatory form. As with most of the other domestic violence forms, this form should be mandatory. It assists the pro per litigants with knowing what to send to the wireless providers to benefit from their order. Making this form mandatory will also assist wireless providers who will become familiar with the form and know how to process them.</p>	<p>1. The committee believes that "Transfer of Cell Phone Account" accurately describes, in plain language, the subject of the transfer. The cell phone or device is not necessarily associated with the account. A separate request for property control of the device may be needed.</p> <p>2. The committee believes that the current language sufficiently notifies the requesting party that he/she may be responsible for other fees.</p> <p>3. Same response as number 1.</p> <p>4. To promote uniformity and ensure that adequate information is provided to cell phone service providers, the committee recommends adopting form DV-901 as a mandatory form.</p>

**ITC W16-05**

**Domestic Violence Restraining Orders: New and Updated Forms to Reflect Recent Legislative Changes**

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	Commentator	Position	Comment	Committee Response
			<p>5. A confidentiality notice should also be placed in DV-900 similar to the notice in DV-901 further underscoring that the information of the protected party is confidential.</p> <p>6. DV 805 should be a mandatory form. Again, the form must be mandatory to remain in line with other domestic violence forms. It creates uniformity and easy accessibility for proper litigants. Furthermore, it would restrict the information the restrained party would legitimately be able to send to Petitioner. Otherwise, the Respondent's would be able to send any type of correspondence to the Petitioner under the guise of notice of enrollment.</p> <p>7. Additionally with this form, we suggest not making most of Item 4 mandatory not check boxes except Item 4(e).</p> <p>8. Additionally, item 4(f) should be a notice sentence that the protected party in must be provided with the information listed. It should also allow for no notice being sent if the address of the protected party is listed as confidential. We suggest the following: "You must provide the protected party in (1) with the information listed here. You can do so my mailing the protected party a copy of</p>	<p>5. The committee agrees and has included a similar notice on form DV-900.</p> <p>6. The committee recommends adopting form DV-805 as a mandatory form.</p> <p>7. The committee agrees. Only items that are not mandatory under 6343 will be preceded by a check box.</p> <p>8. The committee recommends providing more information on how service can be accomplished by the restrained person. Without the consent of the protected person, the court cannot waive the requirement for service on the protected person.</p>

**ITC W16-05**

**Domestic Violence Restraining Orders: New and Updated Forms to Reflect Recent Legislative Changes**

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	Commentator	Position	Comment	Committee Response
			<p>this form consistent with the guidelines set forth I Paragraph 6(b) of the DV-130. If confidential is listed as the mailing address, no mailing is required."</p> <p>9. We also suggest including on form DV-130, a place for the court to write an enrollment deadline date for the batterer intervention program. We suggest that one be added to the DV-130 at section 22 with the additional sentence stating if no date is written then within 30 days of the date of this order.</p> <p>10. DV 815 should be a mandatory form. Making this form mandatory will help ensure that the intervention programs chosen by the restrained party are approved program. In Los Angeles, there has been an increase in unqualified providers of batterer's intervention programs. As batterer's contend they cannot afford the mandatory fee associated with the approved programs, untrained, unqualified providers have begun to offer low or no cost programs. By making the form mandatory and requiring the programs to check the box that they are an approved program, the court as well as protected party's can make sure the restrained person is getting the proper, needed, intervention.</p> <p>11. We would also suggest adding a box requesting whether or not a fee has been charged to stem the growth and use of unauthorized intervention programs.</p>	<p>9. The committee agrees with these suggestions and has incorporated them, with minor alterations.</p> <p>10. The committee recommends that form DV-815 be adopted as mandatory form to help litigants, especially self-represented litigants, provide information to the court when the court orders the restrained person to provide the court with progress. For example, courts may set regular review hearings to monitor compliance and/or review compliance for purposes of overcoming the presumption against custody under to Family Code section 3044. Having a mandatory form available to litigants and courts will promote access to the court process and uniformity.</p> <p>11. Under 6343 programs must be approved by the probation department which is stated on the form and addresses this issue.</p>

## ITC W16-05

### Domestic Violence Restraining Orders: New and Updated Forms to Reflect Recent Legislative Changes

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	Commentator	Position	Comment	Committee Response
			<p>12. The proposed language regarding immigration consequences is NOT accurate. The use of the phrasing "If the court" suggests that the family law court itself would be responsible for immigration consequences. This sends the message to litigants and the immigrant community that civil courts are working with Immigration and Customs Enforcement. This is the wrong message to send to litigants and the immigrant community.</p> <p>The ability to deport, deny entry, or deny citizenship is beyond the powers of a civil state court and is under the purview of the Federal Government. It should be clarified that under Federal law restraining order violations may result in immigration consequences. This distinction should help ease fears about obtaining restraining orders and any collusion between the state civil court and Immigration and Customs Enforcement.</p> <p>The language should be as follows:</p> <p>If you (the restrained party) violate this order and you are NOT a U.S. Citizen you MAY face immigration consequences.</p> <ul style="list-style-type: none"><li>• Under Federal law, a finding in civil or criminal court that a non US Citizen violated a domestic violence protection order by engaging in prohibited conduct described in Family Code Sec. 6320 and</li></ul>	12. Committee discussion



**ITC W16-05**

**Domestic Violence Restraining Orders: New and Updated Forms to Reflect Recent Legislative Changes**

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	Commentator	Position	Comment	Committee Response
			<p>6389, is a basis for deportation, wherefore ICE may initiate deportation/removal proceedings against you;</p> <ul style="list-style-type: none"> <li>• order is a basis for deportation, wherefore ICE may initiate deportation/removal proceedings against you;</li> <li>• You may not be able to lawfully return to the U.S. after departing the USA for any reason;</li> <li>• You may not be able to become a U.S. citizen.</li> </ul> <p>13. In discussing alternatives considered for Assembly Bill 536, the committee stated that it considered simply stating not to use this form to request a restraining order but felt it was wrong because of the court's ability to issue a restraining order without notice under 6300. However, you would have the same due process and notice issues if the court granted a respondent a restraining order solely based on testimony provided to the court on the day of the hearing. This relief would not be available to respondents, as it would exceed the court's power. The courts cannot grant unrequested relief against a party who appears without affording that party notice and an opportunity to defend. This is a fundamental concept of due process.</p>	<p>13. Family Code section 6300 and 240 et seq., gives the court authority to issue ex parte orders on a temporary basis pending a hearing. The committee agrees that any party requesting a domestic violence restraining order is afforded the right to proper notice and opportunity to be heard before permanent orders can be made.</p>

**ITC W16-05**

**Domestic Violence Restraining Orders: New and Updated Forms to Reflect Recent Legislative Changes**

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	Commentator	Position	Comment	Committee Response
4.	<p>Los Angeles Center for Law and Justice By Carmen McDonald, Supervising Attorney</p>	<p>NI</p>	<p><b>Rights to Wireless Telephone Number</b>            1. Item 15 in DV-100 is titled "Transfer of Cell Phone Account." The legislation as passed is to transfer the phone and billing responsibilities. In most cases, the protected party will need to open a new account with the wireless provider but will be able to maintain the cell phone and phone number. It should be made clearer by eliminating the word account and leaving it as Transfer of Cell Phone Rights. Alternately, this can be titled "Transfer of Telephone Rights" to include land lines in addition to cell phone lines and reference the provider as a "telephone" provider rather than a "wireless" provider.            2. Additionally, the notice of billing responsibilities should add that new account charges might apply.            3. We are also concerned that the requesting party will rely that this process will work. The court should warn the person that while this is a court order, the court does not control the wireless provider and the requesting party may need to open another account, and if so, the requesting party may need to qualify for the provider's eligibility for a new account.            4. We are also concerned that the telephone provider cannot or will not release any information to the requesting party without a</p>	<p>1. The committee believes that "Transfer of Cell Phone Account" accurately describes, in plain language, the subject of the transfer. The cell phone or device is not necessarily associated with the account. A separate request for property control of the device may be needed.            2. The committee believes that the current language sufficiently notifies the requesting party that he/she may be responsible for other fees.            3. Committee discussion (proposed language: The committee recognizes that this process may be challenging for litigants to navigate, especially self-represented litigants. The committee proposes to provide information on the Judicial Council's website, in the self-help section, as information becomes available. The committee will consider developing an information sheet in the future, if the need arises.)            4. Committee discussion</p>

## ITC W16-05

### Domestic Violence Restraining Orders: New and Updated Forms to Reflect Recent Legislative Changes

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	Commentator	Position	Comment	Committee Response
			<p>court order or subpoena. The order should reflect the requesting party's ability to request and review a statement of rights and responsibilities before the provider completes the transfer or at least gives the requesting party the ability to rescind her/his request to transfer.</p> <p>5. The title of item 15 in DV-110, DV-120, and DV-130 should be changed to "Transfer of Cell Phone Rights" or "Transfer of Telephone Rights" as well. The DV-900 and DV-901 should be changed accordingly.</p> <p>6. DV-100: Page 3, Item 15: Remove "financially" as the protected person would be responsible for the entire account, not just the financial part.</p> <p>7. DV-100: Page 3, Item 15: "There may be other fees that you will be responsible for" should be changed to "You may also be responsible for other fees."</p> <p>8. DV-100: Page 3, Item 15: Clarify that you will be financially responsible for "any future charges or costs on" these accounts.</p>	<p>5. Same response as number 1</p> <p>6. The committee does not propose making the suggested change. This section is meant to emphasize the financial responsibilities associated with this type of order. The first sentence in this section does reflect what the statute allows the transfer of billing responsibilities and rights.</p> <p>7. The committee has made this revision.</p> <p>8. The court will not know what costs are associated with a transfer. The new account holder may be responsible for past charges or costs. The committee has revised the request for to allow the requester to ask that the other person be responsible for paying for the account under Family Code section 6324.</p>

**ITC W16-05**

**Domestic Violence Restraining Orders: New and Updated Forms to Reflect Recent Legislative Changes**

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			<p><b>Immigration Consequences</b>            9. DV-110 and DV-130 Warnings and notices to the restrained person, top of page 5. Change "may or will be" to "may be" (may or will be does not make sense - if it is will, then it can't be may . . .)</p> <p><b>Batterers Intervention Program</b>            10. Form DV-130 should be modified to include a place for the court to write an enrollment deadline date for the batterer intervention program. We suggest that one be added to the DV-130 at section 22 with the additional sentence stating if no date is written then within 30 days of the date of the order.</p> <p>11. DV-130: Page 4, Item 22: We are concerned that this section needs to be more detailed and thorough to be enforceable and to give everyone the appropriate notices.</p> <p>12. The DV-805 as well as the restrained party's release of program information should be mandatory.            We suggest something similar to the following language:            "The person in (2) must go to and pay for a 52-week batterer intervention program and show written proof of completion to the court. The person in (2) must sign and submit form DV-805, <i>Proof of Enrollment for Batterer Intervention Program</i>, to the court, declaring that s/he has enrolled in an approved program</p>	<p>9. Committee discussion</p> <p>10. The committee agrees and has made the suggested revisions.</p> <p>11. The committee agrees to revise the text in item 22 to provide notice of the legal mandates of Family Code section 6343.</p> <p>12. The committee agrees with these suggestions and has incorporated them, with minor alterations.</p>

**ITC W16-05**

**Domestic Violence Restraining Orders: New and Updated Forms to Reflect Recent Legislative Changes**

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	Commentator	Position	Comment	Committee Response
			<p>and signed all necessary forms with the program to allow the program to release limited information to the court and protected party. This program must be approved by the probation department (<i>contact your local probation department or go to <a href="http://probation.lacounty.gov">probation.lacounty.gov</a> for more information</i>). The person in (2) must enroll in an approved program by (<i>due date</i>) or if no date is listed, enrollment must occur within 30 calendar days of this order."</p> <p><b>Rights to Wireless Telephone Number</b></p> <p>13. DV-900, Page 1: Address of provider: Change "Address (see service provider's . . . ) to "Address (use service provider's . . ." and "Secretary of State" should be changed to "California Secretary of State". The term should be uniformly California Secretary of State.</p> <p>14. Since there is no means for the requesting party to get info on the account before any order is issued, we would suggest adding another section allowing that. Suggested language for the new Item 2 section (inserted after Item 1): "The requesting party must receive a statement of rights and responsibilities, including all financial costs associated with the transfer or new account(s) in writing within 72 hours of the provider's receipt of this order. The requesting party may cancel this Order Transferring Cell Phone Rights, without any penalty to the</p>	<p>13. The committee agrees and has made the suggested revision.</p> <p>14. Committee discussion</p>

**ITC W16-05**

**Domestic Violence Restraining Orders: New and Updated Forms to Reflect Recent Legislative Changes**

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			<p>requesting party by the provider, within 30 days of receipt of this statement by submitting a written request to cancel this order to the provider. Requesting party must serve a copy of the request to cancel to the restrained party and to the court." Alternately, we could call this a Request for Rescission of Telephone Transfer Rights.</p> <p>15. New Item 3 (formerly Item 2): We are gravely concerned that the requesting party will be liable for any back-due charges incurred before the court's issuance of an Order Transferring Telephone Rights. As a matter of public policy and providing access to the judicial system to low-income litigants, the protected party should not be liable for any debt, charges, fees, or missed payments incurred by the restrained party prior to the effective date of this order.</p> <p>We suggest the following language to clarify that the requesting party is only liable for charges incurred from the effective date of the order, including possible new account charges: "... associated with the telephone numbers incurred from the effective date until closure of the account(s) or until rescission of this order, must be transferred to:"</p> <p>The end of Page 1 should have an INFO section that advises the requesting party how to cancel the order. A new form may need to be created to simplify the requesting party's process of requesting a cancellation of the transfer of</p>	<p>15. Family Code section 6347 does not give the court the authority to limit the protected person's liability for past fees or charges incurred on the account.</p>

## ITC W16-05

### Domestic Violence Restraining Orders: New and Updated Forms to Reflect Recent Legislative Changes

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			<p>telephone rights.</p> <p>16. DV-900, Page 2: "Provider must notify" box: this does not specify how notification must be made. The manner of notification is vague. We suggest it say, "The provider must notify the person in (2), in writing ...,"</p> <p>17. A confidentiality notice should also be placed in DV-900 similar to the notice in DV-901 further underscoring that the information of the protected party is confidential.</p> <p>18. We are concerned whether the provider may deny transfer of the account because the requesting party does not qualify for a new account. This may become a barrier for low income/undocumented protected parties who have no proof of ability to pay and/or no or bad credit.</p> <p>We suggest adding an INFO section at the end that advises the provider how to respond, the time frame to respond, and what to do if the requesting party submits a request to cancel the account transfer.</p>	<p>16. The committee cannot implement requirements that are not provided by statute. Family Code section 6347 provides that "Where the wireless service provider cannot operationally or technically effectuate the order due to certain circumstances, including, but not limited to, any of the following, the wireless service provider shall notify the requesting party within 72 hours of receipt of the order." The statute does not require that notice be in writing.</p> <p>17. The committee agrees and has revised DV-900 to incorporate the suggestion.</p> <p>18. Committee discussion</p>

## ITC W16-05

### Domestic Violence Restraining Orders: New and Updated Forms to Reflect Recent Legislative Changes

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			<p><b>DV-901</b></p> <p>19. As with most of the other domestic violence forms, this form should be mandatory. It assists the pro per litigants with knowing what to send to the wireless providers to benefit from their order. Making this form mandatory will also assist wireless providers who will become familiar with the form and know how to process them.</p> <p>20. There should be a line(s) added where the protected person writes the name (and address) of the service provider. Then "(service provider)" can be removed from the first paragraph.</p> <p>21. Item 2: If there is going to be a parenthetical informing the protected person "(list a phone number that is not controlled by the restrained person)" it should be after both "the best phone number" and "Another phone number"</p> <p>22. The requesting party's address should be required instead of making both email and mailing address optional. Since the provider is likely to require a billing address and because the provider's notice of inability to transfer the account should be made in writing, the requesting party will need to provide some means of receiving written statements, whether electronically or by mail. If the protected party does not want a mailing address, then they should provide an email address and the account</p>	<p>19. To promote uniformity and ensure that adequate information is provided to cell phone service providers, the committee recommends adopting form DV-901 as a mandatory form.</p> <p>20. The committee has added a space to list the name of the service provider. An address may not be needed as some providers will accept orders by fax.</p> <p>21. The committee agrees and has reformatted this section.</p> <p>22. The committee agrees to remove the word "optional."</p>



## ITC W16-05

### Domestic Violence Restraining Orders: New and Updated Forms to Reflect Recent Legislative Changes

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			<p>will automatically enrolled in e-statements.</p> <p>23. The "Where should I send" section: "Secretary of State" should be changed to "California Secretary of State". The term should be uniformly California Secretary of State. "depending on who the provider is" should be changed to "depending on the provider." In addition, "The account(s) will NOT be transferred" should be changed to "The account(s) can NOT . . ."</p> <p>24. "Attention Cell Phone Service Provider" box has an extra space after "(listed in 3 )."</p> <p>25. The end of the form also should include an INFO section that advises the requesting party how to cancel the order. A new form may need to be created to simplify the requesting party's process of requesting a cancelation of the transfer of telephone rights.</p> <p><b>Batterers Intervention Program DV-805</b></p> <p>26. This form should be mandatory. It will clarify what is sufficient proof of enrollment of the Batterer Intervention Program.</p> <p>27. Item 3: Add the "You must sign all necessary forms with the program, allowing the program to release proof of enrollment, attendance records, and completion or termination reports to the court and the protected party, or his or her attorney." from</p>	<p>23. The committee agrees and has made the suggested revision.</p> <p>24. The committee has corrected this typographical error.</p> <p>25. Committee discussion</p> <p>26. The committee agrees and recommends adopting form DV-805 as a mandatory form.</p> <p>27. The committee has reformatted this section to combine items 3 and 4 and has removed check boxes for items that are required under Family Code section 6343.</p>

## ITC W16-05

### Domestic Violence Restraining Orders: New and Updated Forms to Reflect Recent Legislative Changes

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			<p>#4 to #3 instead to make this mandatory.</p> <p>28. DV-805 Item 4.f: This provision is unclear as there is no "information listed in 1."</p> <p>29. If the provision is notice on emolument, then 4(f) should not be an optional check box. It should require that notice be sent to the Petitioner, unless their address is confidential. Possible language can be "You must serve the protected party with a signed copy of this form."</p> <p>DV-815</p> <p>30. DV 815 should be a mandatory form Making this form mandatory will help ensure that the intervention programs chosen by the restrained party are approved programs. By making the form mandatory and requiring the programs to check the box that they are an approved program, the court as well as protected litigants can make sure the restrained person is getting the proper, needed, intervention.</p> <p>31. We would also suggest adding a box requesting whether or not a fee has been or will be charged.</p> <p>32. Item 3b: Remove the checkbox to make it mandatory.</p>	<p>28. The committee has corrected the typographical error.</p> <p>29. The committee recommends removing the check box, as suggested by the commentator. This item is meant to provide the restrained person with notice of the requirement to provide the protected person with the name, address and phone number of the provider.</p> <p>30. The committee recommends that form DV-815 be adopted as a mandatory form.</p> <p>31. Under Family Code section 6343, programs must be approved by the probation department which is stated on the form and addresses this issue.</p> <p>32. The committee agrees and has made the suggested revision.</p>

**ITC W16-05**

**Domestic Violence Restraining Orders: New and Updated Forms to Reflect Recent Legislative Changes**

All comments are verbatim unless indicated by an asterisk (\*).

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			<p>33. Item 3 TO PROGRAM STAFF:                      "attach you report" should be changed to "attach your report" "provide your name, signature :. ." should be changed to provide your name, title, signature . . ."                      Add a checkbox with "See attached report: pages."</p> <p>NOTICE TO PROGRAM PROVIDER: The parenthetical (example: medical information) should be edited and moved to be more clear: "This form should NOT be used to disclose Information (such as medical information) that is protected under state and federal laws . . ."</p> <p>34. DV-815: Item 5: Instead of "The above information is true and correct ...", make the provider swear under penalty of perjury. "I declare under penalty of perjury under the laws of the state of California that the information above is true and correct to the best of my knowledge."</p> <p>35. Making separate lines for the provider's "name" and "title" may make it clearer that the provider submitting the report must fill in both.</p> <p>36. The proposed language regarding immigration consequences is NOT accurate The use of the phrasing "Ifthe court" suggests that the family law court itself would be responsible for immigration consequences. This sends the message to litigants and the immigrant</p>	<p>33. The committee agrees with these recommendations and has incorporated them into the proposal, with some alterations.</p> <p>34. The committee has made this suggested revision.</p> <p>35. Due to space limitations on the form, the committee does not recommend adding a separate line for "title."</p> <p>36. Committee discussion</p>

**ITC W16-05**

**Domestic Violence Restraining Orders: New and Updated Forms to Reflect Recent Legislative Changes**

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			<p>community that civil courts are working with Immigration and Customs Enforcement. This is the wrong message to send to litigants and the immigrant community. The ability to deport, deny entry, or deny citizenship is beyond the powers of a civil state court and is under the purview of the Federal Government. It should be clarified that under Federal law restraining order violations may result in immigration consequences. This distinction should help ease fears about obtaining restraining orders and any collusion between the state civil court and Immigration and Customs Enforcement.</p> <p>The language should be as follows:                      "If you (the restrained party) violate this order and you are NOT a U.S. Citizen you MAY face immigration consequences.</p> <ul style="list-style-type: none"> <li>• Under Federal law, a finding in civil or criminal court that a non US Citizen violated a domestic violence protection order is a basis for deportation, wherefore ICE may initiate deportation/removal proceedings against you;</li> <li>• You may not be able to lawfully return to the U.S. after departing the USA for any reason;</li> <li>• You may not be able to become a U.S. citizen." <p>DV-120                      37. Item 3- We are concerned that referring litigants for information on mutual orders could</p> </li></ul>	<p>37. Committee discussion</p>

**ITC W16-05**

**Domestic Violence Restraining Orders: New and Updated Forms to Reflect Recent Legislative Changes**

All comments are verbatim unless indicated by an asterisk (\*).

	Commentator	Position	Comment	Committee Response
			create an increase in Respondents filing for restraining orders. While it is important for litigants to obtain this information, often these cross filings are retaliatory.	
5.	Los Angeles County Bar Association (LACBA), Family Law Section		<p>1. Does the proposal appropriately address the stated purpose? LACBA response: Yes</p> <p><b>Rights to Wireless Telephone Number</b></p> <p>2. Does the proposed language in DV-1 00, Item 15, adequately provide the requesting person with notice of financial responsibilities involved in an order of this kind? LACBA response: Yes</p> <p>3. Should DV-900 include instructions for cell phone service providers, as reflected on Page 2 of DV-900? LACBA response: Yes</p> <p>4. Should forms DV-901, DV-805; DV-815, if approved, be mandatory or optional or not required to be provided under this statute? LACBA response: Mandatory</p> <p>5. Does DV-815, as proposed, meet the statutory requirements without requiring restrained parties or programs to release private or confidential medical or health insurance information otherwise protected by law? LACBA response: Yes</p> <p>6. Is the proposed language regarding immigration consequences on DV-110 and DV-130 clear and accurate? LACBA response: Yes</p>	<p>1. No response required.</p> <p>2. No response required.</p> <p>3. No response required.</p> <p>4. The committee proposes that these forms be adopted as mandatory forms.</p> <p>5. No response required.</p> <p>6. Committee discussion</p>

**ITC W16-05**

**Domestic Violence Restraining Orders: New and Updated Forms to Reflect Recent Legislative Changes**

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	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
6.	Monica Clark Johnson, Paralegal WEAVE, Inc.	A	<p>1. If approved, forms DV-805 and DV815 should be mandatory.</p> <p>A report from the provider should be optional and voluntary on the part of the abuser.</p> <p>3. The form does include language that covers rights to privacy. If a Batterer's Intervention Program is deemed to be "counseling", then there may be HIPAA laws that apply.</p> <p>4. If approved, forms DV-900 and DV-901 should be mandatory.</p> <p>5. The cell phone providers may be slow to respond to the order, since the forms are to be served on the agent for the company through the Secretary of State. (The separation of phone numbers will most likely incur a cost for new established service and contract agreements with certain providers. Although, the form mentions the potential financial costs, the real problem will be when the fees are calculated</p>	<p>1. The committee recommends both forms be adopted for mandatory use.</p> <p>The committee recommends that form DV-815 be adopted as mandatory form to help litigants, especially self-represented litigants, provide information to the court when the court orders the restrained person to provide the court with progress. For example, courts may set regular review hearings to monitor compliance and/or review compliance for purposes of overcoming the presumption against custody under to Family Code section 3044. Having a mandatory form available to litigants and courts will promote access to the court process and uniformity.</p> <p>3. No response required.</p> <p>4. The committee agrees and recommends that both forms be adopted for mandatory use.</p> <p>5. No response required.</p>

## ITC W16-05

### Domestic Violence Restraining Orders: New and Updated Forms to Reflect Recent Legislative Changes

All comments are verbatim unless indicated by an asterisk (\*).

