

Child Custody & Child Support in Family Court

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LA Law Library Pro Bono Week
October 2020

Child Custody & Visitation in Family Court



Two Types of Custody

Physical Custody

- Where the child lives

Legal Custody

- Right to make decisions

Physical Custody

- **Sole physical custody:** child lives with and under the supervision of one parent, subject to the court's power to order visitation to the other parent.
- **Joint physical custody:** each of the parents has significant periods of physical custody.

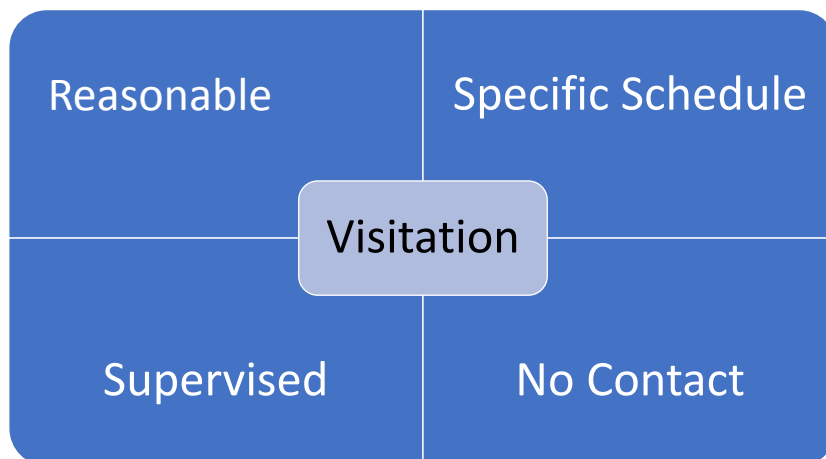


Legal Custody

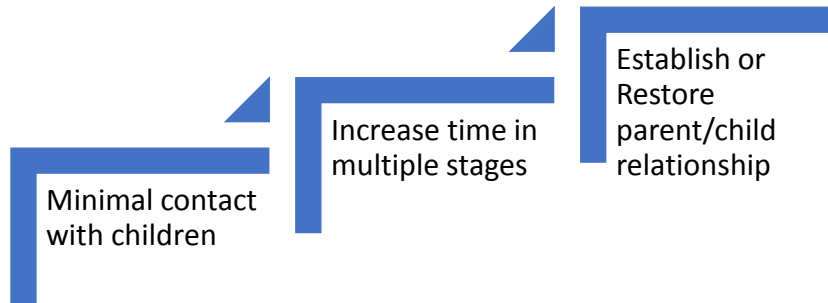
- **Sole legal custody:** one parent has the right and responsibility to make decisions about the child's health, education and welfare.
- **Joint legal custody:** the parents share the right and responsibility to make decisions about the child's health, education and welfare.



Options for Visitation



Step Up Visitation Plan



Additional Custody Orders



How Does the Judge Decide Custody? *California Public Policy (Family Code Sections 3020 & 3040)*

- Assure the health, safety & welfare of the child-
Provide child with stability and continuity
- Assure “frequent & continuing contact” with both
parents



How Does the Judge Decide Custody? *Best Interests of The Child (Family Code Section 3011)*

- Health, safety & welfare of the child
- Existing parent/child relationship
- History of domestic violence (child or parent)
- History of drug or alcohol abuse
- Frequent & continuing contact



How Does the Judge Decide Custody? *Domestic Violence & Custody*

- Family Code Section 3044 *Rebuttable* Presumption
- Presumption: Awarding sole or joint legal/physical custody to parent who committed acts of domestic violence is *against* the best interests of the child.

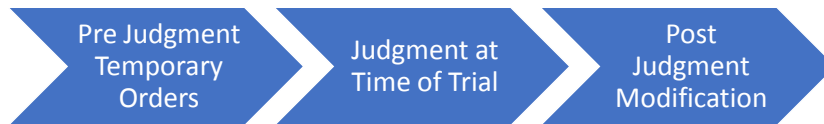


How to Get Child Custody Court Orders

California Courts Self-Help Center courts.ca.gov
Los Angeles Superior Court lacourt.org



Divorce & Paternity Cases



Requesting a Court Hearing

- **File FL-300 Request for Order** to request an initial child custody order or to ask for a change in the custody order
- For emergency custody also file **FL-305** Temporary ER Orders
- Use Judicial Council custody forms - **FL-311 Child Custody Attachment, FL-312, FL 341 (c), FL 341 (D), FL 341 (E)**
- Include a **supporting declaration** explaining the reasons for your requests (Optional form: **MC-030 Declaration**)
- File **Form FL-321 Witness List** for witnesses at hearing
- Custody mediation date & court hearing date are set upon filing FL-300 Request for Order

