

**SANTA BARBARA COUNTY SUPERIOR COURT
OFFICE OF THE FAMILY LAW FACILITATOR**

Guidelines for Writing a Declaration re: Child Custody and/or Visitation:

Establishing or Modifying Orders

The purpose of your declaration is to give proof to the court that you should get the orders you are requesting. Here are some things to think about when you write your declaration (“story”).

Think first, what are my issues? The issues you have depend on what is being requested in the Request for Order papers. If you are the person bringing the motion (asking to go to court), then you will be the one to decide what are the issues to be presented to the judge. You do that by checking certain boxes on the Request for Order (FL-300). If you are the person *responding* to a Request for Order (the other parent has served you with papers telling you of an upcoming court date), then you will need to respond to the issues selected by the other parent using the Responsive Declaration (FL-320) form. You will need to file your own Request for Order (FL-300) form to get the judge to consider *other issues*. For example, if you are served papers regarding custody and visitation, you **cannot** respond that you want to change child support.

FIRST: Look at the Request for Order papers. Identify your issues. Check the appropriate boxes below to show what your issues are:

1. Child custody: Establishing (getting first order) Modifying (changing current order)
2. Child visitation: Establishing (getting first order) Modifying (changing current order)

SECOND: What do you want regarding these issues? Again, check the box or boxes below that say what you want (this is what you put on your FL-300 or FL-320):

1. Child custody (*check one box in a. and one in b.*):
 - a. Physical custody:
 - (1) Sole to the mother of the children
 - (2) Sole to the father of the children
 - (3) Joint (shared by the parents)
 - (4) Other:
 - b. Legal custody:
 - (1) Sole to the mother of the children
 - (2) Sole to the father of the children
 - (3) Joint (shared by the parents)
 - (4) Other:

2. Visitation (*check the appropriate box or boxes*):
- a. Specific parenting plan (*write below your ideas of what you think will work*):

 - b. Reasonable visitation
 - c. Supervised visitation
 - d. No visitation

THIRD: Now, write to explain what you want and why. Your declaration is your chance to tell the judge and the other party your story. It explains what you want and why. **Everything that you want your judicial officer to know should be written in your declaration.** Here are some things to think about as you write your declaration. This information may or may not relate to your situation. ***As you write, be specific, thorough and concise. Don't worry about your story being beautifully written. Write from the heart and tell the truth. Have a friend look at it and give you feedback.***

1. Think about the following when writing:
 - a. **Background: Introduce your family:** **Number of children** with the other parent? Are they boys or girls? What are **their ages**? Are they healthy? Do they **special needs** or **health or educational problems**? How are they doing in school? **How long were you married or together as a couple**? Did you ever live together as a family? For how long? **How long have you and the other parent been separated? Who was responsible for the children before you separated?** For example, "I was primarily responsible for the kids while we were married. I took them to the doctor, got their hair cut, bathed them, stayed home when they were sick, etc."
 - b. **Current situation: Who has been responsible for the children after separation** from the other parent? For example, "After my girlfriend and I separated in May 2019, our son stayed with her. I was able to see my son every other weekend from Friday at 6:00 p.m. through Sunday at 6:00 p.m. This lasted about one year. She registered him in school, but I wasn't happy about where he was going. We didn't have any orders about who could decide where he should go to school." **What current custody order, if any, do you have? Are you following it? If not, what are you following? If you have no orders, who is currently responsible for the children and when? Who is physically taking care of the children and who is making decisions about them?** For example, "The court gave us joint physical custody on June 1, 1997, but the kids now live with me and visit their dad on occasion. We agreed he was supposed to see them every other weekend, but he really only shows up once a month for 4 hours."
 - c. **Current problems: What problems do you have with the current parenting arrangement? Why do you want to go to court at this time? Is the other parent cooperative in helping to arrange your parenting time? If not,**

explain. For example, “We are having problems about the kids now. The children’s mother won’t talk to me about the kids. I don’t know how they are doing in school. I can’t talk to her about scheduling visitation. Last week, I called three times and she never returned my telephone calls. We don’t have any set court orders so I end up rarely seeing the kids.” **Talk about the problems with attending the parenting class and/or mediation, if any.** For example, “I tried to get the children’s father to go to mediation, but he won’t voluntarily attend the parenting class or show up for mediation. It’s really difficult it is to get him to cooperate.” Is there **domestic abuse now or was there in the past?**
Substance abuse issues?

- d. **Proposed solution and why:** What physical and legal custody orders do you want for the children? What parenting schedule do you suggest? **Why?** For example, “I want sole physical custody because I have always taken care of the children, in the past and now.... The other parent is not dependable.... The other parent doesn’t show good judgment. For example, on (date), the other parent took the kids to Disneyland but Tommy had a fever of 102 degrees....I also want legal custody for me. I go to the parent-teacher conferences at the school. I am the one to help them with their homework. I am interested in their health. The other parent is not....” Focus on what is in the **best interests of your children.**

NOTE: It is a good idea to be very specific. If the court likes the specific time share schedule you suggest regarding when your children are to be with you and with the other parent, the court may order it. If your visitation order gives a specific schedule, you have less to argue about in the future with the other parent. Your life is simpler! Court orders bring order to your life!

2. **OTHER POSSIBLE ISSUES:**

a. **Transportation**

(1) **Who will pick up the children at the time of transfer? Where?**

(2) **Who will transport the children to return them? From where?**

- b. **Travel** (out-of-state or out-of-country): Do you want to get a court order allowing or restricting travel with the children? Make the request and then explain.

c. **Moving away:**

(1) If you’re the **parent wanting to move away**, discuss:

(a) Where do you want to move and why?

(b) What steps have you taken to notify the other parent of your intention to move and to work out a new parenting plan?

(c) What new parenting plan do you suggest?

(2) If you’re the **parent not moving away**, discuss:

(a) Why do you oppose the children moving away?

(b) Why would the move be a bad idea for your children, if applicable?

(c) How cooperative is the other parent in helping you to arrange your parenting time?

(d) What steps have you taken with the other parent to work out a new parenting plan?