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			<p>and presented to the requester, who had no idea how expensive it is to break up the plan).</p> <p>6. The language regarding immigration consequences on DV-110 and DV-130 is clear enough to let the abuser know that he or she may wish to seek legal advice to determine what consequences they could be subjected to.</p>	6. Committee discussion
7.	Orange County Bar Association By Todd G. Friedland	AM	<p><b>Mutual Restraining Orders</b></p> <p>1. The proposed added language at page 3 of DV-120-INFO misstates the law. The Responding Party must file and service its own DV Application to be able to get a restraining order (not just give the court “written evidence”) against the moving party.</p> <p><b>Rights to Wireless Telephone Number</b></p> <p>2. Does the proposed language in DV-100, item 15, adequately provide the requesting person with notice of the financial responsibilities involved in an order of this kind? Yes.</p> <p>3. Should form DV-900, if approved, include instructions for cell phone service providers, as reflected on page 2 of DV-900? Yes.</p> <p>4. Should form DV-901, if approved, be a mandatory or optional form? Mandatory</p>	<p>1. Under Family Code section 6300 and 240 et seq., the court has the authority to issue ex parte orders on a temporary basis pending a hearing. The committee agrees that any party requesting a domestic violence restraining order is afforded the right to proper notice and opportunity to be heard before permanent orders can be made.</p> <p>2. No response required.</p> <p>3. The committee recommends adopting form DV-900 for mandatory use.</p> <p>4. The committee recommends adopting form DV-901 for mandatory use.</p>

**ITC W16-05**

**Domestic Violence Restraining Orders: New and Updated Forms to Reflect Recent Legislative Changes**

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			<p><b>Batterers Intervention Program</b>                      5. Should form DV-805, if approved, be a mandatory or optional form? Mandatory</p> <p>6. Should form DV-815, if approved, be a mandatory or optional form? Mandatory</p> <p>7. Does form DV-815, as proposed, meet the statutory requirements without requiring restrained parties or programs to release private or confidential medical or health information otherwise protected by law or not required to be provided under this statute? Mostly. The “Notice to Program Provider” should include “(example: health or medical information)” since these forms are often taken literally.</p> <p><b>Immigration Consequences</b>                      8. Is the proposed language regarding immigration consequences on DV-110 and DV-130 clear and accurate? Yes.</p>	<p>5. The committee recommends adopting form DV-805 for mandatory use.</p> <p>6. The committee recommends adopting form DV-815 for mandatory use.</p> <p>7. The committee agrees and will include health information as an example of information that may be protected under state and federal law.</p> <p>8. Committee discussion</p>
8.	The State Bar of California The Executive Committee of the Family Law Section (FLEXCOM)	AM	1. FLEXCOM generally approves the amended and new forms as appropriately addressing the stated purposes, subject to the following comments and exceptions. FLEXCOM believes all forms should be mandatory except for DV-815, which FLEXCOM believes should not be adopted at all.	<p>1. The committee recommends the adoption of forms DV-900, DV-901, DV-805 and DV-815 for mandatory use.</p> <p>The committee recommends that form DV-815 be adopted as mandatory form to help litigants, especially self-represented litigants, provide information to the court when the court orders the restrained person to provide the court with progress. For example, courts may set regular</p>



**ITC W16-05**

**Domestic Violence Restraining Orders: New and Updated Forms to Reflect Recent Legislative Changes**

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			<p><b>Batterers Intervention Program</b></p> <p>2. <b>DV-815:</b> FLEXCOM believes this form should not be adopted. FLEXCOM was the sponsor of Assembly Bill 439 (Stats. 2015, ch. 72). The proposed form goes beyond the intent of the legislation and what is required under AB 439’s amendments to the Family Code. That legislation, commencing July 1, 2016, requires the restrained party ordered to participate in a batterer’s intervention program to 1) register for the program by a specified deadline; 2) at the time of enrollment, sign all necessary program consent forms for the program to release specified documents, including proof of enrollment, to the court and the protected party or his or her attorney; and 3) provide the court and the protected party with the name, address, and telephone number of the program.</p> <p>AB 439 was not intended to obligate the batterer’s intervention program to take any affirmative steps on its own. There was also no intention to impose an affirmative obligation on the restrained party to seek out a report from the batterer’s intervention program. DV-815 appears to require (or at least suggest) both that the batterer seek out a report and that the</p>	<p>review hearings to monitor compliance and/or review compliance for purposes of overcoming the presumption against custody under to Family Code section 3044. Having a mandatory form available to litigants and courts will promote access to the court process and uniformity.</p> <p>2. See previous response.</p>

**ITC W16-05**

**Domestic Violence Restraining Orders: New and Updated Forms to Reflect Recent Legislative Changes**

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			<p>program provide the specified information, even without a request. That was not the intent of the legislation. Once the restrained party has done what is mandated, it is up to the protected party to follow up with the program and come to court if there are any issues regarding compliance. The court could also request information from the program on its own. But in either event, the program would be responding to a request for information instead of supplying the information, without any request, on a Judicial Council form.</p> <p>3. In regards to the new section 22, FLEXCOM recommends that all language contained in Family Code Section 6343(b) be included to effectuate notice.</p> <p><b>Mutual Restraining Orders</b></p> <p>4. <b>DV-120-INFO-</b> FLEXCOM recommends modifying the second heading “What are the legal Requirements?” as it may be considered misleading (there are many more legal requirements than those listed) and changing the heading to what is now the next line: “A Domestic Violence Order is Available if:”</p> <p>In regards to the added section, appearing at the bottom of page 3, FLEXCOM recommends removing the first sentence “In order for the court . . .” as it is vague and possibly misleading (see comment above).</p>	<p>3. The committee agrees and has added space for the judge to indicate a start date, if desired, and references form DV-805, which if adopted as proposed, must be completed by the restrained person.</p> <p>4. The committee has revised DV-120-INFO to be more accurate and user-friendly. The format has been revised to be more consistent with other restraining order “120-INFO” forms.</p> <p>5. Committee discussion on whether to include information on mutual restraining orders</p>

**ITC W16-05**

**Domestic Violence Restraining Orders: New and Updated Forms to Reflect Recent Legislative Changes**

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			<p>5. FLEXCOM recommends moving the added section on page 3 to page 1, between “What is abuse?” and “What if the legal requirements are not met?” The distinction and advisement is important, especially for those who believe they are in need of a restraining order, and should be displayed prominently or early in the information form.</p> <p><b>Rights to Wireless Telephone Number</b></p> <p>6. DV-130: In regards to the new section 15, FLEXCOM recommends identifying the account being transferred to assist law enforcement who may be viewing DV-130 but not DV-900.</p> <p>7. DV-100, Paragraph 15: The first sentence as written states: “I ask the court to transfer the billing responsibility and rights to the following cell phone numbers to me because the account currently belongs to the person in 2.” FLEXCOM modifies modifying that sentence as follows: “I ask the court to transfer the billing responsibility and rights to the following cell phone numbers to me because the account currently belongs to the person in 2 but the telephone numbers are used primarily by me or the persons listed in 3.” This makes it clear to the requesting party that the requesting party or the child must have the primary use of the cell phone and not that it is just an account in the restrained party’s name.</p>	<p>5. As stated above, the committee has revised DV-120-INFO to be more accurate and user-friendly. The reference to other types of restraining orders has been removed. Information on how to obtain a restraining order is available on form DV-505-INFO.</p> <p>6. The committee has added this information to the order forms under item 18(a), <i>Property Control of Cell Phone and Account</i>.</p> <p>7. The committee does not recommend adopting this suggestion. Family Code section 6347 does not require that the requesting party prove that the number be “primarily used by” the requesting party or any children under his/her care.</p>

**ITC W16-05**

**Domestic Violence Restraining Orders: New and Updated Forms to Reflect Recent Legislative Changes**

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			<p>8. FLEXCOM is concerned that it is not clear if the intent is to make the recipient financially responsible as of the date of transfer and not as of the date of the order.</p> <p>9. In the italicized portion FLEXCOM recommends moving the “(examples: cell phones, tablets)” to the end of the sentence. Notice is sufficient to advise the requesting party of his/her financial obligations associated with the transfer of the cell phone.</p> <p>10. DV-900: On page two, under the second bullet point, FLEXCOM recommends that “and” at the end of the sentence be removed, because any of the bullet points suffice and the “and” is potentially confusing.</p> <p>11. FLEXCOM recommends adding language stating enforceability of the order does not depend on service of DV-901.</p> <p><b>Other comments</b></p> <p>12. In regards to the new section 26b, FLEXCOM recommends creation of a new form DV-130 “Other Criminal Protective Orders.” This will ensure the case number, county and expiration date are included in the order after hearing. Failure to include the specific information may result in the other</p>	<p>8. The committee recommends that the order form allow the court to indicate the start date for which the protected person would be financially liable for the account.</p> <p>9. The committee agrees and has made this revision.</p> <p>10. The committee has made this revision.</p> <p>11. The committee will revisit this suggestion if changes need to be made to this form in the future.</p> <p>12. The committee does not recommend creating a new form for this purpose.</p>

**ITC W16-05**

**Domestic Violence Restraining Orders: New and Updated Forms to Reflect Recent Legislative Changes**

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			orders being overlooked or unenforced.	
9.	State of California, Department of Justice Bureau of Criminal Identification and Investigative Services Law Enforcement Support Program California Restraining and Protective Order System		1. Law Enforcement Agencies (LEAs) are often confused as to why the courts issue mutual restraining orders. It can also cause confusion with enforcement of orders. Hopefully the passage of AB 536, and additional collection of abuse on DV-100, can help to alleviate this issue.  2. The transfer of cell phone account and batterer intervention program is important, however, it is not information that is required for a CARPOS entry. When batterer intervention is checked on orders, we do advise agencies to enter the information in the Other Order (OTO) field, as this information could be helpful with sentence enhancement.  3. The warnings and notices to the restrained person regarding U.S. citizenship may not be a concern for LEAs relative to the CARPOS entry. 4. All of the “INFO” forms are very helpful. The FR uses these forms for self-training, and mentions them in classes to help LEAs to better understand the processes.  5. Does the proposed language in DV-100, item 15, adequately provide the requesting person with notice of the financial responsibilities involved in an order of this kind? Yes.	1. No response required.  2. No response required.  3. No response required.  4. No response required.  5. No response required.

**ITC W16-05**

**Domestic Violence Restraining Orders: New and Updated Forms to Reflect Recent Legislative Changes**

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			<p>6. Should form DV-900, if approved, include instructions for cell phone service providers, as reflected on page 2 of DV-900? This would be helpful.</p> <p>7. Should form DV-901, if approved, be a mandatory or optional form? The DV-901 form would only be mandatory if item 15 of the DV-130 is checked</p> <p>8. Should form DV-805, if approved, be a mandatory or optional form? For CARPOS entry, the DV-805 information would be optional.</p> <p>9. Should form DV-815, if approved, be a mandatory or optional form? For CARPOS entry, the DV-815 information would be optional.</p> <p>10. Does form DV-815, as proposed, meet the statutory requirements without requiring restrained parties or programs to release private or confidential medical or health information otherwise protected by law or not required to be provided under this statute?</p> <p>All forms submitted to LEAs for entry into CARPOS are considered confidential, and will only be shared with law enforcement. An example is the CLETS-001 form, which is a</p>	<p>6. No response required.</p> <p>7. To promote uniformity and ensure that adequate information is provided to cell phone service providers, the committee recommends adopting form DV-901 as a mandatory form.</p> <p>8. No response required.</p> <p>9. No response required.</p> <p>10. No response required.</p>

**ITC W16-05**

**Domestic Violence Restraining Orders: New and Updated Forms to Reflect Recent Legislative Changes**

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	Commentator	Position	Comment	Committee Response
			<p>mandatory form, but is only shared with law enforcement to help in the identification and protection of the parties involved in restraining or protective orders.</p> <p>11. Is the proposed language regarding immigration consequences on DV-110 and DV-130 clear and accurate? Yes.</p>	<p>11. Committee discussion</p>
10	<p>The State Bar of California Standing Committee on the Delivery of Legal Services By Phong S. Wong</p>	AM	<p><b>Batterers Intervention Program</b> 1. Does the proposal appropriately address the stated purpose?  Yes, except for proposed form DV-815 which is not necessary. AB 439 does not include a requirement for a restrained person to provide a progress report from the batterer intervention program. The only requirement is proof of enrollment, and information regarding the details of the program and access to information (covered by DV-805). There is no affirmative requirement for restrained persons to seek out a report from the batterer intervention program.</p> <p><b>Rights to Wireless Telephone Number</b> 2. Does the proposed language in DV-100, item 15, adequately provide the requesting person with notice of the financial responsibilities involved in an order of this kind? Yes.</p> <p>3. Should form DV-900, if approved, include instructions for cell phone service providers, as</p>	<p>1. The committee recommends that form DV-815 be adopted as mandatory form to help litigants, especially self-represented litigants, provide information to the court when the court orders the restrained person to provide the court with progress. For example, courts may set regular review hearings to monitor compliance and/or review compliance for purposes of overcoming the presumption against custody under to Family Code section 3044. Having a mandatory form available to litigants and courts will promote access to the court process and uniformity.</p> <p>2. No response required.</p> <p>3. No response required.</p>

**ITC W16-05**

**Domestic Violence Restraining Orders: New and Updated Forms to Reflect Recent Legislative Changes**

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	Commentator	Position	Comment	Committee Response
			<p>reflected on page 2 of DV-900?</p> <p>4. Yes. In addition, DV-900 provides an order for the transfer of cell phone accounts. The parenthetical language in the "address" section for the cell phone provider may be confusing for protected persons. Including information about the Secretary of State’s website or the Judicial Council’s website, similar to the language proposed in DV-901 under “<i>Where should I send Form DV-900 and this Form (DV-901)?</i>” would be helpful. Additionally, there should be information for protected persons as to the length of time needed for a cell phone account to be transferred to their name. The only information says that a cell phone company has 72 hours to object, but a DV survivor will be eager to know when the account is transferred, and whether it is safe to use the phone.</p> <p>5. Should form DV-901, if approved, be a mandatory or optional form?</p> <p>The form should be optional in order to allow protected victims to inform cell phone carriers by an alternate means.</p> <p>6. Should form DV-805, if approved, be a mandatory or optional form?</p> <p>The form should be mandatory. The form addresses all of the requirements of AB 439. Providing a mandatory, consistent form will effectuate the intent of the law. With a</p>	<p>4. Due to space limitations, this information is not included on form DV-900.</p> <p>Because the court will not have accurate information as to the length of time it will take service providers to process transfers specifying this information is not included on the form. Major service carriers are working together on implementation of this bill. Committee staff will be in communication with these carriers to provide feedback on the process.</p> <p>5. To promote uniformity and ensure that adequate information is provided to cell phone service providers, the committee recommends adopting form DV-901 for mandatory use.</p> <p>6. The committee recommends adopting form DV-805 for mandatory use.</p>



**ITC W16-05**

**Domestic Violence Restraining Orders: New and Updated Forms to Reflect Recent Legislative Changes**

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	Commentator	Position	Comment	Committee Response
			<p>mandatory form, the information is either provided or it is not. There is less room to debate the format and completeness of the submission with a mandatory form.</p> <p>7. Should form DV-815, if approved, be a mandatory or optional form?</p> <p>The purpose of DV-815 is confusing. There is no legal obligation for restrained persons to provide progress reports for their batterer intervention program. Rather, they simply need to provide the contact information, and the court or others may seek out a report from the program. If a restrained person were given this form, the inference would likely be that they are required to submit it to their program, and return a report to the court. If that is not the intention, it should be made clear in the instructions, or directly on the form.</p> <p>7. Is the proposed language regarding immigration consequences on DV-110 and DV-130 clear and accurate?</p> <p>Yes.</p>	<p>7. The committee recommends that form DV-815 be adopted as mandatory form to help litigants, especially self-represented litigants, provide information to the court when the court orders the restrained person to provide the court with progress. For example, courts may set regular review hearings to monitor compliance and/or review compliance for purposes of overcoming the presumption against custody under to Family Code section 3044. Having a mandatory form available to litigants and courts will promote access to the court process and uniformity.</p> <p>7. Committee discussion</p>
11	Superior Court of Los Angeles County	AM	<p><b>Rights to Wireless Telephone Number</b></p> <p>1. Does the proposed language in DV-100, item 15, adequately provide the requesting person with notice of the financial responsibilities involved in an order of this kind?</p> <p>Yes, the language in item 15 provides adequate</p>	<p>1. No response required.</p>

**ITC W16-05**

**Domestic Violence Restraining Orders: New and Updated Forms to Reflect Recent Legislative Changes**

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	Commentator	Position	Comment	Committee Response
			<p>language regarding the financial responsibilities of this order being granted.</p> <p>2. Should form DV-900, if approved, include instructions for cell phone service providers, as reflected on page 2 of DV-900?</p> <p>Yes, the DV-900 should include instructions for cell phone service providers to insure compliance with this court order</p> <p>3. Should form DV-901, if approved, be a mandatory or optional form?</p> <p>This form should be mandatory. Cell phone service providers will be receiving orders from courts in more than 50 counties. To alleviate confusion and avoid delay in interpreting each order, there should be consistency in the format of the orders coming out of each courtroom and county across the state.</p> <p>4. DV 100: Section 15: Transfer of Cell Phone Account</p> <p>Add after the word “because”: “this is my or a child in my care’s cell phone number but control of”</p> <p>Reasoning: The amendment to Family Code section 6347 indicates that the intent of the Legislature was that the party requesting the</p>	<p>2. No response required.</p> <p>3. To promote uniformity and ensure that adequate information is provided to cell phone service providers, the committee recommends adopting form DV-901 as a mandatory form.</p> <p>4. The requester must indicate whether the number is his/her’s or a child in their care. The committee believes this accurately addresses the requirement under Family Code section 6343.</p>

**ITC W16-05**

**Domestic Violence Restraining Orders: New and Updated Forms to Reflect Recent Legislative Changes**

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	Commentator	Position	Comment	Committee Response
			<p>order be able to “maintain an existing wireless telephone number, and the wireless numbers of any minor children in the care of the requesting party.” The suggested language assures the bench officer that the cell phone number sought to be maintained is that used by the petitioner and/or the minor children.</p> <p>5. Comment: The narrative under Assembly Bill 1407 on page 2 of the Invitation to Comment indicates that shelters report that 85% of the victims they served are tracked by the abusers via GPS and 75% are eavesdropped on phone calls using hidden mobile applications. If this is accurate, does transferring the phone accounts to the protected parties really protect them, if the restrained party has already installed hidden tracking applications? Or does it create a false sense of security for the protected party? In addition to the warning language about the financial responsibility, would it be helpful to include some warning language about the ability to track? Suggested language could be “Warning: If the restrained party has installed hidden tracking applications on your cell phone or tablet, it may still be possible for him or her to track your movements and conversations, even if you transfer the cell phone account to your name.”</p> <p>6. DV-901: The attachment does not require the party to give an address. Unless the service provider has an alternate means of getting an address for billing purposes an address should</p>	<p>5. The committee proposes to include additional information, including resources for safety planning, on the Judicial Council’s website, in the self-help section.</p> <p>6. The committee has made this revision.</p>

**ITC W16-05**

**Domestic Violence Restraining Orders: New and Updated Forms to Reflect Recent Legislative Changes**

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	Commentator	Position	Comment	Committee Response
			<p>be required.</p> <p>7. On the DV-901 in the box at the bottom of the page entitled ATTENTION CELL PHONE SERVICE PROVIDER, in addition to the language about not disclosing confidential information to the Restrained Party, would it be possible to add “or any other third party”. The restrained party may use a third party to try to gain access to information about the protected party. The language of the form as is, does not protect against that happening.</p> <p><b>Batterers Intervention Program</b></p> <p>8. Should form DV-805 and DV-815, if approved, be a mandatory or optional forms?</p> <p>These forms should be mandatory. There are multiple court approved Batterer Intervention Programs in any given county, and some who provide services in multiple counties. Without a mandatory form, each approved agency could generate their own reporting document, requiring additional court time and resources to read and interpret the form to determine what the report means. In addition, an agency generated form may not include the protected party’s name or case number, resulting in mis-filed or unfiled documents, or additional court time and resources in indexing the restrained party’s name in order to properly file the document.</p>	<p>7. Under Family Code section 6347 “The court shall ensure that the contact information of the requesting party is not provided to the accountholder in proceedings held pursuant to Division 10 (commencing with Section 6200).” The notice to providers is consistent with this requirement.</p> <p>8. The committee agrees and proposes that both forms be adopted for mandatory use.</p>

## ITC W16-05

### Domestic Violence Restraining Orders: New and Updated Forms to Reflect Recent Legislative Changes

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	Commentator	Position	Comment	Committee Response
			<p>9. Does form DV-815, as proposed, meet the statutory requirements without requiring restrained parties or programs to release private or confidential medical or health information otherwise protected by law or not required to be provided under this statute?</p> <p>Yes, the form meets the requirements without requiring release of any private or confidential information. However, item #5, which allows the attachment of an optional report, could open the door for an agency to inadvertently release information that should not be disclosed and is not needed by the court. If the agency completes items 1-4, the court will get the information it needs. If the agency doesn't complete the items, and just attaches the optional report, the court is in the situation of needing to read and interpret the report to determine if the restrained party has completed their requirements. Item #5 some not appear to add anything substantively, but unnecessarily opens the door for the possible inadvertent inclusion of private or confidential information.</p> <p>10. DV 805: Item 2 B: This section advises that the restrained person may maintain a confidential address. There does not appear to be authority for this as to a restrained party. DV 815 at the same section gives conflicting information that the address will not be confidential.</p>	<p>9. Some courts already have a practice of receiving progress reports from batterers intervention programs. For those courts, providing the option of attaching a separate report allows them to continue their local practice.</p> <p>10. This language is consistent with other DV forms which only require that a mailing address be provided.</p>

**ITC W16-05**

**Domestic Violence Restraining Orders: New and Updated Forms to Reflect Recent Legislative Changes**

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	Commentator	Position	Comment	Committee Response
			<p><b>Immigration Consequences</b></p> <p>11. Is the proposed language regarding immigration consequences on DV-110 and DV-130 clear and accurate?</p> <p>The proposed language reads: “If the court finds that you violated this order and you are NOT a U. S. citizen, you may or will be:”                      “You may or will be” is legally correct, but may not be clear to a self-represented litigant. As an alternate, “you can be” is cleaner and clearer for a litigant to understand.</p> <p>12. DV 110: Add at page 2, in the bold print below “To the person in 2”: “and you may also have immigration consequences if you are not a U.S. citizen”</p> <p>Reasoning: This mirrors the language added at page 5.</p> <p><b>Other comments</b></p> <p>13. DV-130, item #27                      Change: “Number of pages attached to this six page form” to “seven page form” to reflect the new length of the form.</p>	<p>11. Committee discussion</p> <p>12. Committee discussion</p> <p>14. The committee has made this revision.</p>
12	Superior Court of Orange County By the Family Law and Juvenile Court Managers		<p><b>Batterers Intervention Program</b></p> <p>1. We recommend DV-805 be an optional form. Many of our judges set review hearings Re: proof of enrollment. We would also like to recommend the following form changes:</p>	<p>1. To promote uniformity, the committee recommends adopting form DV-805 for mandatory use.</p>

**ITC W16-05**

**Domestic Violence Restraining Orders: New and Updated Forms to Reflect Recent Legislative Changes**

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			<p>2. Remove item #4(b); the majority of the time parties will not know if a program was approved by the probation department.</p> <p>3. Item 4(f) deals with service, so we recommend renumbering it; it should be its own section (item 5). We also recommend adding instructions when the protected parties address is confidential.</p> <p>4. We believe DV-815 should not be mandatory. Many of our judges set review hearings Re: progress report. We recommend adding a separator line after item #2 to make it clearer to parties that the programs are to complete items 3, 4, and 5.</p> <p><b>Rights to Wireless Telephone Number</b></p> <p>5. We recommend DV-900 be an optional form.</p>	<p>2. Approval of the program by the probation department is a statutory requirement. Restrained persons have notice of this requirement on form DV-130 and should only enroll in a program approved by the probation department. This form would be completed upon enrollment in an approved program.</p> <p>3. The committee has provided more information on service.</p> <p>4. The committee recommends that form DV-815 be adopted as mandatory form to help litigants, especially self-represented litigants, provide information to the court when the court orders the restrained person to provide the court with progress. For example, courts may set regular review hearings to monitor compliance and/or review compliance for purposes of overcoming the presumption against custody under to Family Code section 3044. Having a mandatory form available to litigants and courts will promote access to the court process and uniformity.</p> <p>5. The committee recommends adopting form</p>

