



Superior Court of California County of Trinity

PO Box 1258 Weaverville, CA 96093
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Michael B Harper
JUDGE

Eric L Heryford
PRESIDING JUDGE

Staci Holliday
EXECUTIVE OFFICER

WELCOME TO FAMILY COURT SERVICES

**CALL 530-623-1404 TO SCHEDULE MEDIATION IMMEDIATELY IF YOU DON'T
ALREADY HAVE A DATE AND TIME SCHEDULED WITH THE CCRC!!!**

- Please complete YOUR INTAKE PACKET & turn it in to us today. You will not be contacted for an appointment until **BOTH PARENTS HAVE TURNED IN THEIR PACKETS COMPLETELY FILLED OUT. If an appointment has been scheduled prior to a packet being received by the CCRC, a completed packet MUST be submitted before mediation will occur.**
- DO NOT BRING CHILDREN WITH YOU TO YOUR APPOINTMENT &, if you have mediation over the phone, they or any 3rd parties may **NOT** be present during your appointment.
- **AUDIO AND/OR VIDEO TAPING DURING A CCRC SESSION IS ILLEGAL & STRICTLY PROHIBITED. Mediation is confidential. No one other than the parties can be present during mediation.**
- **It is NOT THE RESPONSIBILITY OF THE COUNSELOR TO TRACK YOU DOWN TO SCHEDULE YOUR APPOINTMENT. IF YOU DO NOT RESPOND AND/OR REACH THE COUNSELOR YOU WILL BE REFERRED BACK TO THE COURT AND WILL HAVE TO BE RE-REFERRED TO MEDIATION BY THE COURT.**
- ALLOW AT LEAST 2 HOURS for your scheduled appointment.
- **If you have a phone appointment, we will only make TWO attempts to call you. If you do not answer, we consider that a no-show and you will be referred back to Court.**
- DON'T BE LATE. We will only hold your appointment for 10 minutes before we will allow the other party to leave, and your appointment will be canceled. If your appointment is canceled, you will be required to explain to the Court on your return court date why you did not comply with the Court order to attend your appointment. The Court can sanction parties (monetary fine up to \$1,500.00) who fail to comply with the order to Family Court Services.
- **ONCE YOUR FCS APPOINTMENT IS OVER, THE CCRC HAS NO FURTHER INVOLVEMENT IN YOUR CASE. DO NOT CALL AND TRY TO TALK TO THE COUNSELOR. EX-PARTE COMMUNICATION IS STRICTLY PROHIBITED.**

DON'T FORGET TO TURN IN YOUR INTAKE PACKET TODAY!!!

Trinity Superior Court Family Court Services

Child Custody Recommending Counseling (CCRC) Orientation Packet

A referral to CCRC is required by law when parents don't agree about child custody and/or visitation matters. This handout helps parents understand the process of CCRC. Please read it carefully.

What is CCRC? CCRC is the process of helping parents, (or other parties in dispute) reach an agreement on custody and visitation matters. Typically, joint CCRC takes place with both parties together in an ordinary office setting. However, if you are a victim of domestic violence and would not feel safe in joint CCRC, you may request separate mediation. See "Notice of Victims of Domestic Violence (page three). CCRC occurs between the disputing parties and the Child Custody Recommending Counselor. Attorneys do not take part in CCRC.

The CCRC process is designed to help parents define issues and focus on what is in the best interests of their children. The Child Custody Recommending Counselor helps parents explore options and make decisions that are based on those best interests. Parents need to recognize that the Child Custody Recommending Counselor is more interested in the welfare of the children than in the discomfort, disappointment, or welfare of the parents. With the help of the Child Custody Recommending Counselor, the parents negotiate an agreement in the children's best interests that both sides find acceptable. If parents are unable to come to a mutually acceptable agreement they will be referred back to the Court.

What will the Child Custody Recommending Counselor want to know? The Child Custody Recommending Counselor will want to know the reasons for each parent's preferences for custody and visitation. After areas of agreement and differences are identified, then the process of examining, negotiating, and compromising begins.