Emergency “Ex Parte” Custody Requests

(Family Code Section 3064 & CA Rule of Court 5.151)

- Immediate harm to the child or immediate risk that the child will be removed from the State of California
- Immediate harm includes recent acts (or continuing pattern) of domestic violence, endangerment, neglect and sexual abuse



Ex Parte Court Process

(CA Rules of Court 5.151-5.170)

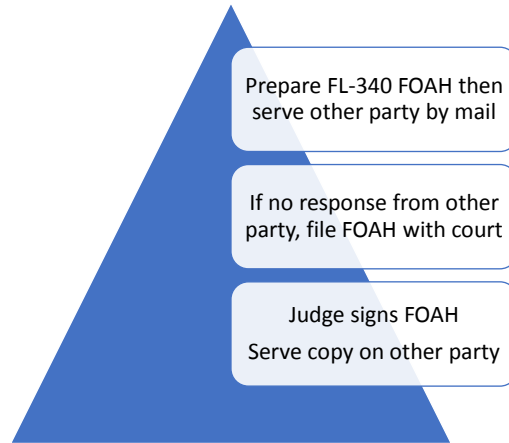
Notice or No Notice (CA Rule of Court 5.165)
LASC FAM 075 (Non DV) or FAM 018 (DV)

Judge rules on ex parte request
Judge sets future custody hearing date

Full hearing for both sides
Judge makes final custody orders

FL-340 Findings & Order After Hearing

(“FOAH” CA Rule of Court 5.125)



Child Support

- Child Support continues until an unmarried child is 18 years old and up to the child’s 19th birthday if the child is still a full time high school student and not self supporting. (*Family Code Section 3901*)



Types of Child Support

Monthly Support Payments

Health Insurance Expenses

Child Care Costs

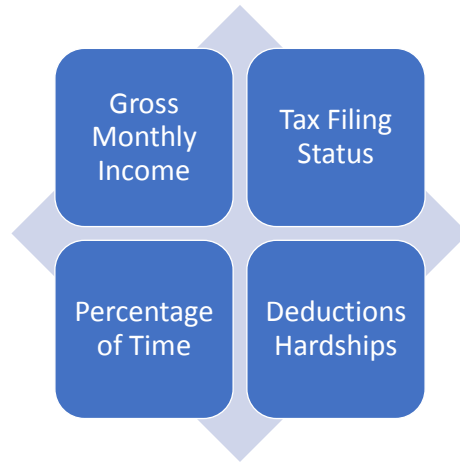
How Child Support is Calculated

Family Code Section 4053

- Determined by a complex mathematical formula. Courts use a software program to calculate the “guideline” child support amount.
- Child support calculator on the California Department of Child Support Services website.



Child Support Guideline Factors



How to Get Child Support Orders

- FL-300 Request for Order for Child Support
- FL-150 Income & Expense Declaration
- Bring tax returns for past 2 years to hearing



LA County Child Support Services

<https://cssd.lacounty.gov/>

- Responsible for establishing, collecting and enforcing child support in Los Angeles County
- Powers for collection purposes: (1) Suspend driver's licenses, professional and business licenses, passports, (2) Intercept federal and state tax refunds, (3) Lien on property and freeze bank accounts



How to Change the Child Support Amount

(Request for Modification/FL-300 Request for Order)

- Must prove a substantial change in circumstances
- Substantial increase or decrease in the earnings by either parent
- Change in the amount of time the child spends with each parent



Collecting Child Support

FL-195 Income Withholding Order (usually filed with FL-340 FOAH)



Help with Court Forms

LASC File at Home Programs

- To start or respond to a case (Divorce, Legal Separation, Nullity, Paternity or Restraining Order)
- To file for child custody & child support orders
- To respond to requests for child custody & child support
- Programs include option to request modification of current orders
- Go to http://www.lacourt.org/selfhelp/filefromhome/SH_FH000.aspx

Find Legal Help & Information

- LA Law Library <http://www.lalawlibrary.org/>
- California Courts Self Help Center
<https://www.courts.ca.gov/selfhelp.htm>
- LA Superior Court Self Help Centers
<http://www.lacourt.org/selfhelp/selfhelp.aspx>
- Referrals to legal services www.LawHelpCA.org
- State Bar of CA Lawyer Referral Services
<http://www.calbar.ca.gov/Public/Need-Legal-Help/Lawyer-Referral-Service>