## ITC W16-05

### Domestic Violence Restraining Orders: New and Updated Forms to Reflect Recent Legislative Changes

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	Commentator	Position	Comment	Committee Response
			<p>Some courts may opt to use minute orders for this purpose.</p> <p>6. DV-901, we recommend adding clarification to the DO NOT FILE... box to reflect this is a confidential form and should not be part of the public court file.</p>	<p>DV-900 for mandatory use. The statute requires the court to send a separate order to the service provider.</p> <p>6. The committee has added language to clarify that the form should not be filed or placed in the court file. This form should not be retained by courts either in the public portion of the court file or in a confidential folder.</p>
13	Superior Court of Riverside County	AM	<p>1. The Proposal appropriately addresses the stated purpose.</p> <p><b>Rights to Wireless Telephone Number</b></p> <p>2. We would suggest the proposed language in DV-100, item 15 read as follows: <i>“By making this request, and if the judicial officer makes this order, I understand that I am legally responsible for all rights, responsibilities, including all financial responsibility, for these telephone numbers, monthly service costs, and costs for any mobile devices (i.e. cell phones, tablets, etc.) associated with the telephone numbers listed in the final order”</i>.</p> <p>3. The DV-900 should include instructions for cell phone service providers if approved.</p> <p>4. In addition, we would suggest changing <i>Name:</i> to <i>Name of Provider:</i>. Since the DV-900 is a court order, we would recommend that the form include a clerk’s certificate to certify that it is a true and correct copy. Cell Providers may not accept unless the order is certified.</p>	<p>1. No response required.</p> <p>2. The committee prefers the current language, as reflected in the <i>Invitation to Comment</i>.</p> <p>3. No response required.</p> <p>4. The committee has made these revisions.</p>



**ITC W16-05**

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			<p>5. The DV-901 should be a mandatory form.</p> <p><b>Batterers Intervention Program</b></p> <p>6. Our preference is that the DV-805 and DV-815 would be optional forms.</p> <p><b>Other Comments</b></p> <p>7. On the DV-110, we did not see a place/section for the judicial officer to indicate their order on the applicant request to shorten the time for service (notice).</p> <p>8. On the DV-110, please remove the statement  <i>Person in ① must complete items ①, ②, and ③ only.</i> at the top of the form. Generally it is the judicial officer’s preference that the applicants complete the request and mirror their request across the DV-110 and the DV-130. If changes need to be made, the judicial officer makes interlineations to the document.</p>	<p>5. To promote uniformity and ensure that adequate information is provided to cell phone service providers, the committee recommends adopting form DV-901 as a mandatory form.</p> <p>6. The committee recommends that both forms be adopted for mandatory use.</p> <p>7. The committee has made this revision.</p> <p>8. Because this change impacts court practice, the committee would like public comment on this suggested change.</p>
14	Superior Court of Sacramento County By the Family Law staff	AM	<p><b>Rights to Wireless Phone Number</b></p> <p>1. Page 4, NEW DV-901 form: This form does not come to the court, the phone service providers should design their own form.</p>	<p>1. To promote uniformity and ensure that adequate information is provided to cell phone service providers, the committee recommends adopting form DV-901 as a mandatory form.</p>

**ITC W16-05**

**Domestic Violence Restraining Orders: New and Updated Forms to Reflect Recent Legislative Changes**

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	Commentator	Position	Comment	Committee Response
			<p>Form DV-901 – This not Judicial Council form to create. The requirement for the form is the responsibility of the Secretary of State. This form should be removed.</p> <p>2. Page 4, Revise DV-100 form: Excerpt – “...add language to notify the requesting party of some of the financial responsibilities...”. This language is unnecessary, the court currently does not point out all situations that may result in a change of financial responsibility.</p> <p>Form DV-100, page 3 of 6, item 15 – remove language “billing responsibility” this goes without saying.</p> <p>3. Form DV-130, Page 3 of 7 – Remove item 15. It refers to the court making a separate order on form DV-900. If the order is on a separate order, there is no need to include the reference in DV-130.</p> <p><b>Immigration Consequences</b></p> <p>4. Page 1, Excerpt: “The committee also recommends including an additional advisement on the restraining order forms to notify the restrained party of the possible immigration consequences for violating a restraining order.” The court does not see this as the court’s role; the court has no expertise or jurisdiction with regards to immigration.</p>	<p>2. The committee prefers to notify requesting parties of the financial and billing responsibilities associated with an order of this kind. This remedy is new and the process may be challenging for litigants to navigate, especially self-represented litigants.</p> <p>3. The committee prefers to keep this item on form DV-130.</p> <p>4. Committee discussion</p>

**ITC W16-05**

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			<p>Page 5, Advisement of Potential Immigration Consequences: The State Branch should not get involved in Federal Law. Recommend removing language regarding “immigration consequences.”</p> <p>Form DV-110, Page 5 of 6, opening statement – Remove reference “...And You May Also Have Immigration Consequences if You Are Not a U.S. Citizen.” Also, fourth bullet “If the court finds that you violated this order and you are NOT a U.S. citizen, you may or will be:...” Remove this section as it implies that the court will report them to ICE. This language will discourage participation in Family Court.</p> <p><b>Other Comments</b></p> <p>8. Page 4, Excerpt – “Item 27, expand Description of Abuse”, “Item 23 Other Orders and Item 28 Other Persons to be Protected”, unnecessary to change form as it is unrelated to legislation.</p> <p>9. All forms, Global Comment – in the phrase “Attach a sheet of paper and write...” replace the word “write” with “type or print”.</p> <p>10. Form DV-120, Global Comment – Adding the phrase “Specify your reasons in item 25, page 4 of this form” is confusing and will result</p>	<p>8. Implementation of AB 1407 requires the committee to make changes to form DV-100. The changes resulting from implementation of AB 1407 required adding another page to form DV-100 which created more space on the form. Expanding these sections should help court-users.</p> <p>9. The forms use “write” for plain language.</p> <p>10. The committee will consider this suggestion for a future proposal.</p>

**ITC W16-05**

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	Commentator	Position	Comment	Committee Response
			<p>in less clear explanation. Add lines for so respondent can provide details after each question where necessary.</p>	
15	<p>Superior Court of San Diego County By Mike Roddy, Court Executive Officer</p>		<p><b>Batterers Intervention Program</b></p> <p>1. DV-805:</p> <ul style="list-style-type: none"> <li>• “To the Restrained Person”: This section informs the restrained party that he or she “may” use this form for proof, however the form is a mandatory form.</li> <li>• “Batterer Intervention Program”: The check boxes should be removed from items a-d and f.</li> <li>• Remove item 4f and replace with a notice at the bottom of the form with the following: “You must provide the protected party with the information listed in (4).” The current language in item 4f, instructs the restrained party to provide the protected person with the protected person’s name (item 1).</li> </ul> <p>2. DV-815:</p> <ul style="list-style-type: none"> <li>• Move sentence in item 3a that states “Report date: Intake date: Class start date:” to Item 4.</li> <li>• Remove check box from item 3b.</li> <li>• At Item 4, retitle to “Program Attendance and Progress of Person in (2)” Report date: Intake date: Class start date:</li> <li>• renumber items a-d to b-e.</li> </ul>	<p>1. The committee has made most of these suggestions. A check box precedes items calling for information that are not required under 6343.</p> <p>2. This information is included in item 3 so it is completed by all providers. Programs electing to attach an optional report will skip item 4.</p> <p>Check box preceding item 3(b) has been removed.</p>

**ITC W16-05**

**Domestic Violence Restraining Orders: New and Updated Forms to Reflect Recent Legislative Changes**

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	Commentator	Position	Comment	Committee Response
			<p><b>Rights to Wireless Telephone Number</b></p> <p>3. DV-900:</p> <ul style="list-style-type: none"> <li>• Page 2: replace “performed” with “followed” in the first sentence.</li> <li>• Replace the word “and” at the end of the second bullet with “or” [since it can be any of those circumstances].</li> </ul> <p>DV-901:</p> <p>4. “ATTENTION PROTECTED PERSON”: The second sentence includes “service provider” as the shortened version of cell phone service provider. However, DV-900 (page 2) lists the shortened name as “provider.” The term is italicized on the DV-901 but not on the DV-900.</p> <p>5. The third sentence should be combined with the second sentence to read as follows: “Complete this form and send it to the cell phone service provider (<i>service provider</i>), along with a copy of the order (Form DV-900).”</p> <p><b>Immigration Consequences</b> Replace “deported/deportation” on forms with “removed/removal” to reflect current language used in immigration hearings.</p>	<p>3. The committee has made these revisions.</p> <p>4. The forms have been revised to use consistent terms on each of the forms.</p> <p>5. The committee has made this revision.</p> <p>6. Committee discussion.</p>

# **Limited Scope Proposal**

# JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue · San Francisco, California 94102-3688  
[www.courts.ca.gov/policyadmin-invitationstocomment.htm](http://www.courts.ca.gov/policyadmin-invitationstocomment.htm)

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## INVITATION TO COMMENT

SPR16-\_\_

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**Title**

Family Law: Simplifying Limited Scope  
Representation procedures

**Action Requested**

Review and submit comments by June , 2016

**Proposed Rules, Forms, Standards, or Statutes**

Amend rule 5.425; adopt form FL-957; revise  
forms FL-950, FL-955, FL-956, and FL-958

**Proposed Effective Date**

January 1, 2017

**Proposed by**

Family and Juvenile Law Advisory  
Committee  
Hon. Jerilyn L. Borack, Cochair  
Hon. Mark A. Juhas, Cochair

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### Executive Summary and Origin

The Family and Juvenile Law Advisory Committee proposes simplifying the procedure for an attorney to withdraw from limited scope representation when the attorney has completed the work agreed upon with the party/client in a family law matter. The proposal is intended to respond to a request from the California State Bar and family law attorneys who report that many attorneys are unwilling to make court appearance because the current procedure for withdrawal is too complicated. Incorporating, in part, a simpler process adopted in many states, the committee proposes amending rule 5.425 of the California Rules of Court, adopting one new form, and revising four forms, which would likely reduce the number hearings regarding withdrawal of counsel and promote more limited scope representation in family law matters.

### The Proposal

#### *Background*

Effective July 1, 2003, the Judicial Council adopted rules and forms “to enable limited scope representation so that attorneys can assist self-represented litigants, thereby increasing access to justice and encouraging court efficiency.”<sup>1</sup> The council adopted the rules and forms in response to the request and recommendations of the Board of Governors of the State Bar of California.

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<sup>1</sup> Judicial Council of Cal., Family and Juvenile Law Advisory Com.Rpt., *Family Law: Limited Scope Representation* (March 14, 2003), p.1.

*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.*

In response to recent suggestions by the California Commission on Access to Justice as well as family law attorneys and judges that the rules and forms should be simplified and reflect practice in other states, the committee proposes changing the current procedure in the rule and forms to allow the attorney to file a *Notice of Completion of Limited Scope Representation* to withdraw from the case, instead of filing a motion to withdraw, if the client fails to sign a substitution of attorney.

Revising the Judicial Council's rules and forms relating to limited scope representation would:

- respond to concerns and problems identified that attorneys would be more willing to accept limited scope assignments but for the difficulty associated with withdrawing from that assignment when the work is been completed;
- increase court efficiencies by eliminating, in most cases, the need for the clerk to (1) process the application to be relieved as counsel each time a party/client fails to substitute out of the case on completion of the representation, (2) process the proposed order submitted with the application, and/or (3) set a hearing on the matter;
- advance the Judicial Council's goals and objectives of ensuring meaningful access to justice for all litigants and increasing the availability of legal representation and providing a continuum of legal services in family court.<sup>2</sup>

***Rule 5.425 Limited Scope Representation; application of rules***

Rule 5.425 specifies the procedures associated with “noticed limited scope representation.” For this type, a *Notice of Limited Scope Representation* must be served and filed with the court. The rule then provides the procedures to be relieved as counsel on completion of the representation. It requires the party to file a substitution of attorney on completion of the agreed-upon legal services, and also specifies the actions for the attorney to take if the party fails to sign the substitution of attorney.

The rule requires that the attorney file a *Notice of Application to be Relieved As Counsel Upon Completion of Limited Scope Representation* (form FL-955), along with a proposed *Order on Application to be Relieved As Counsel Upon Completion of Limited Scope Representation* (form FL-958) if the party/client fails to sign a substitute of attorney when the limited scope

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<sup>2</sup> Recommendation III of the *Elkins Family Law Task Force Final Report and Recommendations* provides: “Equal justice for all is basic to our democracy. The first step toward equal justice is providing everyone, regardless of his or her economic circumstances, meaningful access to the courts. Today, too many people find themselves in family court without the assistance they need to present their cases. For those who are able to represent themselves, we need to provide more services to help them navigate the court system and get their day in court. For those who cannot represent themselves meaningfully, we need to find additional ways to increase representation.” See page 48.” The final report may be found at <http://www.courts.ca.gov/documents/elkins-finalreport.pdf>.



representation is complete. The next steps depend on whether the party/client files an objection to that application and proposed order.

- If the party/client does not object with 15 days of the service date, the clerk must forward the proposed order for judicial signature;
- If the party/client does file an *Objection to Application to be Relieved As Counsel Upon Completion of Limited Scope Representation* (form FL-956), then the court clerk must set a hearing no later than 25 days from the date that the objection was filed.

The proposed amendments to 5.425 would replace the above procedure if a party/client fails to sign a substitution of attorney following completion of the agreed-upon limited scope services. The amended rule would require that:

- the attorney file and serve a *Notice of Completion of Limited Scope Representation* (form FL-955).
- Upon filing the *Notice of Completion*, the attorney is deemed to have withdrawn from the case as of the date the proof of service of the notice is filed with the court.
- The other parties in the case or their attorneys should serve legal documents and notices on the party's last known address listed in the filed *Notice of Completion*, unless or until the court orders otherwise.

Further, subdivision (e)(3) of the rule would provide the following procedure if the party/client objects to the *Notice of Completion* within 15 days from the date that it was served on him or her:

- The party/client must file an *Objection to Notice of Completion of Limited Scope Representation* (form FL-955); and proposed *Order on Objection to Notice of Completion of Limited Scope Representation* (form FL-958);
- The court clerk must set a hearing on the *Objection* no later than 25 days from the date the objection is filed.
- The other parties in the case or their attorneys should serve legal documents and notices on the party's last known address listed in the filed *Notice of Completion*, unless or until the court orders otherwise.
- The attorney must file a responsive declaration to the objection at least 9 court days before the hearing (or as ordered by the court).

- The attorney must file the court’s signed *Order on Objection to Notice of Completion of Limited Scope Representation* (form FL-958) and served on all parties or the attorneys for all parties who have appeared in the case.

***Notice of Limited Scope Representation (form FL-950)***

The committee proposes only minor technical changes to item 3 of this form. The order of the headings would change to be consistent with other family law forms. For example, item 3a. (“Child support”) would be moved to item 3b. and item 3.d. (“Child custody and visitation”) would be moved to 3.a. In addition, the headings under item 3 would be updated to be consistent with current forms. For example, “Child custody and visitation” would be changed to “Child custody and visitation (parenting time)” and “Spousal support” would be changed to “Spousal/Domestic partner support.”

***Notice of Application to be Relieved As Counsel Upon Completion of Limited Scope Representation (form FL-955)***

The committee proposes changing the title of the form so that it is consistent with the proposed new procedures for withdrawing from limited scope representation. The proposed revisions include:

- renaming the form *Notice of Completion of Limited Scope Representation* (form FL-955);
- deleting the language in current item 1, which is a request to be relieved as counsel in the matter;
- revising the notice to the party/client to reflect the procedure for objecting to the notice; and
- revising the proof of service on page 2 to show the proposed new form title.

***Objection to Application to be Relieved As Counsel Upon Completion of Limited Scope Representation (form FL-956)***

The committee proposes changing:

- the title of the form to *Objection to Notice of Completion of Limited Scope Representation* wherever it appears in the text.
- item 3 to allow the party/client to indicate if the attorney should not be allowed to withdraw because he or she has failed to complete either services agreed upon or acts ordered by the court;
- the notice box to state the revised title of form FL-955; and
- the proof of service on page 2 to reflect the new form title.

***Responsive Declaration to Objection to Notice of Completion of Limited Scope Representation (form FL-957)***

The committee proposes that this new, optional form be approved for use by the attorney to provide a responsive declaration when the party/client has filed an objection to the attorney’s withdrawal.

***Order on Application to be Relieved As Counsel Upon Completion of Limited Scope Representation (form FL-958)***

The proposal would revise this form by changing the title to *Order on Objection to Notice of Completion of Limited Scope Representation* and deleting references to current procedures and forms titles that the committee proposes to change (replacing them with the proposed new names and procedures).

**Alternatives Considered**

The committee considered proposing revising the procedure to simply state that the filing and service of the attorney's *Notice of Completion* would relieve the counsel as attorney or record for the party/client. However, the committee decided to recommend further amendments to cover situations in which the party/client did not file a substitution of attorney and believed that the attorney had not completed the agreed-upon legal services or other acts ordered by the court. Although other states which have adopted rules regarding limited scope representation do not provide for this process in their limited scope representation rules, including this amendment would promote fairness for the litigant while still making the process of withdrawing from the case easier for the attorney who provided limited scope assistance.

The committee also considered proposing that the new form *Responsive Declaration to Objection to Notice of Completion of Limited Scope Representation* (form FL-957) be adopted for mandatory use. However, the committee decided to propose that the form be approved for optional use since it is not a legislatively mandated form.

**Implementation Requirements, Costs, and Operational Impacts**

The committee anticipates that this proposal will result in some costs incurred by the courts to revise forms, train court staff about the changes to the rules and forms included in this proposal, and possibly to revise local court rules and forms so they are consistent with the changes adopted by the Judicial Council. However, the committee expects that the changes will save resources for the courts by clarifying and simplifying procedures.

## Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?
- Are there any objections to the rule specifying that service must be on the party following the filing and service of the *Notice of Completion of Limited Scope Representation* until the court orders otherwise?
- Will this proposal improve access for low and moderate income litigants?

The advisory committee [or other proponent] also seeks comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so please quantify.
- What would the implementation requirements be for courts? For example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems.
- Would 2 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

### Attachments and Links

1. Rule 5.425, at pages 7–9
2. Forms FL-950, FL-955, FL-956, FL-957, FL-958, at pages 10–20

1 **Rule 5.425. Limited scope representation; application of rules**

2  
3 (a)–(c) \* \* \*

4  
5 (d) **Noticed limited scope representation**

6  
7 (1) A party and an attorney must provide the required notice of their agreement  
8 for limited scope representation by serving other parties and filing with the  
9 court a *Notice of Limited Scope Representation* (form FL-950).

10  
11 (2) After the notice in (1) is received, and until either a substitution of attorney or  
12 an order to be relieved as attorney is filed and served the attorney will  
13 continue to represent the party until the following is filed and served:

14  
15 (A) A Substitution of Attorney—Civil (form MC-050);

16  
17 (B) A Notice of Completion of Limited Scope Representation (form FL-  
18 955); or

19  
20 (C) An order to be relieved as attorney or record.

21  
22 (3) After the notice in (1) is received and until the attorney is relieved of his or  
23 her duties under (2):

24  
25 (A) The attorney must be served with documents that relate only to the  
26 issues identified in the *Notice of Limited Scope Representation* (form  
27 FL-950); and

28  
29 (B) The party must be served directly with documents that relate to all  
30 other issues outside the scope of the attorney’s representation.

31  
32 (e) **Procedures to be relieved as counsel on completion of limited scope**  
33 **representation**

34  
35 An attorney who has completed the tasks specified in the *Notice of Limited Scope*  
36 *Representation* (form FL-950) may use the following procedures in this rule to  
37 ~~request that he or she be relieved as attorney~~ withdraw as the party’s attorney in  
38 cases in which the attorney has appeared before the court as an attorney of record  
39 and the client has not signed a *Substitution of Attorney—Civil* (form MC-050):

40  
41 (1) ~~Application~~

42  
43 ~~An application to be relieved as attorney on completion of limited scope~~

1 representation under Code of Civil Procedure section 284(2) must be directed  
2 to the client and made on the *Application to Be Relieved as Counsel Upon*  
3 *Completion of Limited Scope Representation* (form FL-955).  
4

5 ~~(2)~~(1) Filing File and service serve of application a notice of completion of limited  
6 scope representation

7  
8 The application to be relieved as attorney A Notice of Completion of Limited  
9 Scope Representation (form FL-955) must be filed with the court and served  
10 on the client and on all other parties or attorneys for parties in the case. The  
11 client must also be served with a blank *Objection to Application to Be*  
12 *Relieved as Counsel on Notice of Completion of Limited Scope*  
13 *Representation* (form FL-956).  
14

15 ~~(3)~~(2) No objection

16  
17 If no objection is served and filed with the court within 15 calendar days  
18 from the date that the *Application to Be Relieved as Counsel on Notice of*  
19 *Completion of Limited Scope Representation* (form FL-955) is served on the  
20 client; the attorney making the application must file an updated form FL-955  
21 indicating the lack of objection, along with a proposed *Order on Application*  
22 *to Be Relieved as Counsel on Completion of Limited Scope Representation*  
23 (form FL-958). The clerk must then forward the order for judicial signature.  
24

25 (A) The attorney is deemed to have withdrawn from the case as of the  
26 date that the proof of service of the Notice of Completion of Limited  
27 Scope Representation (form FL-955) is filed with the court.

28  
29 (B) The other parties in the case or their attorneys should serve legal  
30 documents and notices on the party's last known address listed in the  
31 filed Notice of Completion, unless or until the court orders otherwise.  
32

33 ~~(4)~~(3) Objection

34  
35 If an objection to the application is served and filed within 15 days, the clerk  
36 must set a hearing date on the *Objection to Application to Be Relieved as*  
37 *Counsel on Completion of Limited Scope Representation* (form FL-956). The  
38 hearing must be scheduled no later than 25 days from the date the objection is  
39 filed. The clerk must send the notice of the hearing to the parties and the  
40 attorney. A party/client who wants to object to the attorney's withdrawal  
41 must file and serve an *Objection to Notice of Completion of Limited Scope*  
42 *Representation* (form FL-956) and a proposed *Order on Objection to Notice*  
43 *of Completion of Limited Scope Representation* (form FL-956) within 15

1 calendar days from the date that the *Notice of Completion of Limited Scope*  
2 *Representation* (form FL-955) was served on the party. Thereafter, the  
3 following procedures apply:

- 4
- 5 (A) The court clerk must set a hearing on the objection no later than 25  
6 days from the date the objection is filed.
- 7
- 8 (B) The other parties in the case or their attorneys should serve legal  
9 documents and notices on the party's last known address listed in the  
10 filed *Notice of Completion*, unless or until the court orders otherwise.
- 11
- 12 (C) The attorney must file a responsive declaration to the objection at  
13 least 9 court days before the hearing (or as ordered by the court). A  
14 *Responsive Declaration to Objection to Notice of Completion of*  
15 *Limited Scope Representation* (form FL-957) may be used for this  
16 purpose.
- 17
- 18 (D) Following the hearing, the attorney must file the court's signed *Order*  
19 *on Objection to Notice of Completion of Limited Scope*  
20 *Representation* (form FL-958) and have it served on all parties or the  
21 attorneys for all parties who have appeared in the case. The court may  
22 delay the effective date of the order until proof of service of a copy of  
23 the signed order has been filed with the court.

24

25 (5) — *Service of the order*

26

27 ~~If no objection is served and filed and the proposed order is signed, the~~  
28 ~~attorney who filed the *Application to Be Relieved as Counsel on Completion*~~  
29 ~~*of Limited Scope Representation* (form FL-955) must serve a copy of the~~  
30 ~~signed order on the client and on all parties or the attorneys for all parties~~  
31 ~~who have appeared in the case. The court may delay the effective date of the~~  
32 ~~order relieving the attorney until proof of service of a copy of the signed~~  
33 ~~order on the client has been filed with the court.~~

34

35 (f) \* \* \*

PARTY WITHOUT ATTORNEY OR ATTORNEY: _____ STATE BAR NO.: _____ NAME: FIRM NAME: STREET ADDRESS: CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL ADDRESS: ATTORNEY FOR (name): _____	<b>FOR COURT USE ONLY</b>           <b>DRAFT</b>  <b>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: RESPONDENT: OTHER PARENT/CLAIMANT:	
<b>NOTICE OF LIMITED SCOPE REPRESENTATION</b> <input type="checkbox"/> <b>AMENDED</b>	CASE NUMBER:

1. Attorney *(name)*:  
 and party *(name)*:  
 have an agreement that attorney will provide limited scope representation to the party.
  
