

# Love without Borders or Bars: An International & Interstate Family Law Manual

(Updated August 2018)

**A note on reproduction:** You are welcome to copy and distribute this material, but please do not charge for the copies.

**A note to attorneys:** Legal services providers and other attorneys may distribute this manual to incarcerated people, formerly incarcerated people, and/or their loved ones who contact them for legal assistance.

**Disclaimer for non-attorneys:** This manual is not intended to answer all your legal questions or take the place of an attorney. Legal Services for Prisoners with Children (LSPC) does not provide direct legal representation. Laws and policies are subject to frequent change; it is your responsibility to make sure the information and forms in this manual are up to date.

## TABLE OF CONTENTS

INTRODUCTION .....	2
I. FAMILIES IN DIFFERENT COUNTRIES .....	2
A. Child custody plans for parents or caregivers who are concerned about deportation.....	2
1. Caregiver Affidavit .....	3
2. Power of Attorney .....	4
3. Probate Court Guardianship.....	4
B. Options for a U.S. parent when the other parent wants to take their child to another country .....	5
1. Preventing a potential future move of the child .....	5
2. Bringing the child back after a wrongful move.....	6
II. FAMILIES IN DIFFERENT U.S. STATES .....	10
CONCLUSION .....	11
Appendix I: List of Countries That Have Signed the Hague Convention.....	12
Appendix II: Sample Power of Attorney for a Minor Child - Triggered by Future Event, with Witnesses..	14
Appendix III: Sample Power of Attorney for a Minor Child - Triggered by Future Event, with Notary .....	16
Appendix IV: Sample Power of Attorney for a Minor Child - While Incarcerated, with Witnesses.....	18
Appendix V: Sample Power of Attorney for a Minor Child - While Incarcerated, with Notary .....	20
Appendix VI: Caregiver Affidavit .....	22
Appendix VII: Probate Guardian Nomination Form .....	24
Appendix VIII: Family Law and Immigration Resources .....	25

# INTRODUCTION

---

This manual contains information about international and interstate family law to assist advocates of individuals with families who may live in or be citizens of multiple countries or U.S. states. The first part of Section I in this manual provides information for immigrant parents who face the possibility of being removed from the United States while their minor child remains here. The second part of Section I is primarily intended to aid parents who are concerned that someone else will take or has taken their child out of the country. Finally, Section II of this manual describes which state court to turn to for help with family law issues in which a child and at least one of their parents or guardians live in separate states.

While this resource was created with incarcerated parents and non-citizen parents in mind, much of the information it contains will be helpful to families of all backgrounds and their advocates. Where the legal authority described in this manual is based on international law or U.S. federal law, it will be applicable anywhere in the United States. However, whenever this manual describes the law of a specific state, that information is based on California state law and may not be relevant to people in other U.S. states. We have attempted to clearly cite the legal authority in each section, but this information should not be construed as advice or take the place of a legal professional.

## I. FAMILIES IN DIFFERENT COUNTRIES

---

### **A. Child custody plans for parents or caregivers who are concerned about deportation**

When facing a challenge or crisis, families will often find much more success in staying unified – or reunifying, if separated – if they have a plan. While *all* families can benefit from making an emergency preparedness plan, parents or guardians who may be at risk of deportation, in particular, may find some peace of mind in knowing that their children will be cared for if they are detained or removed. Every family's plan will be unique to that family's situation, but the key for all parents is to identify a trusted potential caregiver and to communicate the plan with all concerned parties, including children.

In addition to carefully choosing a backup caregiver for their children, parents should also gather in advance any necessary legal documents including passports, birth certificates, and custody orders. It is also a good idea for parents to make a list of emergency contact information and give the backup caregiver's information to each child's school, doctor, and daycare provider.

There is no-one-size-fits-all family preparedness plan. Arrangements may range from developing an informal agreement between parents and their chosen caregiver to seeking a legally binding court order.

Parents who face the possibility of removal from the U.S. should consider factors such as whether their plan is for their children to join them in their home country, the amount of disruption that moving may cause for a child, each family member's immigration or citizenship status, and any special circumstances such as medical conditions a child may have.

Again, the most important thing is to *have a plan* and to make sure everyone who needs to know about it does. If parents are arrested by police or detained or deported by Immigration and Customs Enforcement (ICE) and there is no reliable caregiver identified for their children, the children may be placed in the custody of the Department of Social Services (also sometimes called Child Protective Services or the Department of Child and Family Services).<sup>1</sup>

The following provides a brief outline of the types of legal options available for families in California arranging care plans for their children. To learn more about family unity planning for immigrants, see Immigrant Legal Resource Center's guide, *Family Preparedness Plan*, at [www.ilrc.org/family-preparedness-plan](http://www.ilrc.org/family-preparedness-plan).