If there are legitimate reasons why one or both parents are unfit to raise or have contact with the children, the Child Custody Recommending Counselor will want to know the details. If the Child Custody Recommending Counselor believes there is a reasonable suspicion of child abuse or neglect, CCRC will be suspended and a referral to Child Protective Services will be made. Generally, the Child Custody Recommending Counselor is not interested in reasons for the parents split or the grievances between parents. Child support issues are generally not addressed in CCRC. Letters of reference, police reports, school records, visitation records, medical records, or other important information should be submitted to the Child Custody Recommending Counselor before the CCRC session, and a copy provided to the other party.

Is CCRC confidential? Ordinarily, CCRC is confidential between the Child Custody Recommending Counselor and the parties involved. However, if CCRC does not result in an agreement and the Child.

Custody Recommending Counselor makes a recommendation to the Court; information obtained in mediation that is relevant to the recommendation may be related to the Court. Also, the Child Custody Recommending Counselor may inform the Court of allegations or threats of a serious nature and may recommend an investigation. If serious allegations of child abuse or neglect are raised, the Child Custody Recommending Counselor will report the situation to proper authorities.

Do children have a say? Because the purpose of CCRC is for parents to reach an agreement, children usually do not take an active role in the process. As part of an assessment to be used in making a recommendation to the Court the Child Custody Recommending Counselor may request to see a child if the parents are unable to agree on custody and visitation arrangements. *As of January 1, 2012, children fourteen years of age have the right to address the Court as to their opinion regarding custody and visitation.* However, the Court has the discretion to choose not to hear a child if it is deemed contrary to the child's best interest. And it is important to remember that the child will have a voice, but the Court is not required to adopt the child's preferences, only to consider the child's wishes.

It is the parents' joint responsibility to make custody decisions. It is not a good idea for parents to question children about their preferences in custody and visitation matters. Children may volunteer information but should not be asked to "choose" one parent over the other. The stress of parental separation and custody disagreements is difficult enough for children without the burden of being asked to make adult decisions. Parents, acting on behalf of their children, bear the responsibility for custody decisions.

What is joint legal custody? Joint legal custody means that parent's rights are held by both parents no matter how the child's time is shared with each parent. These rights include access to medical and educational records. Similarly, the parents are jointly liable for the minor's acts and financial support. Legal custody may be removed by a judge when a parent is shown to be, for example, seriously abusive to the child or the other parent. It is possible for a parent to have legal custody of his/her child but not be allowed physical custody or to see the child.

What is physical custody? Physical custody refers to the physical residence of the child. Physical custody involves the division of time with the child, ranging from no time to having the child 100% of the time. Current social and legal philosophy is to provide children with as much access as possible to both parents when it serves the children's best interest.

What happens after CCRC if the parties reach an agreement? If a CCRC session results in an agreement on the terms and conditions of custody and visitation, the Child Custody Recommending Counselor delivers the signed agreement to the Judge of the Superior Court. The judge makes a court order based on the agreement. The Child Custody Recommending Counselor does not have authority to make or change a court order.

What happens if CCRC does not result in an agreement (impasse)? If CCRC does not result in an agreement, the Child Custody Recommending Counselor will submit a memorandum to the Court with a short synopsis of the parties' positions recommending that a court hearing be set. The judge determines the final terms and conditions and makes the court order for child custody and/or visitation arrangement.

Notice to Victims of Domestic Violence

If you are a victim of domestic violence (as defined by California Family Law Code Section 6200-6219) , or if there is a restraining order in effect against the other party, you may request a separate CCRC session instead of a joint CCRC session. In separate mediation sessions you meet with the Child Custody Recommending Counselor separately and at separate times.

If it has been determined there is domestic violence in your family, a special law may apply which is, **Family Law Code 3044**.