2. Attorney will represent the party
  - at the hearing on *(date)*: \_\_\_\_\_  and for any continuance of that hearing
  - until submission of the order after hearing
  - until resolution of the issues checked on page 1 by trial or settlement
  - Other *(specify duration of representation)*:
  
3. Attorney will serve as "attorney of record" for the party **only** for the following issues in the case:
  - a.  Child custody and visitation (parenting time): (1)  Establish (2)  Enforce  Modify *(describe in detail)*:
  
  - b.  Child support: (1)  Establish (2)  Enforce (3)  Modify *(describe in detail)*:
  
  - c.  Spousal/Domestic partner support: (1)  Establish (2)  Enforce (3)  Modify *(describe in detail)*:
  
  - d.  Restraining order: (1)  Establish (2)  Enforce (3)  Modify *(describe in detail)*:
  
  - e.  Division of property *(describe in detail)*:



PETITIONER: RESPONDENT: OTHER PARENT/CLAIMANT:	CASE NUMBER:
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f.  Pension issues *(describe in detail)*:

g.  Contempt *(describe in detail)*:

h.  Other *(describe in detail)*:

i.  [See attachment 3i.](#)

4. By signing this form, the party agrees to sign form MC-050, *Substitution of Attorney--Civil* at the completion of the representation as set forth above.

5. The attorney named above is "attorney of record" and available for service of documents only for those issues specifically checked on pages 1 and 2. For all other matters, the party must be served directly. The party's name, address, and phone number are listed below for that purpose.

Name:

Address *(for the purpose of service)*

Phone:

Fax No.

This notice accurately sets forth all current matters on which the attorney has agreed to serve as "attorney of record" for the party in this case. The information provided in this document is not intended to set forth all of the terms and conditions of the agreement between the party and the attorney for limited scope representation.

Date:

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



\_\_\_\_\_  
(SIGNATURE OF PARTY)

Date:

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



\_\_\_\_\_  
(SIGNATURE OF ATTORNEY)

PETITIONER: RESPONDENT: OTHER PARENT/CLAIMANT:	CASE NUMBER:
--	--------------

PROOF OF SERVICE BY  PERSONAL SERVICE  MAIL

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

2. I served a copy of the *Notice of Limited Scope Representation* as follows (check either a. or b. below):

a.  **Personal service.** The *Notice of Limited Scope Representation* was given to:

- (1) Name of person served:
- (2) Address where served:

- (3) Date served:
- (4) Time served:

b.  **Mail.** I placed a copy of the *Notice of Limited Scope Representation* in the United States mail, in a sealed envelope with postage fully prepaid. The envelope was addressed and mailed as follows:

- (1) Name of person served:
- (2) Address where served:

- (3) Date of mailing:
- (4) Place of mailing (*city and state*):
- (5) I live in or work in the county where the forms were mailed.

3. Server's information:

- a. Name:
- b. Home or work address:
  
  
- c. Telephone number:

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

Date:

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

▶ \_\_\_\_\_  
(SIGNATURE OF PERSON SERVING NOTICE)



PETITIONER: RESPONDENT: OTHER PARENT/CLAIMANT:	CASE NUMBER:
--	--------------

PROOF OF SERVICE BY  PERSONAL SERVICE  MAIL

1. At the time of service, I was at least 18 years of age and **not a party to this legal action.**
2. I served a copy of the *Notice of Completion of Limited Scope Representation* and all attachments, as well as a blank *Objection to Notice of Completion of Limited Scope Representation* (form FL-956), as follows (*check either a. or b. below*):
  - a.  **Personal service.** The documents listed above were given to:
    - (1) Name of person served:
    - (2) Address where served:
  
    - (3) Date served:
    - (4) Time served:
  
  - b.  **Mail.** I placed a copy of the forms listed above in the United States mail, in a sealed envelope with postage fully prepaid. The envelope was addressed and mailed as follows:
    - (1) Name of person served:
    - (2) Address where served:
  
    - (3) Date of mailing:
    - (4) Place of mailing (*city and state*):
    - (5) I live in or work in the county where the forms were mailed.
3. Server's information:
  - a. Name:
  - b. Home or work address:
  
  - c. Telephone number:

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

Date:

\_\_\_\_\_

(TYPE OR PRINT NAME) ▶ \_\_\_\_\_

(SIGNATURE OF PERSON SERVING NOTICE)



PETITIONER: RESPONDENT: OTHER PARENT/CLAIMANT:	CASE NUMBER:
--	--------------

PROOF OF SERVICE BY  PERSONAL SERVICE  MAIL

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

2. I served a copy of the *Objection to Notice of Completion of Limited Scope Representation* and all attachments as follows (check either a. or b. below):

a.  **Personal service.** The document listed above was given to:

- (1) Name of person served:
- (2) Address where served:

- (3) Date served:
- (4) Time served:

b.  **Mail.** I placed a copy of the forms listed above in the United States mail, in a sealed envelope with postage fully prepaid. The envelope was addressed and mailed as follows:

- (1) Name of person served:
- (2) Address where served:

- (3) Date of mailing:
- (4) Place of mailing (*city and state*):
- (5) I live in or work in the county where the forms were mailed.

3. Server's information:

a. Name:

b. Home or work address:

c. Telephone number:

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

Date:

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

\_\_\_\_\_  
(SIGNATURE OF PERSON SERVING NOTICE)



PETITIONER: RESPONDENT: OTHER PARENT/CLAIMANT:	CASE NUMBER:
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PROOF OF SERVICE BY  PERSONAL SERVICE  MAIL

1. At the time of service, I was at least 18 years of age and **not a party to this legal action.**
2. I served a copy of the *Responsive Declaration to Objection to Notice of Completion of Limited Scope Representation* and all attachments as follows (*check either a. or b. below*):
  - a.  **Personal service.** The document listed above was given to:
    - (1) Name of person served:
    - (2) Address where served:
  
    - (3) Date served:
    - (4) Time served:
  - b.  **Mail.** I placed a copy of the forms listed above in the United States mail, in a sealed envelope with postage fully prepaid. The envelope was addressed and mailed as follows:
    - (1) Name of person served:
    - (2) Address where served:
  
    - (3) Date of mailing:
    - (4) Place of mailing (*city and state*):
    - (5) I live in or work in the county where the forms were mailed.
3. Server's information:
  - a. Name:
  - b. Home or work address:
  
  - c. Telephone number:

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

Date:

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

▶ \_\_\_\_\_  
(SIGNATURE OF PERSON SERVING NOTICE)



PARTY WITHOUT ATTORNEY OR ATTORNEY: STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	<b>FOR COURT USE ONLY</b>   <b>DRAFT</b>  <b>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: RESPONDENT: OTHER PARENT/CLAIMANT:	
<b>ORDER ON OBJECTION TO NOTICE OF COMPLETION OF LIMITED SCOPE REPRESENTATION</b>	CASE NUMBER:

1. The *Notice of Completion of Limited Scope Representation* filed by (name of attorney): \_\_\_\_\_ declaring that all services within the scope of representation of (name of client): \_\_\_\_\_ and all work ordered by the court have been completed was filed on (date): \_\_\_\_\_

2. Client/party filed *Objection to Notice of Completion of Limited Scope Representation* on (date): \_\_\_\_\_

3. The proceeding was heard as follows:  Uncontested  Contested  
 a. on (date): \_\_\_\_\_ at (time): \_\_\_\_\_ in Dept.: \_\_\_\_\_ Room: \_\_\_\_\_  
 by Judge (name): \_\_\_\_\_  Temporary Judge

b. The following persons were present at the hearing:  
 Petitioner  Attorney (name): \_\_\_\_\_  
 Respondent  Attorney (name): \_\_\_\_\_  
 Other parent/claimant  Attorney (name): \_\_\_\_\_

**4. THE COURT FINDS**

- a.  The attorney demonstrated that he or she has completed the services that the party and attorney agreed that the attorney would perform in the *Notice of Limited Scope Representation* (form FL-950) as well as any acts ordered by the court.
- b.  The party demonstrated that the attorney has either not completed the services that the party and the attorney agreed would be performed in the *Notice of Limited Scope Representation* (form FL-950) or the attorney has not completed acts ordered by the court.

**5. THE COURT ORDERS**

- a.  The attorney is relieved as attorney of record for the client/party.
  - (1)  effective immediately
  - (2)  effective upon the filing of the proof of service of this signed order on the client.
  - (3)  effective on (specify date): \_\_\_\_\_
  - (4) **NOTICE TO CLIENT/PARTY:** You now represent yourself in all aspects of your case. You may wish to seek other legal counsel regarding your case.

The court needs to know how to contact you. It is your responsibility to keep the court informed of your address. If the address in 5a(5) is wrong, you need to let the court and the other parties in case know your correct mailing address as soon as possible. You can use *Notice of Change of Address or Other Contact Information* (form MC-040) for this purpose.

If you do not let the court and the other parties in the case know where to send you copies of papers, you may not get notices of hearings or orders in your case. Decisions may be made without your participation, and your case could be ended.

PETITIONER: RESPONDENT: OTHER PARENT/CLAIMANT:	CASE NUMBER:
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5. **THE COURT ORDERS (continued)**

a. (5) Current mailing address for party:

b.  The request of counsel to be relieved of limited scope representation is denied for the following reasons (*specify*):

c.  The court further orders (*specify*):

**NOTICE TO THE ATTORNEY SUBJECT TO THIS PROCEEDING:** You must serve copies of the order on the parties and to their attorneys of record. Proof of service must be filed with the court.

Date:

\_\_\_\_\_  
 JUDGE OF THE SUPERIOR COURT

**Family Law Related Project Updates and  
Special Immigrant Juvenile Status  
Discussion**



# JUDICIAL COUNCIL OF CALIFORNIA

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MR. MARTIN HOSHINO  
Administrative Director,  
Judicial Council

January 29, 2016

## Report Summary

Report title: *Report to the Legislature on the Sargent Shriver Civil Counsel Act*

Statutory citation: Stats. 2009, ch. 457

Code section: Government Code 68651(c)

Date of report: January 29, 2016

The Judicial Council has submitted a report to the Legislature in accordance with Government Code 68651(c).

The following summary of the report is provided under the requirements of Government Code section 9795.

The Sargent Shriver Civil Counsel Act (AB 590) provided that, commencing in fiscal year (FY) 2011–2012, pilot projects selected by the Judicial Council were to be funded to provide legal representation and improved court services to low-income parties on critical legal issues affecting basic human needs such as housing, child custody disputes, domestic violence, or the need for a guardianship or conservatorship.

The pilot projects were to be operated by legal services nonprofit corporations, working in collaboration with their local superior courts who were to provide innovative court services designed to ensure that unrepresented parties obtain meaningful access to justice and to guard against the involuntary waiver or other loss of rights. The legislation required an evaluation of the pilot projects by January 31, 2016.

This report documents the implementation of the Shriver Civil Counsel Act, describes what has been learned so far, and explains the steps taken to develop proposals, select grant recipients, launch pilot projects across the state, implement innovative court practices, and design and implement a comprehensive evaluation system. This report is based on evaluation data collected to date. More detail about the services rendered, client demographics, case results, findings, and recommendations will be contained in the comprehensive professional evaluation report to be released later in 2016.

Preliminary evaluation results are encouraging. To date, the pilot projects have provided invaluable legal representation to over 20,000 low-income Californians. The services are focused on helping vulnerable parties facing critical legal problems when there is an attorney representing the other party.

Early evidence suggests that Shriver services are improving the administration of justice and balancing the playing field by offering legal representation in key cases, and preventing the loss of important legal rights. Preliminary analysis of court data suggests that, compared to cases without Shriver representation, Shriver housing cases may involve more dismissals, more settlements, and fewer trials. Additionally, Shriver probate cases may involve fewer continuances, fewer hearings, and fewer unsuccessful filing attempts. Stakeholders perceive similar impacts for custody cases, and court data are being inspected to substantiate these impressions.

The full report can be accessed here: [www.courts.ca.gov/7466.htm](http://www.courts.ca.gov/7466.htm).

A printed copy of the report may be obtained by calling 415-865-7739.

# Report to the Legislature on the Sargent Shriver Civil Counsel Act

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JANUARY 31, 2016



JUDICIAL COUNCIL  
OF CALIFORNIA

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OPERATIONS AND PROGRAMS DIVISION  
CENTER FOR FAMILIES, CHILDREN & THE COURTS

**REPORT TO THE LEGISLATURE ON THE SARGENT  
SHRIVER CIVIL COUNSEL ACT  
JUDICIAL COUNCIL OF CALIFORNIA**

**JANUARY 31, 2016**

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## TABLE OF CONTENTS

### REPORT TO THE LEGISLATURE ON THE SARGENT SHRIVER CIVIL COUNSEL ACT JUDICIAL COUNCIL OF CALIFORNIA

- **Executive Summary** P. 1
  
- **The Sargent Shriver Civil Counsel Project: Services, Findings, and Recommended Next Steps** P. 3
  - A. Background on the Establishment of the Shriver Civil Counsel Project** P. 3
    - Recognition of the Justice Gap P. 3
    - The Continuum of Service: the Framework for Achieving 100% Access P. 4
    - Role of Self-Help Centers P. 4
    - The Need for Representation P. 5
    - Strong Network of Civil Legal Aid Programs Provides Framework for Shriver Pilot Projects P. 6
    - The Shriver Civil Counsel Legislation P. 7
  
  - B. Grant Selection and Planning for Evaluation** P. 8
    - Grant Selection Process P. 8
    - The Pilot Projects P. 9
    - Evaluator Selection P. 9
    - The Evaluation Design P. 10
  
  - C. Implementation** P. 11
    - Ensuring Appropriate Administration and Oversight P. 11
    - Funding Allocations P. 11
    - Pilot Project Design P. 12
    - Hiring and Training of Shriver Counsel P. 12
    - Court Collaboration and Innovation P. 13
    - Local Implementation P. 13
    - Case Selection P. 14
  
  - D. Overview of Services Provided** P. 15
    - Housing Pilot Projects P. 17
    - Child Custody/Family Law Pilot Projects P. 21
    - Probate: Guardianships and Conservatorships P. 24

<b><u>E. Analysis of Cost Benefit and Assessment of Ongoing Need</u></b>	<b>P. 29</b>
○ Court Efficiency	<b>P. 29</b>
○ Other Costs and Benefits	<b>P. 29</b>
○ Assessment of the Continuing Unmet Need	<b>P. 30</b>

<b><u>F. Recommended Next Steps</u></b>	<b>P. 31</b>
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- **Appendices**
  - Members of the Sargent Shriver Civil Counsel Act Implementation Committee
  - Members of the Research Advisory Committee
  - Excerpts from AB 590 Legislative Findings

**EXECUTIVE SUMMARY**  
**REPORT TO THE LEGISLATURE ON THE SARGENT SHRIVER CIVIL**  
**COUNSEL ACT [AB 590, Stats. 2009, Ch. 457]**  
**JUDICIAL COUNCIL OF CALIFORNIA**

**T**he Sargent Shriver Civil Counsel Act (the Act), passed in 2009 on a bipartisan basis. It authorizes pilot projects to study the provision of legal representation to low-income families facing critical legal problems involving basic human needs --such as possible loss of housing, child custody disputes, domestic violence, or the need for a family guardianship or conservatorship. The Act also supports innovative court services designed to ensure that unrepresented parties obtain meaningful access to justice and to guard against the involuntary waiver of rights. The pilot projects are designed to address the wide and growing “justice gap” – the gap between the need for legal assistance and the resources available to serve those in need. A report to the legislature on the pilot projects is required by January 31, 2016.<sup>1</sup>

**The Pilot Projects**

A competitive RFP process was conducted by the newly-formed Sargent Shriver Civil Counsel Act Implementation Committee appointed by the Chief Justice. Ten pilot projects in eight counties were selected by the Judicial Council of California for the initial round of 3-year grants. The projects began operation in the Fall of 2011, and three-year renewals were approved by the Judicial Council in 2014. It was initially projected that at least \$11 million per year would be available for the projects, derived from a small \$10 fee increase on certain post judgment court services. In reality, the available funding declined from \$9.5 million in 2011-2012 to \$7.7 million per year in 2014-2015.<sup>2</sup>

Evaluation is at the heart of this legislation, and this is the largest study of its kind in the United States. The evaluation team collected service data from multiple sources, including a newly-designed case management system that holds information on client demographics and services. Data on implementation and the perceptions of program impact were gathered through interviews with key stakeholders, such as project directors, managing attorneys, judges and other associated court staff as well as clients. To investigate the impact of Shriver services on case outcomes, the evaluation used data coded from individual court case files, comparing case outcomes for litigants who had a Shriver attorney and those who did not.

This report is based on evaluation data collected to date. More detail about the services rendered, client demographics, case results, findings and recommendations will be contained in the comprehensive professional evaluation report to be released later in 2016.

## **Key Preliminary Findings**

As described in more detail below, preliminary evaluation results are encouraging. To date, the pilot projects have provided invaluable legal representation to over 20,000 low-income Californians. The services are focused on helping vulnerable parties facing critical legal problems in the areas of child custody, eviction, and guardianships/conservatorships who are involved in the types of civil cases particularly susceptible to power imbalances between the parties.

Early evidence suggests that Shriver services are improving the administration of justice and balancing the playing field by offering legal representation in key cases, and preventing the loss of important legal rights. Shriver attorneys appear to be helping clients have realistic expectations for their cases. Clients are more likely to perceive that the results of their cases were fair -- even if the outcomes were not what they desired -- because they had had the opportunity to have their perspective heard.

Preliminary analysis of court data suggests that, compared to cases without Shriver representation, Shriver housing cases involve more dismissals, more settlements, and fewer trials, and Shriver probate cases involve fewer continuances, fewer hearings, and fewer unsuccessful filing attempts. Balanced representation and court innovations in custody cases appear to lead to more durable settlements in custody cases, alleviating strains on family members and the courts.

Not only can Shriver services and court innovations result in better outcomes for the individual clients, but these efficiencies can translate into significant cost savings to the court. Quicker resolution of cases means that judicial officers can attend to more cases (increased efficiency and volume) which benefits everyone coming before the court. Judges can have more time to attend to complex cases, and limited court resources can be used more effectively.

The services already provided under this critical legislation have reached thousands of vulnerable Californians. The results presented in this report, though preliminary, suggest that the pilot projects are providing a vital service, and are helping us understand how to truly reach 100% access to justice in California.

## **THE SARGENT SHRIVER CIVIL COUNSEL PROJECT: BACKGROUND, IMPLEMENTATION AND SERVICES PROVIDED**

### **A. BACKGROUND ON THE ESTABLISHMENT OF THE SHRIVER CIVIL COUNSEL PROJECT**

#### **Recognition of the Justice Gap**

The introduction of AB 590 reflected the conviction of key legislative and judicial branch leaders that there was an unacceptable justice gap in our judicial system. The legislative findings state that “[t]here is an increasingly dire need for legal services for poor Californians. Due to insufficient funding from all sources, existing programs ... are not adequate to meet existing needs.” As well-documented elsewhere, including in the Judicial Council Report to the Legislature on the Equal Access Fund (2005),<sup>3</sup> funding for legal services has never come anywhere near addressing the needs of low-income, vulnerable individuals and families in California. Two-thirds of eligible clients were being turned away.<sup>4</sup> According to the National Center for State Courts, there were 4.3 million Californians who were self-represented in 2009.<sup>5</sup> The justice gap is even wider today. According to a 2015 report by the State Bar of California’s Civil Justice Strategies Task Force:

In recent years, the funding has reached critically low levels. One of the largest sources of state funding, interest on lawyers’ trust accounts (“IOLTA”), has dropped from over \$22 million in 2007–2008 to under \$5 million in 2013–2014. Not only did IOLTA revenue drop ..., but other sources of funding including government grants and contracts, foundation funding and private giving, have all been negatively affected by the economic downturn.

Similarly, the primary federal source of funding for legal services, the Legal Services Corporation (LSC), also has faced historic declines. In 2014, LSC provided \$365 million nationally for civil legal assistance to low-income people—down from \$420 million four years ago. This marks a 30 percent decrease from 2007 to today.

*Civil Justice Strategies Task Force Report and Recommendations, State Bar of California (2015)*<sup>6</sup>

## **The Continuum of Service: the Framework for Achieving 100% Access**

In response to this crisis, a coordinated continuum of service emerged over the past 15–20 years as the only practical way to offer effective access to justice to the greatest number of unrepresented parties in need.

The “Continuum” consists of a range of services. Combined, these components enable legal aid providers and the courts to serve the public most effectively, using limited resources:

- **Self-Help.** Court-based self-help centers offering legal information, workshops, procedural guidance, and referral to other government and nonprofit services;
- **Online Resources.** Online legal information and sample legal documents and forms;
- **Help with Document Preparation.** Software programs available at the self-help centers helping individuals fill out their court papers, using “Hotdocs” and other methods of document assembly assistance;
- **Limited scope representation.** Legal services programs and private attorneys offering representation for certain hearings or specific legal issues, designed for parties who cannot afford to hire an attorney to take on all aspects of their case;<sup>7</sup>
- **ADR.** Alternative dispute resolution such as mediation, available through the court or local nonprofit entities; and
- **Full scope representation.** Full legal representation for court hearings and trials, and obtaining court-ordered relief.

The goal of all of these components of the Continuum is 100% access to effective assistance, and the judicial branch is committed to partnering with the legislative branch to achieve this goal.

### **Role of Self-Help Centers**

One significant component of the Continuum is the system of court-based self-help centers, developed and supported by both the Legislature and the Judicial Council. Beginning in 1997 with the establishment of family law facilitator programs in every county, and expanded over the next decade to include attorney-staffed self-help centers in every superior court, these centers are now assisting over 1.2 million individuals each year.<sup>8</sup>

The Judicial Council has provided extensive support and encouragement for these centers through development of:

- Court rules providing that attorney-supervised, court-based self-help centers are a core service to be provided by the courts;
- Detailed guidelines for the operation of local self-help centers;

- Desk manuals and training materials to help judicial officers facing courtrooms filled with self-represented litigants; and
- Extensive self-help materials, sample pleadings, and fillable court forms made available online through the Judicial Council’s award-winning self-help website, which is fully translated into Spanish.

Together, these services are providing considerable help to those without the resources to hire their own attorney. However, these centers do not provide legal advice or representation to litigants. In addition, they have inadequate resources to meet the increasing need, particularly as a result of the recent economic recession when court budgets were significantly reduced and the number of vulnerable individuals seeking help significantly increased. The centers often have nowhere to refer individuals who need further assistance or need representation inside the courtroom, and these unrepresented individuals then end up unintentionally burdening an already over-extended judicial system.

These litigants have cases that are too complex, or they lack the language or other skills necessary to handle their lawsuits on their own, even with information, education and support from a self-help center. Without representation, they do not know how to prepare for hearings, do not know what a reasonable settlement might be or how to document it, and lack the knowledge and skills required to effectively prepare and present their case to a court. This lack of assistance causes delay and frustration on all sides and leads to concerns about both procedural and substantive fairness.

### **The Need for Representation**

In the years leading up to passage of AB 590, there was significant discussion about the importance of actual legal representation in the courtroom as a key component of the continuum of service. The widening justice gap—particularly in housing, family law, domestic violence, guardianships, and other cases involving critical life issues—posed a serious challenge for courts, nonprofit legal aid providers, bar associations, legislatures, and all stakeholders concerned about the promise of equal justice.

The important role of representation as part of the continuum of service was becoming clear around the country. Research has shown that availability of counsel is uneven, and there is great concern about whether justice is being served in cases where one party is represented and the other is not.<sup>9</sup>

Californians are not entitled to legal representation in the majority of civil cases, yet many believe that it is at least as important to provide an attorney to indigent persons who might lose custody of their children or lose their housing or their livelihood as it is to provide representation

in a minor criminal matter.<sup>10</sup> Legal representation may often be necessary to guard against unnecessary defaults or the involuntary waiver of rights.

### **Strong Network of Civil Legal Aid Programs Provides Framework for Shriver Pilot Projects**

California has a long history of collaboration among key stakeholders working to increase access to justice, including an extensive statewide network of nearly 100 legal aid programs, as well as court-based self-help centers, law libraries, pro bono lawyers, and other government and nonprofit service providers. Together they work to ensure that as many components of the continuum of service are available as funding permits.

Each legal aid program develops its own priorities responding to local needs, in consultation with other local stakeholders, while also coordinating with other legal aid providers in the state. They are able to take advantage of expert training, consultation, and co-counseling available from statewide support centers with specific legal expertise, as well as support from the State Bar, the Judicial Council, the Legal Aid Association of California (LAAC), and other statewide institutions participating in efforts to improve access to justice.

A key player in this justice community is the California Commission on Access to Justice,<sup>11</sup> a blue-ribbon Commission pursuing fundamental improvements in the civil justice system involving appointees from the Governor, the Legislature, the Supreme Court, the State Bar, the Chamber of Commerce, the Council of Churches, the League of Women Voters, and several other business and civic organizations.

