



How to Fill Out the Custody and Visitation Declaration

As a parent, you have the right to make decisions related to your child(ren). You also have a right to continuous and frequent contact and interactions with your child(ren), except in circumstances where such contact would detrimentally affect your child. The court will always consider the best interest of your child(ren) before issuing orders.

Why is this declaration important?

The information you provide in the declaration is given under penalty of perjury and is used to support your custody, visitation (timeshare) and parenting plan request. The judge makes a decision to issue a court order using the information that you and the other parent provide in your separate declarations.

The judge will base the court order on the following factors:

1. Whether the orders that you are requesting are in the **best interest** of your child(ren):
 - a. The judge considers the following factors: your child's age, health, emotional ties with each parents, each parent's ability to take care of the child(ren), the child(ren)'s ties to their school, home, and community, and any history of family violence or substance abuse .
 - b. The judge wants to avoid unnecessary and major disruptions in a child's life.
2. If you already have custody and visitation orders in place, you must have a **significant change in circumstance** to justify changing the existing orders.
 - a. Be clear, specific and to the point. Explain any changes since the last orders were issued.

Make sure these questions are clearly and completely answered in the “**Other Information**” section. If you need more space to fully answer the questions, ask an ACCESS worker for a blank **Attached Declaration form (MC-025)** or you may attach blank, unlined paper from home. Answers should be typed and if handwritten, must be legible with minimal whiteout.

What is the difference between legal and physical custody?

Legal Custody is the right to make important decisions about your child(ren)'s medical care, education (such as the school they go to), religious affiliation, travel, etc.

Joint Legal Custody: *Either* parent may make important decisions about the child(ren).

Sole Legal Custody: Only one parent may make important decisions about the child(ren).

Physical Custody is the right to have your child(ren) live with you and the responsibility to provide care and supervision of the child(ren) while they are in your care.

Joint Physical Custody: Each parent provides care for the child(ren) a significant timeshare. Equal timeshare is not required.

Sole Physical Custody: There is one parent with whom the child(ren) live(s) the majority of the time and the child(ren) have a schedule of time to be with the other parent.

How do I fill out the Proposed Child Visitation (Time Share) section?

Visitation is a legal term that really means each parent's **timeshare** with their child(ren). Generally, one parent (the custodial parent) will be the parent whom the child(ren) is living with the majority of the time, and the other parent (the non-custodial parent) will have visitation. **Visitation** can: be a reasonable or specified schedule; have supervised visitation exchanges; be supervised visitation; or be suspended with no contact.

Reasonable visitation works well for parents with a history of good communication with one another, when each parent is flexible with visits being planned more spontaneously and there is no set schedule. With a **reasonable visitation** order, both parents must work together to determine visitation times that work for each of their schedules and for the child(ren)'s schedules. The non-custodial parent should be able to regularly see the child(ren) for a reasonable amount of time each visit. **Tip:** Simply stating *Reasonable Visitation* is not recommended. Enter a schedule that reflects the status quo (current schedule). It is always possible for both parents to agree to a new *reasonable* arrangement at a later date.

If you would like a **specific schedule**, to reduce misunderstandings and to clarify holidays and special occasions, you must explain the specific schedule that you want:

- ✓ Specify the days and times of visitation for the parent who does not have physical custody
- ✓ Specify the location for pick-up and return of your child(ren)
- ✓ Specify the parent responsible to bring the child(ren) to the pick-up and return locations

For example, Petitioner will have visitation every 2nd and 4th weekend of the month, from Friday after school until Sunday at 7:00 p.m. Petitioner will pick-up child(ren) from the afterschool program on Fridays. Petitioner will return the child(ren) to the other parent on Sunday at 7:00 p.m. at Respondent's residence located at 1234 Main Street, San Francisco, CA 94102.

Supervised visitation exchange is when the child(ren) are exchanged between the two parents under the supervision of a third party. This can be used to avoid conflict between the two parents and to reduce stress or danger to the child(ren) at pick-up and drop-off during visitation exchanges.

Supervised visitation is when the visit between the non-custodial parent and the child(ren) is monitored by a third party. Supervised visitation can be used in many different situations, such as:

- To help reintroduce a parent and a child after a long absence; or To help introduce a parent and a child when there has been no previous existing relationship between them;
- When there is a history or allegations of domestic violence, child abuse and neglect, abandonment, failure to protect, or alcohol/substance abuse, or mental health issues;
- When there are verified parenting concerns which may affect the well-being of the child(ren); or
- When there is a parental threat of abduction.

If you are requesting **supervised visitation**, visits will be a limited amount of time, depending on the best interest of the child(ren) and the availability of the person or agency supervising each visitation.

- ❖ **Scheduling Tip:** Have a Plan B for emergencies or cancellations. For example, each parent must provide 48 hours notice when cancelling a visitation. If a parent fails to exchange the child(ren) 30 minutes past the designated exchange time, the visitation is cancelled.
- ❖ **Diary/Calendar Tip:** Keep a diary or calendar to remember important events affecting your child(ren)'s timeshare with you and the other parent. For example, 15 mins late for every visit in January; last minute cancellation; other parent helped child(ren) finish science project; other parent volunteered to chaperone field trips etc.

What is a Review Date?

The judge can set a review date for another hearing scheduled in the future. A judge will generally set a review date if the judge wants to check-in with the parents to ensure that the court orders are being followed and that the schedule is working out for the child(ren) and for each parent.

If you **DO NOT** request a review date, or if the judge does not grant you a review date, you will need to file **new** paperwork in order to get another court hearing date to make changes to your court order(s).