Regularly scheduled joint CCRC takes place with both parties together in an ordinary office setting. If you have been a victim of domestic violence and feel that you would not be able to freely negotiate in a joint CCRC session due to threats, intimidation, fear for your personal safety, or fear of retaliation, please advise the Child Custody Recommending Counselor that you are requesting separate sessions. If you are concerned about your safety, it is important that you communicate your fears to the Child Custody Recommending Counselor.

If you are a victim of domestic violence instead of separate CCRC sessions, you may also be entitled to the presence of a “support person” to accompany you during the joint CCRC session. The support person is for “moral support” only and may not speak in the CCRC session. *If you choose to use a support person, that person must be pre-approved by the Child Custody Recommending Counselor prior to the CCRC session.*

Counselors or employees of a domestic violence shelter or program are usually approved as support persons. Family members, friends, children, or new partners are not usually appropriate support persons and are not usually approved.

If you believe that you have the right to a separate session due to domestic violence (as defined by California Family Law Code Section 6200-6219), or are requesting the presence of a support person, please fill out the attached form and return it with your yellow intake forms.

Please keep this Orientation Packet for your records. Return only the Intake Form to the Child Custody Recommending Counselor.

Family Code 3044

(a) Upon a finding by the court that a party seeking custody of a child has perpetrated domestic violence within the previous five years against the other party seeking custody of the child, or against the child or the child's siblings, or against any person in subparagraph (C) of paragraph (1) of subdivision (b) of Section 3011 with whom the party has a relationship, there is a rebuttable presumption that an award of sole or joint physical or legal custody of a child to a person who has perpetrated domestic violence is detrimental to the best interests of the child, pursuant to Sections 3011 and 3020. This presumption may only be rebutted by a preponderance of the evidence.

(b) To overcome the presumption set forth in subdivision (a), the court shall find that paragraph (1) is satisfied and shall find that the factors in paragraph (2), on balance, support the legislative findings in Section 3020.

(1) The perpetrator of domestic violence has demonstrated that giving sole or joint physical or legal custody of a child to the perpetrator is in the best interests of the child pursuant to Sections 3011 and 3020. In determining the best interests of the child, the preference for frequent and continuing contact with both parents, as set forth in subdivision (b) of Section 3020, or with the noncustodial parent, as set forth in paragraph (1) of subdivision (a) of Section 3040, may not be used to rebut the presumption, in whole or in part.

(2) Additional factors:

(A) The perpetrator has successfully completed a batterer's treatment program that meets the criteria outlined in subdivision (c) of Section 1203.097 of the Penal Code.

(B) The perpetrator has successfully completed a program of alcohol or drug abuse counseling, if the court determines that counseling is appropriate.

(C) The perpetrator has successfully completed a parenting class, if the court determines the class to be appropriate.

(D) The perpetrator is on probation or parole, and he or she has or has not complied with the terms and conditions of probation or parole.

(E) The perpetrator is restrained by a protective order or restraining order, and he or she has or has not complied with its terms and conditions.

(F) The perpetrator of domestic violence has committed any further acts of domestic violence.

(c) For purposes of this section, a person has "perpetrated domestic violence" when he or she is found by the court to have intentionally or recklessly caused or attempted to cause bodily injury, or sexual assault, or to have placed a person in reasonable apprehension of imminent serious bodily injury to that person or to another, or to have engaged in behavior involving, but not limited to, threatening, striking, harassing, destroying personal property, or disturbing the peace of another, for which a

court may issue an ex parte order pursuant to Section 6320 to protect the other party seeking custody of the child or to protect the child and the child's siblings.

(d) (1) For purposes of this section, the requirement of a finding by the court shall be satisfied by, among other things, and not limited to, evidence that a party seeking custody has been convicted within the previous five years, after a trial or a plea of guilty or no contest, of a crime against the other party that comes within the definition of domestic violence contained in Section 6211 and of abuse contained in Section 6203, including, but not limited to, a crime described in subdivision (e) of Section 243 of, or Section 261, 262, 273.5, 422, or 646.9 of, the Penal Code.