The nonprofit legal aid programs that are the cornerstone of this network rely on two key funding sources:<sup>12</sup>

- The State Bar's Legal Services Trust Fund Program, funded by Interest on Lawyers Trust Accounts (IOLTA), and
- The Equal Access Fund, which was established by the Legislature in 1999 as a joint effort involving the California Commission on Access to Justice, the Judicial Council of California, and the State Bar of California. The Equal Access Fund also supports local collaborative efforts of legal services programs with their local superior court through special partnership grants.

These shared funding sources and collaborations further strengthen this network and make it an ideal system to undertake the Shriver Civil Counsel Pilot Project.



### **The Shriver Civil Counsel Legislation**

The Shriver Civil Counsel Act calls for the appointment of counsel for low-income clients in cases involving basic human needs where there is an independent determination that the client may benefit by representation.<sup>13</sup>

Although sometimes described as a “right to counsel” measure, the bill does not actually provide a guarantee of representation. Rather, it is an equal-access act designed to secure more just legal outcomes and a better-functioning court system by recognizing the need for appointment of counsel for those who need but cannot afford a private attorney in the most critical civil matters. AB 590 is intended to complement the state’s many other access-to-justice initiatives, such as court-based self-help services, simplified court procedures, and limited-scope legal services. The Legislature took into account that these other issues are the subject of separate efforts, most notably via the Judicial Council’s Elkins Family Law Task Force and implementation of its recommendations (see <http://www.courtinfo.ca.gov/jc/tflists/elkins.htm>).<sup>14</sup>

## **B. GRANT SELECTION AND PLANNING FOR EVALUATION**

The Shriver Civil Counsel Act Implementation Committee was appointed by the Judicial Council in 2009 to provide oversight for the implementation process, including reviewing applications and making recommendations about funding allocations to implement AB 590. Chaired by Justice Earl Johnson, Jr. (Ret.), a jurist with decades of experience with the provision of legal services, the independent committee also includes representatives from the judiciary, legal services providers, the Chamber of Commerce, State Bar, and others.<sup>15</sup> (The roster is contained in the Appendix.)

The Committee worked closely with the Judicial Council staff from 2009 through 2011 to develop the mechanisms for implementing the pilot projects, including the following steps:

- Developing detailed criteria and application procedures for the pilot project applicants;
- Conducting informational workshops across the state for legal services programs and court staff interested in developing a proposal for a pilot project;
- Preparing grant contracts and grant conditions, budget forms, and other oversight materials, including the evaluation protocols that recipient programs would be expected to follow;
- Establishing a framework for evaluation and conducting a national search for the consultants responsible for implementing the comprehensive evaluation, including implementation of the rigorous random assignment protocols for some of the projects;
- Designing a training system for the “Shriver Counsel” who would be hired by the pilot projects so that they would all receive valuable skills training and form a cohort who could learn from each other, particularly those working on similar subject matter pilot projects, so as to ensure a successful roll-out of the pilot projects across the state.

Each of the documents developed as part of these selection and evaluation procedures can be found at [www.courts.ca.gov/ShriverDocuments](http://www.courts.ca.gov/ShriverDocuments).

### **Grant Selection Process**

For the first cycle, 18 proposals were received. The committee thoroughly vetted all proposals and recommended to the Judicial Council that 10 projects be funded in 7 counties. Those recommendations were approved in April 2011, and grant funding began in October 2011.<sup>16</sup> All grant funds were to supplement services, not supplant existing resources.

For the second cycle, beginning in 2014, the committee thoroughly vetted each of the 10 applications, analyzing their capacity and, for continuing projects, their record of success during the first cycle. Given the significantly reduced funding available and the statutory language in

favor of renewing successful projects in order to ensure a comprehensive evaluation, the committee recommended to the Judicial Council that it would be most appropriate to continue only existing projects. One court declined to submit an application for renewal with the existing legal services grantee and proposed instead to work with a new lead agency with a change of focus in their project, and the Implementation Committee determined that this was not a renewed project. Therefore, for the second three-year cycle, the number of funded projects was reduced by one.<sup>17</sup> The grants for the second three-year cycle, while not as much as the programs requested, were funded at a level intended to avoid significant disruption of existing services.<sup>18</sup>

**The Pilot Projects<sup>19</sup>**

The following projects were recommended by the Implementation Committee and approved by the Judicial Council as the Shriver Civil Counsel Act Pilot Projects.<sup>20</sup>

<p><b><u>Kern County</u></b>  <b>Greater Bakersfield Legal Assistance</b>  <b>Superior Court of Kern County</b>  Housing Pilot Project</p>	<p><b><u>Los Angeles County</u></b>  <b>Los Angeles Center for Law and Justice</b>  <b>Superior Court of Los Angeles County</b>  Child Custody/Domestic Violence Project</p>
<p><b><u>Los Angeles County</u></b>  <b>Neighborhood Legal Services of Los Angeles County</b>  <b>Superior Court of Los Angeles County</b>  Housing Pilot Project</p>	<p><b><u>Sacramento County</u></b>  <b>Legal Services of Northern California</b>  <b>Superior Court of Sacramento County</b>  Housing Pilot Project (first cycle only)</p>
<p><b><u>San Diego County</u></b>  <b>Legal Aid Society of San Diego</b>  <b>Superior Court of San Diego County</b>  Housing Pilot Project  Child Custody Pilot Project</p>	<p><b><u>San Francisco County</u></b>  <b>Justice &amp; Diversity Center of the Bar Association of San Francisco (formerly the Volunteer Legal Services Program of the Bar Association of San Francisco)</b>  <b>Superior Court of San Francisco County</b>  Child Custody Pilot Project</p>
<p><b><u>Santa Barbara County</u></b>  <b>Legal Aid Foundation of Santa Barbara County</b>  <b>Superior Court of Santa Barbara County</b>  Housing Pilot Project  Guardianship/Conservatorship Pilot Project</p>	<p><b><u>Yolo County</u></b>  <b>Legal Services of Northern California</b>  <b>Superior Court of Yolo County</b>  Housing Pilot Project</p>

**Evaluator Selection**

The Shriver Implementation Committee also oversaw selection of the evaluator responsible for the statutorily-mandated evaluation of the pilot projects. The first step was the examination of

the operations of each of the legal services programs to determine the best way to set up a coordinated evaluation system to capture all the necessary data from each of the pilots. The consultant hired for this purpose determined that the various legal services programs had such diverse case management systems and other operating procedures that it was necessary to design a new case management system to capture the data statutorily required for this project in a standardized manner across the agencies.

The committee conducted a nationwide search for a firm to conduct the evaluation. After an extensive RFP process, it ultimately chose NPC Research, of Portland, Oregon, an organization with a long history of evaluation and policy analysis of judicial branch-related entities in 12 states and the U.S. Department of Justice.<sup>21</sup>

### **The Evaluation Design**

The evaluation requirement is at the heart of this legislation because the key goal is to study the effect of providing legal assistance for vulnerable, low-income litigants in civil proceedings affecting critical life issues. The evaluation employs a mixed-methods design and involves qualitative and quantitative data that has been collected from multiple sources. These include site visits; interviews with key stakeholders at the legal agencies and the courts; the program services database; court-based service data; phone interviews with litigants after their cases had closed; review of individual court case files; longitudinal (five years) summary statistics from the courts; information from court staff about the steps involved in, and the resources needed for, processing a case; information pertaining to costs; and reviews of relevant reports and other literature.

The development of the cross-site “program services database” to collect standardized information about client demographics, service provision, and case characteristics created critical infrastructure to gather implementation information. Importantly, the evaluation design involves a census sample for service data, random assignment of litigants in three housing sites, and pre/post comparison groups in two custody sites and the one probate site. Together, these design elements and multiple sources of data provide a comprehensive examination of the Shriver Pilot Projects.

The evaluation began in 2012 and has collected large amounts of data. Due to the nature and timing of project events (the timing of random assignment by programs, the time needed to elapse for cases to close and follow-up to occur, etc.), a substantial amount of data was acquired by the evaluation team in the latter part of 2015. Preparation and analysis of these data are ongoing and will be included in a comprehensive evaluation report released in 2016. That report will also address issues concerning implementation, outcomes, perceived impact, cost, and unmet needs.

## C. IMPLEMENTATION

### Ensuring Appropriate Administration and Oversight

The Judicial Council is responsible for administration of the Shriver Pilot Program, including distribution of all grant funds, fulfillment of the statutory requirements for an evaluation of the pilot projects, and preparation of a report to the Legislature. Following the grant-selection process, Judicial Council staff worked closely with the Shriver Implementation Committee to provide ongoing oversight and technical assistance for the selected pilot projects to ensure that funding was used for the purposes intended by the legislation. Each pilot project is subject to grant conditions, and the Judicial Council regularly reviews programmatic and budget reports from all pilot projects and court innovation efforts to ensure compliance with all legislative requirements and grant conditions.<sup>22</sup>

### Funding Allocations

The following chart indicates the allocation of the annual Shriver Pilot Project funding. No general funds are provided to these pilot projects, since the funding comes from specific \$10 filing fee surcharges, as described above.

Based on recommendations from the Trial Court Budget Working Group, the Judicial Council approves total expenditures for the program using designated funds set aside specifically for this project. The allocations include funding for the legal services providers, the local courts, and the Judicial Council's costs for administering and evaluating the program as required by Government Code section 68651(c). Any funds that remained unspent were kept within the program and made available for distribution in later cycles.

<u>Grant Year</u>	<u>Pilot Projects with Legal Aid Programs</u>	<u>Court Innovations</u>	<u>Administration &amp; Evaluation</u>	<u>Total</u>
2011–12	\$7,599,578	\$1,900,333	\$500,000	\$9,999,911
2012–13	\$7,772,578	\$1,660,209	\$500,000	\$9,932,787
2013–14	\$7,950,846	\$1,542,174	\$500,000	\$9,993,020
2014–15	\$6,978,130	\$815,023	\$500,000	\$8,293,153
<b>Totals:</b>	\$30,301,132	\$5,917,739	\$2,000,000	\$38,218,871

The next chart shows the allocation of grant funding by case type, both by total funding and by percentages of grant funds available.

<u>Grant Year</u>	<u>Housing Law Pilot Projects</u>	<u>Custody * DV Pilot Projects</u>	<u>Guardianship/ Conservatorship</u>	<u>Total</u>
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			<b><u>Pilot Project</u></b>	
2011–12	\$7,121,288/75%	\$1,894,959/20%	\$483,664/5%	\$9,499,911/100%
2012–13	\$7,046,339/75%	\$1,906,412/20%	\$480,036/5%	\$9,432,787/100%
2013–14	\$7,081,448/75%	\$1,926,500/20%	\$485,072/5%	\$9,493,020/100%
2014–15	\$5,503,721/71%	\$1,874,060/24%	\$415,372/5%	\$7,793,153/100%
<b><u>Totals:</u></b>	\$26,752,796/74%	\$7,601,931/21%	\$1,864,144/5%	\$36,230,451/100%

**Note:** in 2014–2015, percentages for funding shifted because one of the housing projects was not refunded. Due to the legislative funding cap of 20% for custody, one of the custody projects modified its focus to include a small domestic violence component which had been identified as a critical supportive service by the agency and court.

### **Pilot Project Design**

For each of the Shriver Pilot Projects, the legal services agencies provide case assessment and direction, including providing representation to eligible individuals, and incorporating available pro bono services wherever possible. The lead agency also contracts with other legal services providers in the community to provide services, particularly where there are potential conflicts of interest.

The lead legal services agency is also the central point of contact for referrals emanating from the court and other agencies providing services through the pilot and makes determinations of individuals' eligibility for services based on uniform criteria.

Each pilot project is responsible for keeping appropriate records on the referrals accepted and not accepted, tracking case information for each referral as well as information on the effect of the representation on the clients, and collecting data about the outcomes associated with the provision of legal services and court services.

### **Hiring and Training of Shriver Counsel**

Within the network of Shriver housing pilot projects, approximately 40 new advocates were hired across the state. Each of these advocates was sent to one-week trial advocacy training, and some also attended two days of training on mediation. A list-serve was set up to facilitate sharing of information, and coordinated brief banks and other resources were made available to the cohort. This initial training and coordination was designed to ensure a strong network of Shriver Counsel, better able to implement the pilots within their own agency because of the support and resources available from the network of all Shriver Counsel. When advocates from this initial group of 40 attorneys left for other positions, their replacements were brought up to speed and brought into the network.

## **Court Collaboration and Innovation**

Local superior courts are an integral part of the pilot projects. Each court that has elected to participate in one of the Shriver Pilot Projects began participating with local legal services programs during the pre-application design phase. They also have developed a range of services or improved procedures designed to achieve effective and efficient access, based on local needs. These services are available to all individuals and are not limited to those who are income eligible. Courts have been receiving funding for the services that they provide through intra-branch agreements between the Judicial Council and each court, with appropriate grant conditions establishing expectations.

In addition to playing a leadership role in the community-focused planning and implementation of the pilot project, and dedicating staff to facilitate the court administration, courts developed one or more of the following innovations, described in more detail below:

- Special mediation procedures, including pre-filing mediation;
- E-filing and online case tracking systems;
- Self-help center expansion;
- Probate facilitators;
- Provided space at already crowded courthouses for Shriver Counsel to consult with clients and facilitate representation;
- Expanded court interpreters and translated materials;
- Housing Settlement Master offering neutral evaluation and education, and providing continuity in the settlement of Shriver cases;
- Dedicated court clerks referring potential Shriver clients and otherwise expediting the handling of Shriver cases; and
- Other support and ongoing coordination to address concerns as they arise, analyze and help address legal issues, and facilitate the smooth operation of the Shriver Pilot Projects.

## **Local Implementation**

Each of the Shriver projects has an advisory committee overseeing the project. These advisory committees include court administrators and judges, legal services staff attorneys, private bar attorneys, and representatives from other local government and nonprofit agencies. Some committees include other key stakeholders. For example, one housing project that primarily represented tenants includes a landlord attorney on the advisory group for planning and

coordination purposes. The advisory committees meet regularly to address issues as they arise, planning for the most efficient and effective operation of the project, and suggesting modifications where necessary to improve the project if possible.

### **Case Selection**

Potential clients are eligible for Shriver services if they are at or below 200% of the federal poverty level. This is only \$23,540 per year for an individual or a total of \$48,500 for a family of four.<sup>23</sup> After determining income eligibility, the statute directed the lead legal services agency to use the following criteria in determining when to provide representation.<sup>24</sup> It also required the agency to target scarce resources at cases where representation was likely to make the greatest difference or avoid the most injustice. In assessing whether to accept a particular case, the lead legal services agency must determine the litigant's need for representation, considering:

- Case complexity;
- Whether the other party is represented;
- The adversarial nature of the proceeding;
- The availability and effectiveness of other types of services, such as self-help;
- Language issues;
- Disability access issues;
- Literacy issues;
- Merits of the case;
- Nature and severity of potential consequences for the client without representation; and
- Whether legal services may eliminate or reduce the need for and cost of public social services for the potential client and others in the household.



## D. OVERVIEW OF SERVICES PROVIDED

Housing, child custody, and guardianships/conservatorships (probate) are the three subject areas of the pilot projects funded by the Shriver Civil Counsel Act. This section describes the services provided in each of these three areas, including any related court innovations, and presents data on implementation progress and initial outcomes. This report is based on available resources and evaluation data collected to date. Significantly more detail about the services rendered, client demographics, case results, information on cost-benefit and continuing unmet needs, and recommendations will be contained in the comprehensive professional evaluation report, which will be released in mid-2016.

### Services Provided by Shriver-Funded Legal Aid Agencies

From the start of the Shriver Pilot Projects in 2011 to the second half of 2015, more than 20,000 vulnerable, low-income people have received services from the Shriver-funded legal aid agencies. In this report, services are categorized as either “full representation,” which involved the attorney providing legal services from start to finish on all aspects of the case, or “limited services” which included discrete legal tasks, such as legal assistance at the self-help center, brief counsel and advice, preparation of forms, educational materials for trial preparation, or representation during mediation and settlement negotiations. Across the Shriver Pilot Projects to date, full representation was provided to just over half of the housing and custody clients and a quarter of the probate clients.

### **Number of Clients Served by Shriver Legal Aid Agencies (including only cases already closed, not ongoing cases)**

<b>Case Type</b>	<b># Clients Provided Full Representation</b>	<b># Clients Provided Limited Services</b>	<b>Total # Clients Served</b>
Housing <sup>a</sup>	10,038	8,833	18,871
Child custody <sup>b</sup>	588	555	1,143
Guardianship/Conservatorship <sup>c</sup>	63	179	242
<b><i>Total across case types</i></b>	<b><i>10,689</i></b>	<b><i>9,567</i></b>	<b><i>20,256</i></b>

<sup>a</sup> Clients served between October 1, 2011, and October 19, 2015

<sup>b</sup> Clients served between January 1, 2012, and June 30, 2015

<sup>c</sup> Clients served between January 1, 2012, and June 11, 2015

Data for each of the program areas are presented below. The results shown here come primarily from the program services database and reflect the implementation progress and success of the

pilot projects. Data have also been collected from the court case files and client interviews, for Shriver clients and nonclients, the comparative analysis of which is current and ongoing. Where possible, initial results based on early comparative analysis of court data are mentioned. However, these initial findings should be considered preliminary until the statistical analyses are complete and reviewed. Evaluation activities are continuing, and additional data are being gathered and analyzed to draw the clearest conclusions that can be applied and to inform future funding of legal services throughout California.

## Shriver Housing Pilot Projects

### Legal Representation in Landlord/Tenant (“Unlawful Detainer”) Cases

An unlawful detainer lawsuit is a civil court proceeding that can be filed by a landlord seeking to evict a tenant on a variety of legal grounds, including the failure to pay rent, alleged violation of a provision in the lease, etc. By design, unlawful detainer cases are considered *summary* or *limited* court procedures, which permit landlords who win judgments to recover possession of the unit more quickly compared to other types of proceedings. Where there is a Shriver housing project, the courts notify all litigants about Shriver services, and how they might seek assistance in the case.

Most tenants have only five days to file a written response in court after they have received the summons and complaint. Filing a timely written response to a landlord’s written complaint is critical, as otherwise the landlord can ask the court to enter a default judgment against the tenant. The speed of the proceedings and the potentially devastating impact of an eviction make this the kind of critical legal issue where legal representation can truly make a difference. Legal assistance can assure that the tenant submits a timely and accurate answer or other responsive pleading with the court, avoiding a default. The attorney can work with the tenant to see if there are habitability issues or other legal defenses; negotiate with the landlord’s attorney to try to resolve the case amicably, thus saving court time and bringing clarity and closure for all parties; and, if necessary, represent the tenant at trial.

Negotiation normally involves questions such as whether there will be repayment of back rent, whether the tenant can stay in the property and for how long, whether habitability concerns will be addressed, or whether there will be a public record, etc. These are the kinds of goals a tenant might have:

- **Legal goals**, such as a conditional dismissal of the eviction case or having the case dismissed;
- **Physical goals**, such as staying in the home or obtaining a temporary stay of eviction, preserving a Housing Choice Voucher, getting health code violations addressed, or obtaining reasonable accommodation for a disability;
- **Monetary goals**, such as relocation costs, discounts for problems with habitability, or a payment plan; and
- **Credit-related goals**, such as maintaining a masked record.

## Components of Shriver Housing Projects

Six of the initial 10 pilot projects offered landlord/tenant services and provided data regarding the effects of that representation. These unlawful detainer cases represent the bulk of the total number of clients served by all pilot projects. These housing projects were located in Kern, Los Angeles, San Diego, Santa Barbara, Sacramento, and Yolo counties, and involved ten participating community agencies and six superior courts.

The housing pilot projects involved services provided by both the legal aid agencies and the local superior courts. Typically, projects included the following components:

### Legal Aid Agency Services

- Intake and triage function, to ensure that individuals were referred to the most appropriate level of service given funding constraints, based on their individual needs when compared with the statutorily-mandated case criteria described above.
- A referral system to help individuals receive necessary services.
- Arrangements for representation by other agencies or pro bono attorneys for cases where the legal services program appeared to have a potential conflict of interest.
- Housing inspectors were available at some sites to help provide neutral information to the court about the habitability of the rental property.
- Significant community outreach to educate the client community about the services and to coordinate with key community resources for referral purposes, as well as involvement with broader community-wide discussions about housing policy.
- There were three levels of assistance provided and studied:
  - Assistance at the self-help center, including help with pleadings, workshops, and navigation through the court process.
  - Limited Scope Legal Assistance, including getting an answer filed promptly and accurately, representation during settlement negotiations, and/or representation at a hearing. (This level of assistance is termed “limited services” in this report.)
  - Full legal representation for all aspects of a case, including negotiation, representation at trial, and posttrial assistance, if necessary. (This level of assistance is termed “full representation” in this report.)

## Court-based Services or Innovations

The following innovative approaches were developed by the courts with housing projects. Not all courts implemented the same innovations.

- *Mediation:* A court-based, neutral mediation system can help ensure that the advantages of an early mediated settlement are available for housing cases.
- *Housing Settlement Master:* One project adopted a housing settlement master program, where the master meets with all litigants and counsel in the case in a Settlement Conference one week before the case is set for trial. This increased the consistency of the handling of these cases and facilitated their resolution.
- *E-Filing and Online Case Tracking Systems:* The improved use of technology in landlord-tenant cases, including expansion of e-filing to tenants where it had previously only been available for landlords, helped facilitate the efficient handling of these cases.
- *Self-Help Center Expansion:* Because of the fast-track nature of landlord-tenant cases, it is invaluable to have the triage function located at the courthouse, enabling court clerks to refer individuals directly to the self-help center for assistance. Any issues that arise in the paperwork can be identified and addressed promptly, avoiding delays and continuances.
- *Language Interpreters:* The expanded availability of interpreters and translated forms and resources provides critical support for parties who might otherwise be unable to participate in their own defense, due to language barriers.

Each of the six Shriver housing programs had a unique set of priorities based on the particular local circumstances and the needs of the local client community. As a result, these programs implemented different service structures that included a wide range of approaches to their service model. For instance, one program aimed to provide full representation to all eligible tenants with cases filed at one courthouse, while other programs aimed to provide full representation to a selected number of eligible tenants and provide others with a more limited level of assistance. Some areas had rent control, which raised another set of legal issues. The evaluation was therefore designed to learn as much as possible from the differences among the programs while also tracking as many similar services as possible so as to have an adequate level of comparable data across all the projects.

Shriver-funded legal aid agencies could serve both low-income landlords and tenants, but the vast majority (over 99%) of clients were tenants because most landlords had incomes above the Shriver eligibility threshold. The court self-help services were able to provide assistance to both landlords and tenants without concern for income level, but did not provide representation to either party. Because the court self-help services did not include representation, their results are not a part of this study. There were a few income-eligible landlords who sought Shriver services and they were referred for legal assistance. The majority of landlord/tenant cases involved

landlords who were represented and tenants who were not—the kind of power imbalance that the Shriver Act was designed to study and address.

### **Preliminary Housing Pilot Project Outcomes**

This section describes aspects of the assistance provided by the legal aid agencies (not the court-based services) through fall 2015, as entered into the program services database. This data will be supplemented with data on court-based services in a forthcoming report. Since the start of the Sargent Shriver Civil Counsel Program, 18,871 low-income people have been provided legal assistance from a legal aid agency in housing matters. The majority of Shriver clients are female (62%) and nonwhite (38% Hispanic/Latino, 28% African American). Over half of these clients (52%) were provided full representation by an attorney, and just under half (48%) were provided more limited services.

Shriver services offered by these agencies are reaching the population intended by the legislation—namely, those tenants who are opposed by a party that is represented by an attorney and often have other potential disadvantages navigating the legal system (e.g., limited education or English proficiency) and/or who have a heightened vulnerability (e.g., experience a disability, have minors in the home). At least one-third of Shriver clients have a high school diploma or less, at least one-quarter experience a disability, and nearly one-quarter have limited English proficiency. Over half (53%) of Shriver clients had minors living in their households, and over one-third (37%) received CalFresh benefits.<sup>25</sup> The average monthly income of Shriver clients was \$1,145 (median = \$1,000).

Of those litigants who received full representation from a Shriver attorney, 98% were facing a landlord who was represented by counsel. (0.5% were not, and 1.5% were missing opposing party representation data.)

Tenants' access to justice depends on their ability to successfully file a written response to the unlawful detainer complaint within a short timeframe. Inability to do so usually results in a default and the tenant never presents his/her side of the case. Historically, in these cases, defaults are common. Shriver services are addressing this need: of those litigants who received full representation, an answer (or other appropriate written response) was successfully filed in approximately 95% of cases.

Engaging more tenants in the legal system and providing them with counsel does not appear to have made the proceedings more combative or drawn-out. In fact, Shriver clients are most likely to end their case by settlement.

- Of those litigants who received full representation, 70% resolved their case by settlement, 19% by landlord dismissal, and 5% by trial. (Data were missing for 7% of cases.)
- The majority (82%) of settlements happened on or before the day of trial, saving court resources, and half (50%) occurred within 30 days of the complaint filing.

The outcomes of the unlawful detainer cases with litigants represented by Shriver counsel seem to favor longer-term housing stability, which is important for this at-risk population.

- Of those tenants who received full representation, the majority ultimately moved out of their homes as a result of their unlawful detainer case: 69% moved out and 23% stayed in the home. (Data were missing for 8% of cases.)
- Of those who moved out, 53% had their move-out dates adjusted to allow them more time to find replacement housing.
- Of those who moved out, a large majority (91%) received a positive financial outcome, such as reduction/waiver of rent owed, the case not reported to credit agencies, a neutral rental reference from the landlord, or the case masked from public record. Any one of these elements—but more so when combined—provides the tenant with increased opportunity to find alternate stable housing for themselves and their families.

### **Child Custody/Family Law Pilot Projects**

The Shriver Act made child custody cases a high priority for pilot projects, both in terms of providing legal services and in terms of studying the impact of those services.

Family courts have traditionally experienced some of the highest caseloads, while at the same time family law litigants have among the lowest rates of representation. The low rate of represented parties also leads to lengthier hearings, more delays and continuances, and a significant amount of court time devoted to each case. Child custody litigation tends to be protracted and involve a high level of conflict between the parties.

Special provisions were included in the Shriver statute to highlight the importance of this work but also to put some reasonable limit on the scope of such representation. The Legislature focused the representation on cases involving requests for sole legal or physical custody of a child and included a 20 percent cap on the amount of total Shriver funding that could be directed to such projects.<sup>26</sup>

### **Components of Child Custody Pilot Projects**

The three Child Custody Pilot Projects were located in Los Angeles, San Diego, and San Francisco, and these projects received funds totaling just under the 20% cap provided in the

statute. The child custody projects involved five main participating agencies as well as the superior courts in each of the three counties.

#### Legal Aid Agency Services:

The custody projects identified the following specific goals for their clients:

- **Legal custody goals**, such as sole or shared joint custody;
- **Physical goals**, such as when the child would live with the client; and
- **Visitation goals**, including whether scheduled visitation is supervised or unsupervised.

The different pilot projects developed different visions for their projects, while maintaining many of the same components of project design, which helped with evaluation. In San Francisco, the project hoped to serve every eligible low-income San Franciscan with a case fitting the case criteria. The Los Angeles project, on the other hand, with large numbers of child custody cases, decided to focus its services on the most challenging child custody cases, based on direct referral from the court. The custody program in San Diego was designed to quickly identify eligible cases and get those parties into special settlement conferences with a judge. These settlement conferences are designed to help the parties agree to a parenting plan as soon as possible, thereby eliminating the need for protracted litigation.

#### Custody-related Court Innovations

The following court-based innovations were implemented as part of the Shriver projects. Not all courts implemented the same innovations:

- *Settlement conference*: Special settlement conference tracks were set up for Shriver cases, helping ensure that the critical issues of child custody were handled in an expedited fashion, and that other services needed in Shriver cases were available in a coordinated fashion.
- *Self Help Center expansion*: Each of the projects worked with their courts to develop expanded self help services, assisting with cases which could benefit from additional assistance short of full representation.
- *Interpreters*: The expanded availability of interpreters and translated forms and resources in family law cases is critical for Shriver parties who might otherwise be unable to understand the critical child custody and visitation issues being addressed, due to language barriers.
- *Collaboration on parent education*: The courts have worked with the legal services agencies to develop training for parents in high-stress cases, to help reduce the stress and



improve parenting skills, thus facilitating the settlement of the custody and visitation issues in the litigation.

### **Preliminary Custody Pilot Project Outcomes**

This section describes aspects of the assistance provided by the legal aid agencies (not the court-based services) through June 2015, as entered into the program services database. This data will be supplemented with data on court-based services in a forthcoming report. Since the start of the Sargent Shriver program in fall 2011, over 1,000 low-income clients have been provided assistance with their child custody cases. The majority of Shriver clients are female (74%) and nonwhite (56% Hispanic/Latino, 16% African American, 6% Asian). Half of these litigants were provided full representation by an attorney for the custody case (but not other aspects of the family law case); half were provided limited services. Shriver services offered by these agencies appear to be reaching the intended population:

- Over 40% of Shriver custody clients have a high school diploma or less, nearly one quarter have limited English proficiency, and one fifth experience disability.
- One-third of Shriver custody clients receive CalFresh benefits. The average monthly income of Shriver clients is \$1,194 (median = \$1,033).
- On average, Shriver custody cases involved two children. The average age of the children was six years and nearly one-fifth experienced disability.

In addition to the demographic risk factors (e.g., low income, limited English proficiency), litigants who received Shriver services tended to report a variety of other risk factors for themselves and their children, making the receipt of legal assistance even more critical:

- Over half of the couples involved allegations of intimate partner violence in the past 5 years.
- Over one-third involved allegations of drug and alcohol abuse.
- Over one-quarter involved current or previous involvement with child protective services.
- Over one-quarter reported police involvement in the previous three months.

The characteristics of the Shriver cases varied:

- Over half (52%) of Shriver custody clients were petitioners, and 38% were respondents (6% other and 4% missing data).
- Half were seeking to modify an existing physical custody order, and 40% were seeking to obtain a new order (5% other, 5% missing data).

- On average, the custody cases had already been open for over two years before the Shriver project attorneys were involved.
- Of those litigants who received full representation by Shriver counsel, 88% faced an opposing party who had representation at the point that the Shriver project took on the case (10% did not and 2% were missing data).

In line with the statutory preference to allow the child frequent and continuing contact with both parents,<sup>27</sup> the courts generally awarded joint custody in the Shriver cases. Judges also made orders to mitigate family risk factors for the children. Among Shriver clients who received full representation for their custody case, case outcomes included:

- For legal custody, 59% of couples were granted joint custody, 16% of Shriver clients received sole custody, and 16% of opposing parties received sole custody (10% missing or unknown).
- For physical custody, 38% of children lived most of the time with Shriver clients, 30% lived most of the time with the opposing party, and 21% shared equal time between parents.
- Therapy was ordered for 12% of Shriver clients, 15% of children, and 7% of opposing parties.
- Substance abuse counseling was ordered in 2% of cases.
- Parenting classes were ordered in 14% of cases.
- Restraining orders were granted to 8% of Shriver clients and 7% of opposing parties.

Key goals for the projects also included increasing settlements and decreasing unnecessary hearings, educating clients and avoiding misinformation that fuels conflict, and helping clients have more realistic expectations for their family law cases. In the next steps for the evaluation, data collected from the case file review will be analyzed to investigate whether Shriver services resulted in a higher rate of settlements, and whether those settlements resulted in more durable orders—and therefore, families coming back to court less often.

### **Probate: Guardianships and Conservatorships**

Guardianship and conservatorship cases seek to establish legally-recognized, reliable, and competent caregivers for individuals who require care and assistance. Guardianships pertain to minors, and conservatorships pertain to adults with developmental or cognitive disabilities. In conservatorship cases, attorneys are appointed for the potential conservatee, but there are generally no other resources for the proposed conservator who is seeking to provide protection.

The complexity of the probate process can make it very difficult for a lay person to navigate the system alone, and even attorneys can often not complete the paperwork correctly because it requires specialized knowledge. For litigants with limited understanding of the legal system, educational background, or proficiency in English, the process can be almost impossible. Self-represented litigants in guardianship and conservatorship cases often find it hard to know which of the many forms to submit, how to comply with complex service of process requirements, and to understand when and how to check tentative judicial rulings online so as to respond in a timely and accurate manner. These barriers can result in delays, continuances, and enough frustration and confusion that litigants give up on the process altogether.

### **Components of Probate Pilot Project**

Only one of the Shriver Pilot Projects focuses on probate matters, specifically how to assist eligible low-income families needing guardianships and conservatorships. The project is based in the rural areas of Santa Barbara County with many monolingual Spanish speaking residents and no other services available. The project involves legal aid services, specifically full representation and limited scope services, and court-based services including a new probate facilitator, and a new judicial assistant for probate court.

Both full representation and limited-scope legal assistance are offered to those seeking guardianship or conservatorships of the person (as opposed to those cases involving property issues, which are not covered by the Shriver project). Potential clients are screened for eligibility according to the statutorily mandated case selection criteria. Court-based judicial assistants provide individuals with the appropriate and necessary legal forms, assist in filing completed forms, provide translators and interpreters, and provide referrals to Legal Aid, Family Court Services mediation, the court's probate facilitator, and other community resources.

The probate facilitator assists self-represented litigants through education, helps with completing necessary paperwork, and offers general navigation through the complicated legal process. The court regularly refers cases with self-represented litigants to the probate facilitator from the clerk's office and the courtroom. The probate facilitator also assists with conflict cases from the legal aid program and other individuals not otherwise eligible for Shriver services.

Those clients needing full legal representation are referred to the Legal Aid Foundation of Santa Barbara County.

### **Preliminary Probate Pilot Project Outcomes**

*Court-based services:* One particular innovation implemented by the court was the addition of a probate facilitator, as described above. The probate facilitator is a licensed attorney specializing in guardianship and conservatorship cases who provides education and assistance to litigants.

This service began in March 2013, and by December 2014, the probate facilitator had assisted 238 litigants. Unlike those served by the legal aid program whose income needed to be at or below 200% of the federal poverty guidelines, the probate facilitator helped anyone who sought services.

- The majority of litigants assisted by the probate facilitator were female (69%), nonwhite (55% Hispanic/Latino, 6% African American).
- At least one quarter received public assistance, 11% spoke primarily Spanish.
- The majority sought help with guardianship cases (85%), and needed assistance filing a new petition (63%).

*Legal aid services:* From the start of the Shriver Pilot Project (fall 2011) through June 2015, legal services were provided to 242 litigants involved with guardianship and conservatorship cases. The average age of Shriver clients was 49 years, and most (56%) were Hispanic/Latino. Just over half (51%) were provided full representation by a Shriver attorney, and the remainder were provided limited scope services. Shriver services are reaching the population intended—namely, those litigants who are at a potential disadvantage navigating the legal system:

- Approximately one quarter have a high school diploma or less, limited English proficiency, or a disability.
- Nearly three-quarters had minors living in the home, 15% received SNAP benefits, and their average monthly income was \$2,073 (median = \$1,781).
- Two-thirds sought help with guardianship cases, one-third with conservatorship cases. The majority (64%) needed help filing a new petition.

In line with the legislative goals, Shriver cases that received full representation from a legal aid attorney involved family members trying to obtain legal authority to effectively care for vulnerable individuals:

- Of those 47 guardianship cases that received full representation, 66% involved one ward (34% involved more than one ward). Among these 69 wards, the average age was 8 years (median = 8 years) and 9% had a disability.
- Of those 16 conservatorship cases that received full representation, each involved one conservatee and the average conservatee age was 34 years (median = 26 years).
- In all cases that received full representation, the Shriver client petitioning for guardianship or conservatorship was a relative (e.g., grandparent, sibling, adult child).

The ability of family members to obtain legal status as guardians or conservators depends on their ability to successfully complete and submit all of the relevant paperwork associated with

these cases. Inability to do this frequently leads to abandoned petitions. Shriver services are effectively assisting litigants through this process.

Engaging the assistance of an attorney appears to have streamlined the case processing and minimized the need for continuances, which can be costly to litigants and the court. Both guardianship and conservatorship cases require an investigator to do background checks and interviews with the parties in the case, and sufficient notice needs to be provided to the other relatives, requiring significant time between the filing of a petition and hearing; these cases appear to be completed with little delay.

- Case age for guardianship cases that received full representation was four months, on average. One-third of cases involved a continuance, and of those, the average number of continuances was 2 (median = 1).
- Case age for conservatorship cases that received full representation was three months, on average. One-third of cases involved a continuance, and of those, the average number of continuances was 2 (median = 2).

When people received full representation from a Shriver attorney, the likelihood that a guardianship and conservatorship would be granted was high. Roughly two-thirds of cases ended with the guardianships or conservatorships established. The successful completion of guardianship and conservatorship cases results in more children and conservatees being in safer homes, cared for by more capable and responsible family members. In addition, this makes it possible for guardians and conservators to enroll children in school, obtain public benefits (like housing vouchers or food and nutrition benefits), and connect children and adults to the medical services they needed. Without these new arrangements, many children would have continued to live in dire conditions, been placed into foster care, or faced returning to a home where one or more parents were dealing with severe mental health or substance abuse problems, usually resulting in neglect and/or physical and emotional abuse.

### **Interviews with Key Court and Project Staff**

When asked about their perceptions of the impact of the Shriver Pilot Project, court staff felt there was a substantial improvement in the ability of litigants to participate in the legal process and of the court to respond to the needs of the families. Court staff perceived an increase in the quality of the paperwork filed, which allowed cases to proceed more easily. They were used to seeing petitioners get frustrated with the technicalities and often give up in the middle of the process, but now they are seeing more litigants persist with the process. Court staff reported that Shriver services made the entire probate filing process quicker, more accurate, and less stressful.

Prior to Shriver services, judicial assistants estimated that it took an average of three attempted filings before probate petitioners could successfully file their paperwork, but after the

implementation of Shriver services at legal aid and the probate facilitator, paperwork was usually accepted on the first attempt, resulting in a huge time savings for court staff. Fewer continuances also allowed more cases to be scheduled on the calendar and to be resolved faster.

Project and court staff thought that Shriver litigants were more educated about the process than unrepresented parties, including what to expect and how to facilitate progress, and that proposed guardians/conservators were more familiar with their roles and responsibilities, such as how to comply with the court's investigation and be more prepared to complete future status reports to the court. Because of this, judges felt that more guardianships and conservatorships were able to remain in place, leaving wards and conservatees in more stable environments.

Most court staff reported that the quality of information provided to the court was vastly improved, due to more people participating in the process, more evidence presented, and clearer documentation. This allowed judges to make more informed decisions. In addition, there was a common perception that the load on Child Welfare Services and the public guardian (for adults) was lower, allowing them to focus on more serious cases of abuse or neglect, keeping more families out of the system, and decreasing the number of children being placed in foster care.

### **Preliminary Comparative Analyses of Court Case File Data**

Preliminary analyses of court file data suggest that Shriver clients generally fare better in guardianship cases as a result of the legal assistance received through the project. Initial results indicate that, compared with clients who received no assistance, Shriver clients who received full representation for guardianship cases were more likely to utilize the legal process to most effectively support their petition—specifically, by calling witnesses or entering declarations. Also, Shriver full representation cases appear to be less likely to involve continuances and, when parental consent was obtained, came to resolution faster. The evaluation team has also collected data for cases that received assistance from the probate facilitator. These data are still being analyzed.

## **E. ANALYSIS OF COST BENEFIT AND ASSESSMENT OF ONGOING NEED**

The evaluation team is in the process of collecting and analyzing data to investigate the costs of, and potential savings associated with, the Shriver Pilot Projects, as well as to estimate the continuing unmet need. These study activities are currently occurring and results will be presented in the comprehensive report to be submitted later in 2016.

### **Court Efficiency**

Preliminary analyses suggest that cases with Shriver full representation present efficiencies for the court that result in cost savings; that is, these cases appear to resolve faster with fewer resource-intensive events for the court. For example, early evidence suggests that, compared to cases without Shriver representation, Shriver housing cases may involve more dismissals, more settlements, and fewer trials, and Shriver probate cases may involve fewer continuances, hearings, and unsuccessful filing attempts. Such outcomes would help the court, the parties involved in those cases, and all others who benefit from a judicial system able to handle their matters more expeditiously.

The evaluation will analyze case file data from five projects to assess any differences between Shriver and non-Shriver cases in terms of case events and/or court resources. The evaluation team has been collecting information to estimate the costs of various events and will assess whether and to what extent the provision of Shriver services has an impact on court resources.

### **Other Costs and Benefits**

The evaluation team plans to investigate the following specific lines of inquiry for each of the three program types:

*Housing:* During site visits early in the project, staff at the courts and at the legal services programs perceived that Shriver services had both individual and system-level impacts. For example, they reported that services had helped increase clients' understanding of the legal system and achieve desired outcomes (e.g., prolonged housing, protected credit, or longer-term housing stability for families). Eviction carries significant costs to the individual tenant, who is already likely financially challenged. Receiving some relief from debt (e.g., lower back rent to be paid), some time to prepare (e.g., longer time to move out), and some future support (e.g., case records being masked, neutral credit references) can help reduce the risk of the tenant falling into homelessness or bankruptcy.

Further, interviewed stakeholders reported that Shriver services had impacted the broader community through increased collaboration among agencies serving the same community and by avoiding the need for clients to rely on other social service systems. The evaluation team plans to

explore these individual costs and existing study data to determine the feasibility of calculating potential system costs.

These next study steps are critical activities. The costs of eviction and homelessness are high. As emphasized in the recent Silicon Valley Homelessness Study,<sup>28</sup> eviction defense is a key part of a larger public-private partnership effort to avoid homelessness, particularly long-term, chronic homelessness.<sup>29</sup>

*Child Custody:* Ensuring that parents focus on a longer-term solution that meets the best interests of the child benefits everyone involved. When parents are given an effective avenue to voice their opinions and when they feel heard and actively engaged in the process, previous research indicates that contentiousness outside of the courtroom declines. This may result in savings to the system, such as fewer calls to police during child exchanges and reduced involvement of child protective services. The evaluation will investigate the occurrence of these events and, if applicable, estimate costs per incident. A more peaceful and stable home life can result in better outcomes for the children, including improved physical and emotional health, improved school functioning, improved sociability, and less probable behavioral dysfunction; all of which may lead to improved outcomes in adolescence and adulthood (e.g., less criminal justice involvement, better health)<sup>30</sup> and reduced future costs to the public health and service systems.

*Probate:* Children without a competent parent or willing guardian can end up as wards of the court. Adults who need care but are without a willing conservator can end up in the care of the public guardian. Both of these entities are taxpayer-funded services. When children become a ward of the court, the state pays for counsel for that child and each of their parents. It also takes on a wide range of other responsibilities including paying for medical, psychological, educational, and other services, even if the child is not placed into foster care. If, as appears, Shriver services facilitate the placement of children and disabled adults with family members, as opposed to these government safety net entities, then there would be a savings to the system. The evaluation team is investigating these potential costs and benefits.

### **Assessment of the Continuing Unmet Need**

The evaluation team is gathering longitudinal summary data from the courts regarding case filings in the subject case types and will use these statistics to estimate the number of litigants who would be eligible for Shriver services but are not receiving them; i.e., the actual need across the state. These estimates will take into account the growing numbers of individuals in poverty. Other contributing factors, such as family size and the fair market value for rent in certain areas, will also be considered, and other reports and data on unmet legal needs will be analyzed. To the extent possible, additional inquiry will occur with programs that are attempting to serve all low-income people within their target population to determine what types of potential clients do not



use the services, as well as why they do not use these services, and this information will help guard against an overestimation of the broader need for services.

#### **F. RECOMMENDED NEXT STEPS**

- **Complete the In-Depth Evaluation of Project Services:** The Shriver Pilot Project is conducting one of the most comprehensive analyses and evaluations of legal services ever undertaken. The Sargent Shriver Civil Counsel Project Implementation Committee should continue to work with the legal services programs and courts conducting the pilot projects, as well as with NPC Research, the organization under contract to conduct the study, to ensure that this evaluation is as thorough as possible. The data provided in this report will be valuable in assessing the best ways to move forward to increase access to justice in California.
- **Develop and Disseminate Best Practices:** As the details of the evaluation become available, the Shriver Project Implementation Committee should identify those services and procedures that have proven to be effective and efficient for legal services programs and courts, and disseminate these best practices throughout the state, particularly those best practices that help enhance court capacity, thereby potentially impacting all Californians.
- **Identify Areas for Further Study:** In furtherance of the goal of 100% Access, the report should be analyzed to determine which types of projects and services would benefit from further study and pilot projects. These specific research goals could then be the focus of further study to clarify the protocols and conditions that should be in place in order to ensure the most efficient and effective services, resulting in expanded access to justice.

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- <sup>1</sup> California Government Code section 68651(c)
- <sup>2</sup> Judicial Council Agenda Item, “Sargent Shriver Civil Counsel Act: Selection of Pilot Projects”; August 13, 2014
- <sup>3</sup> Judicial Council Report to the Legislature on the Equal Access Fund (2005)
- <sup>4</sup> Legal Aid Association of California
- <sup>5</sup> “New Law Creates Right to Counsel,” Mathew Pordum and Catherine Ho, Daily Journal, Oct. 13, 2009
- <sup>6</sup> Civil Justice Strategies Task Force Report and Recommendations, State Bar of California (2015)
- <sup>7</sup> California Commission on Access to Justice Limited Representation Report, State Bar of California, 2001
- <sup>8</sup> Fact Sheet: Programs for Self-Represented Litigants, Judicial Council, May 2015
- <sup>9</sup> Clare Pastore, “*Gideon* is My Co-Pilot: The Promise of Civil Right to Counsel Pilot Programs,” 17 University of District of Columbia Law Review 75 (2014); Judicial Council Shriver Fact Sheet, “Sargent Shriver Civil Counsel Act” (AB 590) (Feuer), Aug. 2012
- <sup>10</sup> Clare Pastore, “*Gideon* is My Co-Pilot: The Promise of Civil Right to Counsel Pilot Programs,” 17 University of District of Columbia Law Review 75 (2014)
- <sup>11</sup> California Commission on Access to Justice 2014 Annual Report, State Bar of California;  
[http://www.calbar.ca.gov/Portals/0/documents/accessJustice/2014%20AJC%20Annual%20Report\\_Final%20on%20Letterhead.pdf](http://www.calbar.ca.gov/Portals/0/documents/accessJustice/2014%20AJC%20Annual%20Report_Final%20on%20Letterhead.pdf)
- <sup>12</sup> State Bar of California, Legal Services Trust Fund Program
- <sup>13</sup> Stepping Across the Threshold, *supra*, at 554
- <sup>14</sup> Stepping Across the Threshold, *supra*
- <sup>15</sup> Judicial Council Fact Sheet, “Sargent Shriver Civil Counsel Act” (AB 590) (Feuer), Aug. 2012
- <sup>16</sup> Judicial Council Agenda Item, “Sargent Shriver Civil Counsel Act: Selection of Pilot Projects,” July 1, 2011
- <sup>17</sup> Judicial Council Aug. 13, 2014 Agenda Item, pp. 4–5
- <sup>18</sup> Judicial Council Aug. 13, 2014 Agenda Item; <http://www.courts.ca.gov/15703.htm>
- <sup>19</sup> Judicial Council Agenda Item, “Sargent Shriver Civil Counsel Act: Selection of Pilot Projects,” July 1, 2011
- <sup>20</sup> Judicial Council Agenda Item, “Sargent Shriver Civil Counsel Act: Selection of Pilot Projects,” July 1, 2011
- <sup>21</sup> <http://npcresearch.com/>
- <sup>22</sup> Judicial Council Agenda Item, Aug. 2014, p. 6
- <sup>23</sup> Federal Poverty Guidelines; <http://familiesusa.org/product.federal-poverty-guidelines>
- <sup>24</sup> Clare Pastore, “*Gideon* is My Co-Pilot: The Promise of Civil Right to Counsel Pilot Programs,” 17 University of District of Columbia Law Review 75 (2014); Gov. Code, § 68651
- <sup>25</sup> The CalFresh Program, federally known as the Supplemental Nutrition Assistance Program (SNAP; formerly “food stamps”), provides qualified, low-income households with monthly electronic benefits that can be used to buy most foods at many markets and food stores.
- <sup>26</sup> Gov. Code, § 68651(2)(A and (B)
- <sup>27</sup> California Family Code section 3020

# **Shriver Civil Counsel Act Implementation Committee**

As of January 31, 2016

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Legislative Director  
ACLU California Center for Advocacy & Policy

**Ms. Erika Frank**

General Counsel  
California Chamber of Commerce

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Attorney

**Ms. Luz E. Herrera**

Assistant Dean for Clinical Education,  
Experiential Learning & Public Service  
UCLA School of Law

**Hon. James R. Lambden (Ret.)**

**Ms. S. Lynn Martinez**

Managing Attorney  
Western Center on Law and Poverty

**Mr. John F. O'Toole**

Attorney

**Ms. Clare Pastore**

Professor of the Practice of Law  
University of Southern California  
Gould School of Law

**Mr. Thomas Smegal**

Administrative Patent Judge  
Patent Trial and Appeal Board,  
United States Patent and Trademark Office

**Ms. Alicia Valdez-Wright**

Self Help Center/Family Law Facilitator's Office  
Superior Court of California,  
County of San Luis Obispo

**Ms. Julia R. Wilson**

Chief Executive Officer  
OneJustice

**Hon. Laurie D. Zelon, Vice-chair**

Associate Justice of the Court of Appeal,  
Second Appellate District, Division Seven

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Principal Managing Attorney  
Center for Families, Children & the Courts  
Judicial Council of California

**Mr. Don Will**

Principal Manager  
Center for Families, Children & the Courts  
Judicial Council of California

## **JUDICIAL COUNCIL STAFF TO THE COMMITTEE**

**Ms.Carolynn Bernabe**

Administrative Coordinator  
Center for Families, Children & the Courts  
Judicial Council of California

## EXCERPTS FROM AB 590 LEGISLATIVE FINDINGS

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

(a) **[Dire Need for Legal Services]** There is an increasingly dire need for legal services for poor Californians. Due to insufficient funding from all sources, existing programs providing free services in civil matters to indigent and disadvantaged persons, especially underserved groups such as elderly, disabled, children, and non-English-speaking persons, are not adequate to meet existing needs.