(2) The requirement of a finding by the court shall also be satisfied if a court, whether that court hears or has heard the child custody proceedings or not, has made a finding pursuant to subdivision (a) based on conduct occurring within the previous five years.

(e) When a court makes a finding that a party has perpetrated domestic violence, the court may not base its findings solely on conclusions reached by a child custody evaluator or on the recommendation of the Family Court Services staff, but shall consider any relevant, admissible evidence submitted by the parties.

(f) (1) It is the intent of the Legislature that this subdivision be interpreted consistently with the decision in *Jaime G. v. H.L.* (2018) 25 Cal.App.5th 794, which requires that the court, in determining that the presumption in subdivision (a) has been overcome, make specific findings on each of the factors in subdivision (b).

(2) If the court determines that the presumption in subdivision (a) has been overcome, the court shall state its reasons in writing or on the record as to why paragraph (1) of subdivision (b) is satisfied and why the factors in paragraph (2) of subdivision (b), on balance, support the legislative findings in Section 3020.

(g) In an evidentiary hearing or trial in which custody orders are sought and where there has been an allegation of domestic violence, the court shall make a determination as to whether this section applies prior to issuing a custody order, unless the court finds that a continuance is necessary to determine whether this section applies, in which case the court may issue a temporary custody order for a reasonable period of time, provided the order complies with Section 3011, including, but not limited to, subdivision (e), and Section 3020.

(h) In a custody or restraining order proceeding in which a party has alleged that the other party has perpetrated domestic violence in accordance with the terms of this section, the court shall inform the parties of the existence of this section and shall give them a copy of this section prior to any custody mediation in the case.

Domestic Violence and Child Custody

If there has been domestic violence in your family, here is important information about a law that may affect you.

What is “domestic violence”?

It means to hit, kick, scare, throw things, pull hair, push, follow, harass, sexually assault, or threaten to do any of these things. It also includes other actions that make someone afraid of being hurt. Domestic violence can be spoken, written, or physical.

What is “child custody”?

There are two types:

- **Physical custody:** The person that the child lives with on a regular basis.
- **Legal custody:** The right for a person to make important decisions about the child’s health care, education, and welfare.

When does domestic violence affect who gets custody of my child?

In the last 5 years, has a parent in this case committed domestic violence that resulted in a:

(1) **conviction** in criminal court for domestic violence against one of the following people:

- the other parent in the custody case,
- any of your children or your children’s siblings,
- current spouse, someone they are currently dating, engaged to or currently lives with or
- their parent?

OR

(2) **“finding”** of domestic violence by a judge against any of the people listed above (*example: a judge granted a restraining order for 1 or more years*)?

If you answered “yes” to (1) or (2), a special law applies to your case. Judges, attorneys, and court professionals refer to this special law as “3044”—the exact law that applies to your case (see page 2). Even if this law does not apply to your case, you should give the judge any information about domestic violence or abuse that you want the judge to consider when making a decision about child custody.

If someone that is not your child’s parent is asking the court for custody, this law applies to them as well.

What happens when the special law (3044) applies to my case?

Under the special law, the judge can only give custody to the person who has a domestic violence conviction/finding if the judge believes that it is in the child’s best interest to do so. The judge must look at 7 factors, including the child’s best interest, in making this decision. The 7 factors that the judge must look at are:

1. What is in the child’s best interest?
2. Has the person committed any other domestic violence?
3. Has the person followed all the terms and conditions of any restraining order?
4. Has the person finished a 1 year batterer intervention program?
5. Has the person finished an alcohol/drug program, if required by the court?
6. Has the person finished a parenting class, if required by the court?
7. If on probation or parole, has the person followed all terms of probation or parole?

The judge must go through this 7-factor test in every case that it applies to, even if a court professional or evaluator makes a recommendation in your case. To learn more about the custody process in family court, visit <http://www.courts.ca.gov/selfhelp-custody.htm/>.