(b) **[Documentation of the Need for Legal Services]** The critical need for legal representation in civil cases has been documented repeatedly, and the statistics are staggering... Over 4.3 million Californians are believed to be currently unrepresented in civil court proceedings, largely because they cannot afford representation. Current funding allows legal services programs to assist less than one-third of California's poor and lower income residents... The effect is that critical legal decisions are made without the court having the necessary information, or without the parties having an adequate understanding of the orders to which they are subject.

(c) **[Role of Sargent Shriver]** The modern movement to offer legal services for the poor was spearheaded by Sargent Shriver in 1966, aided by the American Bar Association, then headed by future Supreme Court Justice Lewis Powell, driven by the large disparity that existed between the number of lawyers available for poor Americans compared with the availability of legal services for others... According to federal poverty data, there was one legal aid attorney in 2006 for every 8,373 poor people in California. By contrast, the number of attorneys providing legal services to the general population is approximately one for every 240 people – nearly 35 times higher.

(d) **[Economic Benefits]** The fair resolution of conflicts through the legal system offers financial and economic benefits by reducing the need for many state services and allowing people to help themselves...

(e) **[Impact on the Courts]** Expanding representation will not only improve access to the courts and the quality of justice obtained by these individuals, but will allow court calendars that currently include many self-represented litigants to be handled more effectively and efficiently.... [C]ourts presented with disputes regarding basic human needs that involve low-income litigants facing parties who are represented by counsel have a special responsibility to employ best practices designed to ensure that unrepresented parties obtain meaningful access to justice and to guard against the involuntary waiver or other loss of rights or the disposition of those cases without appropriate information and regard for potential claims and defenses, consistent with principles of judicial neutrality. The experience and data collected through a pilot program will assist the courts and the legal community in developing new strategies to provide legal representation to overcome this challenge.

(f) **[Equal Justice Under Law]** The doctrine of equal justice under the law is based on two principles. One is that the substantive protections and obligations of the law shall be applied equally to everyone, no matter how high or low their station in life. The second principle involves access to the legal system. Even if we have fair laws and an unbiased judiciary to apply them, true

equality before the law will be thwarted if people cannot invoke the laws for their protection. For persons without access, our system provides no justice at all, a situation that may be far worse than one in which the laws expressly favor some and disfavor others.

(g) [**Encourages Settlements and Improves Public Trust and Confidence**] ... Judicial leaders and scholars also believe that the presence of counsel encourages settlements. Just as importantly, court opinion surveys show that more than two-thirds of Californians believe low-income people usually receive worse outcomes in court than others. Unfairness in court procedures and outcomes, whether real or perceived, threatens to undermine public trust and confidence in the courts...

(h) [**Equal Access to Justice is a Fundamental Right**] Equal access to justice without regard to income is a fundamental right in a democratic society. It is essential to the enforcement of all other rights and responsibilities in any society governed by the rule of law...

(i) [**Lack of Representation Harms Court Functioning**]... The absence of representation not only disadvantages parties, it has a negative effect on the functioning of the judicial system. When parties lack legal counsel, courts must cope with the need to provide guidance and assistance to ensure that the matter is properly administered and the parties receive a fair trial or hearing. Those efforts, however, deplete scarce court resources and negatively affect the court's ability to function as intended, including causing erroneous and incomplete pleadings, inaccurate information, unproductive court appearances, improper defaults, unnecessary continuances, delays in proceedings for all court users, and other problems that can ultimately subvert the administration of justice.

(j) [**State Has Responsibility to Ensure Adequate Counsel**] Because in many civil cases lawyers are as essential as judges and courts to the proper functioning of the justice system, the state has just as great a responsibility to ensure adequate counsel is available to both parties in those cases as it does to supply judges, courthouses, and other forums for the hearing of those cases.

(k) [**State Must Provide Legal Counsel Without Cost**] ... In some cases, justice is not achievable if one side is unrepresented because the parties cannot afford the cost of representation.... In order for those who are unable to afford representation to exercise this essential right of participants in a democracy, to protect their rights to liberty and property, and to the pursuit of basic human needs, the state has a responsibility to provide legal counsel without cost. In many cases decided in the state's adversarial system of civil justice the parties cannot gain fair and equal access to justice unless they are advised and represented by lawyers. In other cases, there are some forums in which it may be possible for most parties to have fair and equal access if they have the benefit of representation by qualified nonlawyer advocates, and other forums where parties can represent themselves if they receive self-help assistance.

(l) [**The State Has an Interest in Providing Publicly-Funded Legal Assistance**] The state has an interest in providing publicly funded legal representation and nonlawyer advocates or self-help advice and assistance, when the latter is sufficient, and doing so in a cost-effective manner by ensuring the level and type of service provided is the lowest cost type of service consistent with providing fair and equal access to justice...



## JUDICIAL COUNCIL OF CALIFORNIA

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### MEMORANDUM

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**Date**

February 17, 2016

**Action Requested**

Please review and prepare to discuss

**To**

Family and Juvenile Law Advisory  
Committee

**Deadline**

February 18, 2016

**From**

Corby Sturges  
Attorney, Center for Families, Children & the  
Courts

**Contact**

Corby Sturges  
415-865-4507 phone  
corby.sturges@jud.ca.gov

**Subject**

Family Law: Special Immigrant Juvenile  
Findings

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In the winter 2016 invitation-to-comment cycle, the Family and Juvenile Law Advisory Committee (committee) circulated a proposed rule of court to specify procedures for requesting and determining a request for Special Immigrant Juvenile (SIJ) findings in a family law proceeding. The commentators raised the following issues.

1. Several commentators emphasized the difficulty that court staff would experience trying to keep the *Request for Special Immigrant Juvenile Findings—Family Law* (form (FL-356)) confidential as required by proposed rule 5.130(f), which is intended to implement section 155(c) of the Code of Civil Procedure, if form FL-356 remained an attachment to other forms that are kept in the public file.

It seems that proposed rule 5.130(f) and existing form FL-356 do not strike an appropriate and workable balance between keeping court records accessible to the public and protecting the confidentiality of information about the child's immigration status as required by section 155(c). To address this imbalance, staff recommends amending rule 5.130(f) to require that

only the *Request for Special Immigrant Juvenile Findings—Family Law* (form (FL-356) and the *Special Immigrant Juvenile Findings* (form FL-357) be kept in a confidential file or part of the file. Staff believes that the filing of these forms, by itself, indicates that the child named on them is undocumented. A further amendment would require the redaction of information about a child's immigration status from any publicly accessible records of a proceeding in response to a request for SIJ findings. These seems to be the minimum required to comply with section 155(c).

To facilitate the maintenance of the forms in a confidential file, as well as to simplify the procedures for filing a request for SIJ findings, staff also recommends making form FL-356 a standalone form. Although the proposal circulated for comment did not include any revisions to this form, most commentators, and virtually all of the courts, requested that form FL-356 be detached from form FL-300 and filed separately. To make the form independent, revisions include indicating that the form is confidential as well as adding a caption box, brief instructions, and a notice of hearing to the first page. Because of the apparent impossibility of complying with the statutory confidentiality requirements if the form remains an attachment, the unanimity and number of commentators requesting revision, and absence of substantive revisions, staff believes that the committee may recommend this revision without circulation for comment. For consistency, staff also recommend revising form FL-357 to indicate that it is confidential. Staff also recommends adding rule 5.130(b)(2)(D) to specify that form FL-356 must be filed separately from other papers, even when filed at the same time.

2. Several commentators requested that the rule be amended to indicate that a request for SIJ findings may be made only if a party has requested sole physical custody of the child. Form FL-356 already indicates this requirement. Because SIJ findings require that reunification with at least one parent not be legally viable, any order of joint physical custody would not, as a matter of law, support SIJ findings. Staff therefore recommends adding language to rule 5.130(b) and its subparts to specify that a request for SIJ findings may be filed only in the context of a proceeding in which at least one party has requested sole physical custody of the child.
3. One commentator suggested that rule 5.130(f) and (g) merely restated statute and should be deleted. Staff recommends deleting rule 5.130(g), as section 155(d) of the Code of Civil Procedure and rules 2.550 and 2.551 adequately specify the procedures and requirements for sealing records in proceedings in response to a request for SIJ findings.
4. One commentator suggested that parties would seek to file requests for SIJ findings in DVPA cases because the courts may not charge a filing fee for requests for domestic violence protective orders. Staff does not recommend specifying fees for filing a request for SIJ findings separate or different from the fees set by section 70677 of the Government Code for motions or requests for orders. If the filing fee poses a hardship for the requesting person, a

fee waiver may be available under section 68630 et seq. of the Government Code. A party who applies for a fee waiver is entitled by section 68634 to file the paper immediately without paying the fee.

5. One commentator asked whether proceedings in response to requests for SIJ findings must be closed to comply with the confidentiality requirements in section 155(c). Beginning from the premise that civil judicial proceedings must be open to the public in section 124 of the Code of Civil Procedure unless otherwise specified, staff examined section 155(c). That section provides that, in a judicial proceeding in response to a request for SIJ findings, “information regarding the child’s immigration status” must “remain confidential” and “be available for inspection” only by the court and specified persons.

Staff does not believe that section 155(c) clearly requires that SIJ hearings be closed. One interpretation of “information” would, obviously, include information conveyed orally at a hearing. However, the qualification that such information be “available for inspection” only by specified persons implies that the statute protects only written information. Because of the presumption in section 124 of the Code of Civil Procedure that judicial proceedings are open to the public, the committee does not believe it is authorized to close these proceedings by rule without more explicit guidance from the Legislature. Section 214 of the Family Code, however, permits the court to close proceedings on a case-by-case basis in “the interests of justice and the persons involved.” Courts may wish to consider whether these considerations apply in proceedings in response to requests for SIJ findings.

6. One commentator suggested that the rule specify who holds the burden of proving facts in support of the SIJ findings and the standard for meeting that burden. Section 155(b)(1) requires only that “there is evidence to support the findings.” This language indicates no intent to create an exception to sections 500 and 550 of the Evidence Code and, therefore, gives no reason to think that anyone other than the person requesting the findings would bear the burden of proof. The language is less clear regarding the necessary quantum of evidence. Stating that “there is evidence” leaves the standard open to possible satisfaction by less than a preponderance of the evidence, the default standard of proof in civil proceedings. However, without express intent to depart from the default standard, a preponderance seems appropriate. The committee could add a subdivision to the rule to indicate that the holder of the burden and the standard of proof remain the same as in other civil proceedings. On the other hand, omitting these issues from the rule should simply lead to the implementation of the defaults.



**State of California**  
**CODE OF CIVIL PROCEDURE**  
**PART 1. OF COURTS OF JUSTICE**  
**TITLE 1. ORGANIZATION AND JURISDICTION**  
**CHAPTER 7. SPECIAL IMMIGRANT JUVENILE FINDINGS**  
**§ 155**

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155. (a) A superior court has jurisdiction under California law to make judicial determinations regarding the custody and care of children within the meaning of the federal Immigration and Nationality Act (8 U.S.C. Sec. 1101(a)(27)(J) and 8 C.F.R. Sec. 204.11), which includes, but is not limited to, the juvenile, probate, and family court divisions of the superior court. These courts may make the findings necessary to enable a child to petition the United States Citizenship and Immigration Service for classification as a special immigrant juvenile pursuant to Section 1101(a)(27)(J) of Title 8 of the United States Code.

(b) (1) If an order is requested from the superior court making the necessary findings regarding special immigrant juvenile status pursuant to Section 1101(a)(27)(J) of Title 8 of the United States Code, and there is evidence to support those findings, which may consist of, but is not limited to, a declaration by the child who is the subject of the petition, the court shall issue the order, which shall include all of the following findings:

(A) The child was either of the following:

(i) Declared a dependent of the court.

(ii) Legally committed to, or placed under the custody of, a state agency or department, or an individual or entity appointed by the court. The court shall indicate the date on which the dependency, commitment, or custody was ordered.

(B) That reunification of the child with one or both of the child's parents was determined not to be viable because of abuse, neglect, abandonment, or a similar basis pursuant to California law. The court shall indicate the date on which reunification was determined not to be viable.

(C) That it is not in the best interest of the child to be returned to the child's, or his or her parent's, previous country of nationality or country of last habitual residence.

(2) If requested by a party, the court may make additional findings that are supported by evidence.

(c) In any judicial proceedings in response to a request that the superior court make the findings necessary to support a petition for classification as a special immigrant juvenile, information regarding the child's immigration status that is not otherwise protected by state confidentiality laws shall remain confidential and shall be available for inspection only by the court, the child who is the subject of the proceeding, the parties, the attorneys for the parties, the child's counsel, and the child's guardian.

(d) In any judicial proceedings in response to a request that the superior court make the findings necessary to support a petition for classification as a special immigrant juvenile, records of the proceedings that are not otherwise protected by state confidentiality laws may be sealed using the procedure set forth in California Rules of Court 2.550 and 2.551.

(e) The Judicial Council shall adopt any rules and forms needed to implement this section.

(Added by Stats. 2014, Ch. 685, Sec. 1. (SB 873) Effective September 27, 2014.)



1 (B) At the same time as, or any time after, a Request for Order (form FL-  
2 300) or a Responsive Declaration to Request for Order (form FL-320)  
3 requesting sole physical custody of the child; or

4  
5 (C) In an initial action under the Domestic Violence Prevention Act, at the  
6 same time as, or any time after, a Request for Domestic Violence  
7 Restraining Order (Domestic Violence Prevention) (form DV-100) or  
8 Response to Request for Domestic Violence Restraining Order  
9 (Domestic Violence Prevention) (form DV-120) requesting sole  
10 physical custody of the child.

11  
12 (D) A Request for Special Immigrant Juvenile Findings—Family Law filed  
13 at the same time as any of the papers in (A), (B), or (C) must be filed  
14 separately from, and not as an attachment to, that paper.

15  
16 (3) Separate FL-356 for each child

17  
18 A separate form FL-356 must be filed for each child for whom SIJ findings  
19 are requested.

20  
21 (4) Requests for multiple orders

22  
23 A party may file a request for SIJ findings at the same time as, but separate  
24 from, a request for other orders relating to the child under the Family Code.

25  
26 (c) **Opposition to request**

27  
28 Any person entitled to notice of a request for sole physical custody of the child may  
29 file an objection or other opposition to a request for SIJ findings.

30  
31 (d) **Hearing on request**

32  
33 To obtain a hearing on a request for SIJ findings, a party must file [and serve?] a  
34 Request for Special Immigrant Juvenile Findings—Family Law (form FL-356) for  
35 each child for whom SIJ findings are requested.

36  
37 (1) A request for SIJ findings and a request for an order of sole physical custody  
38 of the same child may be heard and determined together.

39  
40 (2) The court may consolidate into one hearing separate requests for SIJ findings  
41 for more than one sibling or half-sibling named in the same family law case  
42 or in separate family law cases.

1           (3) If custody proceedings relating to siblings or half-siblings are pending in  
2           multiple departments of a single court or in the courts of more than one  
3           California county, the departments or courts may communicate about  
4           consolidation consistent with the procedures and limits in section 3410(b)–(e)  
5           of the Family Code.

6  
7           **(e) Separate findings for each child**

8  
9           The court must make separate SIJ findings for each child for whom a request is  
10          made, and the clerk must issue a separate *Special Immigrant Juvenile Findings*  
11          (form FL-357/GC-224/JV-357) for each child.

12  
13          **(f) Confidentiality (Code Civ. Proc., § 155(c))**

14  
15          *Request for Special Immigrant Juvenile Findings—Family Law* (form FL-356) and  
16          *Special Immigrant Juvenile Findings* (form FL-357/GC-224/JV-357) must be kept  
17          in a confidential part of the case file or, alternatively, in a separate, confidential file.  
18          Any information regarding the child’s immigration status on a document related to  
19          a request for SIJ findings kept in the public part of the case file must be redacted to  
20          prevent its inspection by unauthorized persons.



PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	CASE NUMBER:
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8. After the court has made final orders in this case, identified in 6, the child will be legally placed under the custody of an individual appointed by the court. The court will have jurisdiction to determine requests to modify or terminate these orders, unless another court acquires valid jurisdiction, until the child reaches 18 years of age.
9. I understand that section 3026 of the Family Code prohibits the court from ordering reunification services as part of a child custody proceeding. After the court has issued final orders giving sole physical custody to one parent, return of the child to the physical custody of another parent (i.e., reunification) will not be legally possible while those orders are in effect.

**I REQUEST THAT THE COURT MAKE THE FOLLOWING FINDINGS:**

10. The child has been placed in the custody of *(name)*:  
 who is an individual appointed by the court as described in the orders referred to in items 6, 7, and 8.
11. Reunification of the child with  the mother  the father  the other legal parent is not viable under California law because of *(check all that apply)*:
- abuse
  - neglect
  - abandonment
  - another legal basis *(specify)*:

Facts supporting this finding *(specify)*:

Continued on Attachment 11.

12. It is not in the best interest of the child to be returned to the child's or the parent's country of nationality or country of last habitual residence *(specify country or countries)*:

Facts supporting this finding *(specify)*:

Continued on Attachment 12.

13.  Additional documents in support of the request are attached and incorporated into this form. *Number of pages attached:* \_\_\_\_\_

I declare under penalty of perjury under the laws of the State of California that the information on this form is true and correct.

Date:

  
 (SIGNATURE)





CASE NAME:	CASE NUMBER:
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5. Reunification of the child with  the mother  the father  the other legal parent is not viable under California law because of parental  abuse,  neglect,  abandonment, or  a similar legal basis (*specify*):

as established on (*date*): \_\_\_\_\_, for the following reasons (*for each parent with whom reunification is not viable, state the reasons that apply to that parent*):

Continued on Attachment 5.

6. It is not in the child's best interest to be returned to the child's or parent's country of nationality or country of last habitual residence (*specify country or countries*):  
for the following reasons:

Continued on Attachment 6.

Date:

\_\_\_\_\_  
JUDICIAL OFFICER  
 SIGNATURE FOLLOWS LAST ATTACHMENT

**W16-11**

**Family Law: Special Immigrant Juvenile Findings** (adopt Cal. Rules of Court, rule 5.130)

All comments are verbatim unless indicated by an asterisk (\*).

	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
1.	Virginia Johnson Staff Attorney Superior Court of San Diego County	NI	<p><i>Does the proposal appropriately address the stated purpose?</i> No. CCP § 155(e) requires the Judicial Council to adopt a rule that implements the statute. As I read the rule, it basically restates the statute rather than adopting procedures for implementation. Restating the statute but using slightly different wording creates ambiguity, confusion, and, in some provisions, conflicts with the statute. As written, the rule overcomplicates the SIJS findings procedure. Consider a very simple rule about the use of the forms for each child attached to an RFO.</p> <p><i>Subd. (a)</i> Arguably, the family court can only order sole custody to an individual and find reunification with one or both parents is not viable because of abuse, neglect, or abandonment unless there is a contested custody issue before the court, even if it is by default or an unopposed RFO.</p> <p><i>Subd. (b)(2)</i> See comments in section (a).</p> <p>Consider limiting the request and attachment to only an RFO in a contested custody proceeding. Allowing the FL-356 to be attached to anything but an RFO in an action that involves contested custody would seem to conflict with the typical finding in family court that the child was placed in the custody of an individual (usually one</p>	<p>The committee understands these initial comments to refer to subdivision (f), regarding confidentiality, and subdivision (g), regarding sealing of records. No other provisions of this rule paraphrase statutory language or restate it verbatim. The committee struggled to interpret and implement section 155(c) and (d) of the Code of Civil Procedure in a way that would protect the confidentiality of information about a child’s immigration status in court records while maintaining public access to court records to the greatest possible extent. For specific modifications, please see the committee’s responses to comments on individual subdivisions, below.</p> <p>Assuming for the purpose of discussion that the family court may issue a final order awarding sole custody in a contested proceeding (but see <i>Burchard v. Garay</i> (1986) 42 Cal.3d 531, 535), the committee does not believe that the rules of court should require a litigant to predict whether his or her request will be contested at the time of filing.</p> <p>See response to comments on subdivision (a).</p> <p>The committee intends the rule to apply to all plausible circumstances in which a request for SIJ findings may be filed and considered in a family law proceeding. In response to comments pointing out the practical difficulties of maintaining confidentiality, the committee has reconsidered its decision to make form FL-356 an attachment to a</p>

**W16-11**

**Family Law: Special Immigrant Juvenile Findings** (adopt Cal. Rules of Court, rule 5.130)

All comments are verbatim unless indicated by an asterisk (\*).

	Commentator	Position	Comment	Committee Response
			<p>parent) and that reunification with the other party is not viable due to abandonment. I realize that my recommendations would require another revision of the newly adopted FL-356.</p> <p><i>(A) As an attachment to a petition or response in a family law proceeding <u>only if the party is seeking sole custody of the minor child</u>; or</i> This revision will match form FL-356 and support the necessary SIJS finding.</p> <p><i>(B) As an attachment to a Request for Order (form FL-300) or a Responsive Declaration to Request for Order (form FL-320) <u>in a proceeding involving contested custody of a minor child.</u></i></p> <p>The only scenario I have ever seen in our family court is that Dad is long gone and no one even has an address for him. Mom serves the summons and petition by publication and the RFO is served on the clerk of the court. The SIJS is based on “abandonment.” There is never a response from Dad. If there is a response to the RFO by another parent seeking sole custody, the court could grant sole custody to one parent, but if you have two parents battling for sole custody, arguably there would be no basis for finding that reunification with the other parent is not viable.</p> <p><del><i>(C) In an initial action under the Domestic Violence Prevention Act, as an attachment to Request for Domestic Violence Restraining</i></del></p>	<p>request for order on form FL-300. Form FL-356 is modified as described in the report to the Judicial Council to serve as a standalone form.</p> <p>The committee agrees that the request for SIJ findings should be brought only in a proceeding in which at least one party is seeking sole physical custody of the child and has modified its recommendation accordingly. Although the committee anticipates that, in most cases, the party requesting sole physical custody will also file the request for SIJ findings, it does not recommend precluding other parties from doing so.</p> <p>The committee intends the rule to apply to all plausible circumstances in which a request for SIJ findings may be filed and considered in a family law proceeding.</p> <p>Form FL-356 specifies that the DVPA action must include a request for sole physical custody to serve as a predicate for a request for SIJ findings.</p>

**W16-11****Family Law: Special Immigrant Juvenile Findings** (adopt Cal. Rules of Court, rule 5.130)

All comments are verbatim unless indicated by an asterisk (\*).

	Commentator	Position	Comment	Committee Response
			<p><i>Order (Domestic Violence Prevention) (form DV 100) or Response to Request for Domestic Violence Restraining Order (Domestic Violence Prevention) (form DV 120).</i></p> <p>This avenue needs to be given serious reconsideration. Allowing FL-356 to be attached to an RFO in a DV without further explanation could cause multiple problems.</p> <p>Custody orders in a DV are only temporary which, arguably, does not satisfy the intent of the SIJS law. It would create confusion as to how and when the SIJS findings would be made. Conceivably the findings could not be made at the DVRO hearing unless the party filed the SIJS/RFO with the DVTRO which is set on the same date and time as the DVRO and the RFO is timely served on CCP §1005.</p> <p>What if the DVRO is not based on abuse of the child or does not include the child as a protected party?</p>	<p>The committee has modified its recommendation to add that specification to the rule as well.</p> <p>The committee reads sections 6340(a) of the Family Code to require that a custody order made after a hearing in a DVPA action remain in force after the termination of the protective order. If the hearing was conducted under the procedures and requirements of division 8 (beginning with section 3000) of the Family Code, then section 6345(b) would appear to permit a custody order issued in a DVPA action to become a final order subject to modification only in the event of a substantial change of circumstances if a change is in the best interests of the child under the standard articulated by the Supreme Court in <i>Burchard v. Garay</i> (1986) 42 Cal.3d at pp. 534–536.</p> <p>The committee understands that, if the DVRO is granted, but not based on abuse of the child or the child is not named as a protected party, the court may nevertheless award sole physical custody to the protected parent. The party requesting SIJ findings would then need to show that reunification of the child with the restrained parent is not legally viable because of abuse, neglect, or abandonment.</p>

**W16-11**

**Family Law: Special Immigrant Juvenile Findings** (adopt Cal. Rules of Court, rule 5.130)

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	Commentator	Position	Comment	Committee Response
			<p>What happens if the DVTRO is denied and the applicant waives their right to a hearing? Under normal circumstances the case would be dismissed. Does the case remain open to allow the party to premise their SIJS/RFO on neglect or abandonment? What happens if the permanent DVRO is denied? Again, does the court allow the party to premise their SIJS/RFO on neglect or abandonment?</p> <p>Parties will likely expect no fee to be charged for filing the separate RFO in a DV case. Parties should not be treated differently because the FL-356 is in a DV case, particularly if the DV is denied. If parties know the SIJS/RFO will go forward regardless of the results of the DVRO, parties will be able to use the free filing of the DV case to manipulate the system for their SIJS request.</p> <p><i>Subd. (b)(4)</i> Requests for multiple orders  <i>A party filing a request under this rule may combine that request with a request for other orders relating to the child under the Family Code.</i>            What does this language mean? If it means child support or visitation, this subsection appears to be in conflict with section (a).</p>	<p>The committee understands that the request for SIJ findings stands or falls with the disposition of an underlying request for sole physical custody. This state law relief serves as a necessary predicate to the SIJ findings. If the state law relief results in circumstances under which the law and the facts support all three SIJ findings, then the court must make the findings. If not, then the court may not make the findings. If the underlying action is dismissed, all requests for orders filed in that action, including a request for sole physical custody and a request for SIJ findings, would also be dismissed.</p> <p>The committee does not recommend addressing the fee to file a request for SIJ findings in the rules of court. The statutory fee for filing a request for order and all exceptions would appear to apply.</p> <p>The committee agrees that the language used is confusing. The committee intended this language to indicate that a party may file a request for SIJ findings at the same time as but separate from requests for other orders under the Family Code. The recommendation has been modified to express this intent more clearly. The committee does not intend to imply that a request for a child support order, without more, would serve as a valid basis for the court to make SIJ findings. On</p>

**W16-11**

**Family Law: Special Immigrant Juvenile Findings** (adopt Cal. Rules of Court, rule 5.130)

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	Commentator	Position	Comment	Committee Response
			<p>Also, see comments in section (a).</p> <p><b>Subd. (d)(1)</b> Theoretically, there will never be an order of “parenting time” concurrent with an SIJS finding that reunification with one or both parents is not viable.</p> <p><b>Subd. (f)</b> By including the conjunctive “and” in the first line, the language becomes ambiguous. It could be read as requiring that both “all records that pertain to the request” and “information regarding the child’s immigration status” be confidential. This would broaden the scope of CCP §155(c) which limits confidentiality to “the child’s immigration status.” It would also cause confusion and complications on the confidentiality of the RFO itself and any other pleadings submitted with the RFO on custody issues and DV. Moreover, this subsection is simply a restatement of the statute.</p> <p><b>Subd. (g)</b> As written, this rule is also ambiguous and appears to broaden the scope of CCP §115(d). I interpret CCP §115(d) as limited to the option to seal only those records of the immigration</p>	<p>the other hand, the committee does not intend to preclude the concurrent filing of a request for a support order, a request for sole physical custody, and a request for SIJ findings.</p> <p>See responses to comments on subd. (a).</p> <p>The committee does not wish to preclude by rule the possibility that a final custody order granting sole physical custody to one parent and supervised visitation or parenting time to another parent might serve as a valid basis for SIJ findings.</p> <p>The committee agrees that the addition of “and” to the specified sentence introduced one ambiguity in an effort to eliminate another. The committee recommends modifying the sentence, consistent with the recommended revisions to forms FL-356 and FL-357, to require confidential treatment of those forms and other filings that include information about the child’s immigration status protected under section 155(c). The committee does not intend the rule to expand the scope of section 155(c). The committee does not, however, recommend the elimination of subdivision (f). The committee intends the subdivision to specify a process by which a court may comply with the confidentiality requirement in section 155(c).</p> <p>The committee agrees that subdivision (g) does not add materially to the requirement in section 155(d) and has deleted that subdivision from the proposed rule.</p>

**W16-11****Family Law: Special Immigrant Juvenile Findings** (adopt Cal. Rules of Court, rule 5.130)

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	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
			portion of the hearing. To interpret the statute otherwise and give parties the ability to request that all records pertaining to the custody or DV hearing be sealed could incentivize parties to file motions to seal all records which, in all likelihood, would be denied. Most litigants and attorneys are not familiar with the high burden of proof for a sealing order. This would create an undue burden on the court's time and resources. Moreover, this subsection is simply a restatement of the statute.	
2.	Orange County Bar Association by Todd G. Friedland, President	A	No specific comment.	Thank you for your comment. No further response required.
3.	State Bar of California Family Law Section, Exec. Comm. by Saul Bercovitch, Legislative Counsel	A	The Executive Committee of the Family Law Section of the State Bar supports this proposal.	Thank you for your comment. No further response required.
4.	State Bar of California Standing Comm. on the Delivery of Legal Services by Phong S. Wong, Chair	A	<i>(Agree with proposal in its entirety)</i>  <b>Specific Comments</b> <u>Does the proposal appropriately address the stated purpose?</u> Yes. The proposed rules are clear and concise as to who may file for an SIJ finding, how to file, and when to file. Also, confidentiality and sealing of the record are adequately covered. The filing of the forms for the SIJ filing falls within the family law framework and would be eligible for fee waivers.	Thank you for your comment. No further response required.
5.	Superior Court of Los Angeles County	AM	The language at 5.130(b)(1) is ambiguous. As written it seems to suggest that anyone who could file a response to a petition or a response to request for order may file for SIJS findings. But, who may file a Response to a Petition or	The committee intends the rule to permit any person entitled to be a party to the underlying proceeding, as well as the child if authorized by statute, to file a request for SIJ findings. The committee intends the proposed amendment to

**W16-11**

**Family Law: Special Immigrant Juvenile Findings** (adopt Cal. Rules of Court, rule 5.130)

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			<p>RFO depends on who files the petition and what is alleged. Under the present wording a non-parent/non-guardian, non-GAL could file for SIJS findings on the theory that they could file a response to a hypothetical petition.</p> <p>5.130(c) is also ambiguous. It allows someone who is entitled to notice of an RFO under CRC 5.92 to object to the SIJS petition. But, who is entitled to notice is not determined by CRC 5.92 rather, that is determined by the petition and the Constitution.</p> <p><b>Does the proposal appropriately address the stated purpose?</b> The proposal would be improved significantly by creating a stand-alone petition specifically to address SIJ findings as opposed to creating the FL-356 as an attachment. Additionally, this would provide greater insurance that the confidentiality of these documents is maintained.</p> <p>Rule 5.130(b)(2)(A) states that the Request for Special Immigrant Juvenile Findings (FL-356) may be attached to a petition or a response in a family law proceeding. However, a court hearing is required for the court to make findings, so it is unclear what the purpose of attaching it to a petition may be. Attaching it to a petition, may give a self-represented litigant</p>	<p>rule 5.130(b)(1), along with amendments to other subdivisions that clarify that a request for SIJ findings must be filed in the context of a proceeding in which at least one party is requesting sole physical custody of the child and that the request may only be file at the same time as or later than the first paper, to limit abuses of the process.</p> <p>The committee agrees and has added language to proposed subdivision (c) to clarify that the only a person entitled to notice of a request for sole physical custody may file an opposition to a request for SIJ findings.</p> <p>The committee agrees and has modified its recommendation to include revising form FL-356 to be a standalone form.</p> <p>The committee agrees in part and has modified its recommendation to indicate that the request for SIJ findings may be filed at the same time as or any time after the petition or response. In addition, the committee has proposed adding language to paragraph (b)(2) and subparagraph (b)(2)(D) to clarify that the request must be filed separately, not attached, and may be filed only in a</p>



## W16-11

### Family Law: Special Immigrant Juvenile Findings (adopt Cal. Rules of Court, rule 5.130)

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	Commentator	Position	Comment	Committee Response
			<p>the impression that the findings will be granted without the filing of an RFO or setting of a hearing.</p> <p>Rule 5.130(d)(1) indicates that, if filed at the same time as a request for determination of custody or parenting time, a request for SIJS findings and the request for order determining custody or parenting time may be heard and determined together. Are two separate RFOs required or can the Request for SIJF be attached to the RFO requesting custody?</p> <p>The confidentiality requirement in section (f) indicates that all records that pertain to a request under this section, including information about the child's immigration status, must be kept in a confidential. This becomes problematic if the SIJF is attached to a Petition or RFO for custody which do not have the same confidentiality requirements.</p> <p><b>Would the confidentiality requirements in the proposed rule impose specific or logistical record-keeping burden?</b></p> <p>The confidentiality requirements would impose specific record keeping burdens on courts. As noted above, having confidential and non-confidential documents filed as one document will present problems. The proposed rule does not address how to handle documents when the FL-356 is attached to documents that are not confidential. Guidance should be provided to avoid inconsistent practices.</p>	<p>proceeding in which at least one party is seeking sole physical custody of the child.</p> <p>The committee intends that, even when they are filed concurrently, the request for SIJ findings be filed separately from the request for an order of sole physical custody.</p> <p>The committee intends the revision of form FL-356 as a standalone form to resolve this issue.</p> <p>The committee intends the revision of form FL-356 as a standalone form to resolve this issue.</p>

## W16-11

### Family Law: Special Immigrant Juvenile Findings (adopt Cal. Rules of Court, rule 5.130)

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	Commentator	Position	Comment	Committee Response
			<p><b>Would this proposal have different effect on courts of different sizes?</b> Larger courts will have more of a workload depending on the volume of filings.</p> <p><b>Does the proposal provide cost savings?</b> The proposal does not appear to provide cost savings. To the extent paper files are maintained, the use of confidential envelopes will increase. Access to otherwise public records by parties seeking to view confidential documents in these type of cases will require additional file management resources.</p> <p><b>Would two months be sufficient time to implement the proposal?</b> Two months is not enough time to implement the proposal. The handling of confidential documents attached to non-confidential documents would require a court to address record keeping procedures, update and or modify existing practices and procedures and train staff prior to implementation. If a stand-alone petition specifically to address SIJ findings, instead of using FL-356 as an attachment, would be easier to implement.</p>	<p>The committee agrees in part. Larger courts may see a proportionally larger number of filings, but courts in specific locations, such as Los Angeles, Orange County, and the San Francisco bay area, are likely to see a disproportionate number of SIJ filings based on their larger populations of undocumented immigrants from Central America. To the extent that larger courts do see a proportionally larger number of filings, the Workload Allocation Funding Model should address the identified workload disparity.</p> <p>The committee agrees, but may not propose confidentiality requirements less stringent than those required by statute.</p> <p>The committee does not recommend the suggested change. The committee intends the revision of form FL-356 to make it a standalone form to simplify the filing process enough to eliminate confusion, logistical issues, and the need for longer processing times and to permit implementation within the normal, two-month time frame.</p>

**W16-11****Family Law: Special Immigrant Juvenile Findings** (adopt Cal. Rules of Court, rule 5.130)

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	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
6.	Superior Court of Orange County Family Law & Juvenile Court Operations by Blanca Escobedo Principal Administrative Analyst	AM	<p>The proposed purpose is met as it pertains to Family Law. However, we would like to recommend the following revisions:</p> <p>CRC 5.130 (b)(2)(B) should reflect that there must be an existing family law case or initiating document filed with the family law court. Perhaps utilizing wording from item #5 of the FL-356 would be helpful.</p> <p>CRC 5.130 (b)(2)(C) should reflect the DV-100/DV-120 with custody issues.</p> <p>According to the proposed rule, all SIJ records should be confidential. However, the FL-356 is an attachment to other filings that are not confidential (e.g., Petition, Response, etc.). Courts would need to develop procedures to separate documents when they are filed and imaged. For courts that provide remote access to records, this might be confusing to the public because there will be references to attachments in the underlying filing and no attachments available on a court’s public website. In addition, clarification is requested on the following issues:</p> <p>Are courts required to redact any SIJ references on the underlying filings?</p>	<p>No response required.</p> <p>The committee agrees that a request for SIJ findings may not be filed independent of a family law proceeding in which at least one party is requesting sole physical custody of the child. Modifications to proposed subdivision (b) are intended to clarify that the request may only be filed in the context of such a proceeding, but allows for concurrent filing of the request with the first paper in the proceeding.</p> <p>The committee agrees and has modified its recommendation accordingly.</p> <p>The committee has modified its recommendation to revise form FL-356 to be a standalone form in part to permit courts to keep that form confidential without needing to develop special procedures to separate documents.</p> <p>Under section 155(c) of the Code of Civil Procedure, in a judicial proceeding in response to a request for SIJ findings, “information regarding</p>



**W16-11**

**Family Law: Special Immigrant Juvenile Findings** (adopt Cal. Rules of Court, rule 5.130)

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	Commentator	Position	Comment	Committee Response
			<p>Lastly, there appears to be a discrepancy between the proposed rule and CCP 155(c) as it pertains to confidentiality. CCP 155(c) states, “In <i>any judicial proceedings in response</i> to a request that the superior court...” The proposed whereas the proposed rule states “<i>All records</i> that pertain to a request under this rule...”</p> <p>We don’t believe there would be a cost savings. The new confidentiality rules may create additional work if filings need to be separated and/or SIJ references need to be redacted.</p> <p>Implementation requirements for our court includes training for judges and staff. Depending on the confidentiality decision, minor case management changes may be required.</p> <p><b>Additional Questions/Comments:</b> Are there exceptions to the service of process for SIJ filings if a parent lives outside the country?</p> <p>We recommend an SIJ information sheet be created to help the public understand where they should file their SIJ petitions.</p>	<p>The committee agrees and has modified its recommendation to specify that only the request for SIJ findings and the findings themselves must be kept in a confidential part of the case file. As noted above, information regarding the child’s immigration status contained in other documents related to the request that are kept in the public part of the file must be redacted to prevent the inspection of that information by unauthorized persons.</p> <p>The committee intends that modifications to form FL-356 will mitigate any increase in workload to the greatest extent permitted by statute.</p> <p>No response required.</p> <p>The committee is not aware of, and does not the rule intend to create, any exceptions to the requirements for service of process that ordinarily apply in the underlying family law proceeding.</p> <p>The committee agrees that an information sheet would be helpful and will consider developing one. The California Courts Online Self-Help Center includes a webpage with information on SIJ status for self-represented litigants.</p>

**W16-11****Family Law: Special Immigrant Juvenile Findings** (adopt Cal. Rules of Court, rule 5.130)

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	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
			<p>Are there recommended processing time standards?</p> <p>Are courts required to provide interpreters for these hearings?</p> <p>Should courts use the same service of process requirements for the FL-356 the same as the underlying filing?</p>	<p>The committee does not intend to set standards for case processing times in the rule. The court should adhere to existing processing time standards for custody proceedings. If exigent circumstances or the interests of justice require expedited processing, the court has sufficient authority to grant it on a case-by-case basis.</p> <p>Under section 757 of the Evidence Code, the court has the same authority to provide an interpreter in a proceeding in response to a request for SIJ findings as it has in any civil proceeding. The Judicial Council’s Language Access Plan includes standards and priorities for provision of interpreters in these proceedings.</p> <p>The committee is not aware of and does not intend the rule to create any exceptions to the requirements for service of process that would ordinarily apply in the underlying family law custody proceeding.</p>
7.	Superior Court of Riverside County by Marita Ford Senior Management Analyst	A	The confidentiality requirement in proposed rule 5.130(f) would create logistical issues for courts that use electronic filing and image court records. Because the FL-356 is an attachment form, it would be difficult for courts that image court records to only make the attachment page confidential. Currently, to keep the attachment page confidential the entire document it is attached to ( <i>i.e. petition, response, RFO, DVRO, etc.</i> ) would have to be made confidential, thereby limiting public access to those documents.	The committee agrees and has modified its recommendation to make FL-356 a standalone form. The committee intends this revision to simplify the filing process enough to eliminate confusion, logistical issues, and the need for longer processing times.

**W16-11****Family Law: Special Immigrant Juvenile Findings** (adopt Cal. Rules of Court, rule 5.130)

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	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
			<p>Since the FL-357 is a separately filed document, there are no logistical issues in maintaining the confidentiality of that document in electronic systems.</p> <p>However, it is difficult to keep the court minutes pertaining to a request for SIJ findings confidential in electronic case management systems; especially if the request for SIJ findings is heard along with custody and parenting time issues.</p>	<p>No response required.</p> <p>The committee agrees and has modified its recommendation to require that information about the child's immigration status included in documents that are kept in a publicly accessible file be redacted from those documents. The committee intends this requirement to apply to minutes as well.</p>
8.	Superior Court of Sacramento County by Rebecca Reddish Business Analyst	AM	Page 9, (f) Confidentiality—What if the Request is part of an RFO that includes other issues? How will we separate or must all of the documents filed with the Request be deemed confidential?	The committee has modified its recommendation to make form FL-356 a standalone form. The committee intends that this revision will mitigate or eliminate the practical challenges of keeping the request confidential.
9.	Superior Court of San Diego County by Michael M. Roddy Executive Officer	AM	<p>In answer to the request for specific responses, our court provides the following:</p> <p>Q: Would the proposal provide cost savings? <b>No.</b></p> <p>Q: What are implementations requirements for courts? <b>Training business office staff on new forms (FL-356 &amp; FL-357).</b></p> <p>Q: Would two months from JC approval of this proposal until its effective date provide sufficient time for implementation? <b>Yes.</b></p> <p>Q: How well would this proposal work in courts</p>	<p>No response required.</p> <p>The committee intends its revision of form FL-356 as a standalone form to reduce training requirements for court staff.</p> <p>No response required.</p> <p>The committee agrees in part. Larger courts may</p>

**W16-11**

**Family Law: Special Immigrant Juvenile Findings** (adopt Cal. Rules of Court, rule 5.130)

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	Commentator	Position	Comment	Committee Response
			<p>of different sizes?  <b>Greater impact on larger courts based on number of staff and filings.</b></p> <p>Q: Is the notice provided in plain language such that it will be accessible to a broad range of litigants, including SRLs?  <b>Yes.</b></p> <p>Q: Does the proposal appropriately address the stated purpose?  <b>Yes, the proposal addresses the stated purpose.</b></p> <p><b>General comments:</b> In working on these requests, we have not found anything that specifies who has the burden of proof and what that burden is. CCP 155 just says there must be evidence to support the findings. It would be helpful to address the burden of proof in the rules of court.</p>	<p>see a proportionally larger number of filings, but courts in specific locations, such as Los Angeles, Orange County, and the San Francisco bay area, are likely to see a disproportionate number of SIJ filings based on their larger populations of undocumented immigrants from Central America. To the extent that larger courts do see a proportionally larger number of filings, the Workload Allocation Funding Model should address the identified workload disparity.</p> <p>No response required.</p> <p>No response required.</p> <p>In the absence of a statute establishing an exception to sections 500 and 550 of the Evidence Code or setting a heightened standard of proof, the committee understands that the person requesting the findings would have the same burden of establishing the facts and circumstances supporting the findings as in any other civil proceeding, that is, by a preponderance of the evidence. The committee contemplates that, in most cases, the facts and circumstances in support of the underlying order for sole physical custody would be sufficient to support the SIJ findings. If not, the requesting person would be entitled to present additional evidence at the hearing on the</p>



**W16-11**

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			<p>If this rule is implemented, the Juvenile Division will be the only division that does not have its own rule of court addressing Special Immigrant Juvenile status. A juvenile rule would be helpful to point people to the appropriate forms and to address the burden of proof.</p> <p><b>Comments regarding specific CRC amendments:</b>            Page 4 paragraph 2 of the Invitation to Comment references 5.130(a)(1). However, there is no (a)(1) in the attached rule.</p> <p>Proposed rule 5.130, subsection (b)(2)(C): The proposed rule as written in conjunction with proposed rule 5.130(d) may create confusion as to what hearing the requested SIJ status findings should be addressed, particularly if a FL-300 is</p>	<p>request for SIJ findings.</p> <p>The committee does not recommend adopting a rule of court for requesting SIJ findings in juvenile proceedings at this time. When the SIJ findings forms were circulated for comment last year, the committee sought specific comment whether a rule for seeking SIJ findings in juvenile court proceedings was desirable. No commentators indicated that such a rule would be desirable. Two commentators indicated that it was not needed. The juvenile courts are accustomed to determining requests for SIJ findings, as these requests have applied to dependency proceedings since 1990. Furthermore, the facts and circumstances supporting the SIJ findings, if they exist, will all have been established in the underlying juvenile court proceeding. Finally, all parties, including the child, in a juvenile court proceeding in which SIJ findings would be available are entitled to representation by competent counsel. Juvenile court attorneys are familiar with the procedures for submitting SIJ requests to the court.</p> <p>The committee will try to avoid similar errors in the future.</p> <p>The committee has modified its recommendation to make form FL-356 a standalone form. Therefore, no FL-300 would need to be filed to obtain a hearing. Notice of the hearing has been included on page one of the revised FL-356.</p>

**W16-11****Family Law: Special Immigrant Juvenile Findings** (adopt Cal. Rules of Court, rule 5.130)

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	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
			<p>never filed. Typically the issues on the DV-100 and/or the DV-120 are addressed at the noticed hearing on the DV-110 unless continued. If a litigant is allowed to file the FL-356 as an attachment to a DV-100 (presumably under item 22) or DV-120 (unclear where the form would be attached) but then must also file an FL-300 with an attached FL-356 to obtain a hearing on the SIJ status request, notice about filing the FL-300 to obtain the actual hearing on the request should be somewhere else besides this rule of court, perhaps on the FL-356?</p> <p>Proposed rule 5.130, subsection (f): The proposed rule as written may be misread or could be found confusing in regards to the scope exactly what documents are confidential as set forth in Code of Civil Procedure section 155, subsection (c). It is the child’s immigration status that must be kept confidential under this subsection. Consider deleting the word “and” from the proposed rule as follows:</p> <p>“All records that pertain to a request under this rule <del>and</del> that include information about the child’s immigration status must be kept in a confidential part of the case file, or alternatively, in a separate, confidential file.”</p>	<p>Furthermore, the committee has proposed amendments to rule 5.130(b)(2)(C) to clarify that the request for SIJ findings may be filed in a DVPA action only if there is also a request for sole physical custody. The committee intends these changes to resolve the concerns identified in this comment.</p> <p>The committee agrees and has modified its recommendation to specify in rule 5.130(f) which documents must be kept in a confidential portion of the file and to make form FL-356 a standalone form to resolve confusion and workload issues related to maintaining confidentiality.</p>
10.	Trial Court Presiding Judges Advisory Committee/Court Executives Advisory Committee Joint Rules Subcommittee (JRS)	AM	Modify the proposal by creating a stand-alone petition specifically to address SIJ findings as opposed to creating a document (FL-356) to be attached to a petition or response in a family law proceeding. If the form is attached to a petition,	The committee agrees with the comment and has modified its recommendation to make form FL-356 a standalone form.

**W16-11****Family Law: Special Immigrant Juvenile Findings** (adopt Cal. Rules of Court, rule 5.130)

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			<p>as proposed by this proposal, a self-represented litigant may not understand that he/she needs to file an RFO or set a hearing to obtain the SIJS relief.</p> <p>Also, subsection (f) states that all records that pertain to a request under this section must be kept confidential. However, if the SIJF is attached to a Petition or RFO for custody, which does not have confidentiality requirements, court staff will have great difficulty in processing the document so that some parts are kept confidential and others are not.</p> <p>The proposed date for implementation is not feasible or is problematic: Unless modified, the proposal will take more than two months to implement in order to provide local procedures for processing confidential documents that will be required to be separated from non-confidential parts of the same submission. Accordingly, the JRS requests that the effective date of this proposal be extended to three months (90 days) from Judicial Council approval.</p> <p>Other major fiscal or operational impacts: The proposal will cause confusion for court staff and it will be difficult to implement because there is not a stand-alone petition to obtain the requested relief. In addition, confidential documents would be attached to non-confidential documents, causing substantial additional staff time to process. See proposed modification.</p>	<p>The committee agrees with the comment and has modified its recommendation to include revision of form FL-356 to be a standalone form and to specify that, even when filed concurrently with other papers, the form must be filed separately, not attached to the other papers.</p> <p>The committee does not recommend extending the proposal's effective date. The committee intends that revising form FL-356 to be a standalone form will simplify the filing process enough to eliminate the need for new procedures and permit implementation within the normal two-month time frame.</p> <p>The committee has modified its recommendation to make FL-356 a standalone form. The committee intends this revision to simplify the filing process enough to eliminate confusion, logistical issues, and the need for longer processing times.</p>