## 1. Caregiver Affidavit

The California Family Code creates a form called the Caregiver's Authorization Affidavit, in which someone officially identifies themselves to be the caregiver of specific children.<sup>2</sup> If the caregiver is the child's relative, the Affidavit will authorize them to make decisions about the child's education and medical care.<sup>3</sup> If the caregiver is *not* a relative, the Affidavit will only authorize them to make decisions about the child's education.

This form can be useful for families who will only need a temporary caregiver for their children. It does not change the legal custody arrangement of the child and it provides only a limited scope of authority to the caregiver. Since Caregiver's Affidavit does not need to be signed by the parents, it can be filled out even after the parents are arrested or detained.<sup>4</sup>

The form requires that the child live in the caregiver's home, that the caregiver be age 18 or over, and that the caregiver swear under penalty of perjury that they have either informed the parents that they

---

<sup>1</sup> Once a child is placed in protective custody, a dependency court case may be opened against the child's parents and those parents may be at risk of having their parental rights terminated by the court. However, the fact that one or more of a child's parents are deported to another country will not, on its own, be sufficient for a court to terminate their parental rights. In 2017, one Court of Appeal found that reunification services could be provided by a dependency court between a child located in Southern California and a father who had been deported to Mexico. In re A.G. (2017) 12 Cal.App.5<sup>th</sup> 994.

<sup>2</sup> CAL. FAM. CODE §§ 6550-2.

<sup>3</sup> For purposes of a Caregiver's Affidavit, "'relative' means a spouse, parent, stepparent, brother, sister, stepbrother, stepsister, half brother, half sister, uncle, aunt, niece, nephew, first cousin, or any person denoted by the prefix 'grand' or 'great,' or the spouse of any of the persons specified in this definition, even after the marriage has been terminated by death or dissolution." CAL. FAM. CODE § 6550(h)(2).

<sup>4</sup> Note that the Affidavit may not be a good option for parents who don't agree on who the caregiver should be.

are signing the authorization or that they have be unable to contact the parents. The form does not need to be notarized.

## 2. Power of Attorney

In general, a power of attorney grants the authority for one person (the “attorney-in-fact” or “agent”) to make important decisions on behalf of another person (the “principal”). A power of attorney can be granted by a parent to another person to make important decisions regarding the parent’s children.<sup>5</sup> A power of attorney may also be used as a supplement to a Caregiver Affidavit.<sup>6</sup>

The biggest advantage to powers of attorney is the flexibility they provide to parents. For instance, they may be used to grant equal caregiving authority to both relatives and non-relatives. Also, they may be used for caregivers with criminal convictions who might otherwise be rejected as guardians by a court. Further, parents may choose between a power of attorney that will last indefinitely unless it is revoked in writing and a power of attorney that will end when triggered by a specified event (such as the release of a parent from ICE detention).<sup>7</sup>

While powers of attorney *may* be created by being signed in the presence of a notary public, notarization is not necessary. Instead, it is sufficient to have the power of attorney signed by two neutral witnesses<sup>8</sup> or be accompanied by a declaration, signed under penalty of perjury, stating that the signer is in fact the child’s parent.<sup>9</sup> Individuals are advised to be cautious not to hire fraudulent “notarios” who often charge exorbitant fees to provide unnecessary services or documents related to powers of attorney.

## 3. Probate Court Guardianship

Probate court guardianships are the most formal legal option discussed here. They are the only option that requires filing documents with a court. A guardianship allows a potential caregiver to ask a court for legal custody of a child. A guardianship in probate court does not terminate parental rights; however, it does temporarily suspend them while granting to the guardian the authority to make any legal decisions about the child’s care. A probate court guardianship may be appropriate where parents are likely to be

---

<sup>5</sup> California Probate Code § 4123 establishes that powers of attorney may be used for “property, personal care, or any other matter”; the California Courts website explicitly states that powers of attorney may be used to grant another adult specified custody rights over a child. See: [www.courts.ca.gov/1210.htm](http://www.courts.ca.gov/1210.htm).

<sup>6</sup> Note that neither a Caregiver’s Affidavit nor a power of attorney is binding on a court if the child’s custody ultimately comes before a judge. These documents can nonetheless be valuable evidence of a parent’s wishes.

<sup>7</sup> In both cases, powers of attorney for the care of a child will automatically expire when the child reaches age 18 and *may* be superceded by a court order that sets up a different care arrangement.

<sup>8</sup> CAL. PROB. CODE §§ 4121(c), 4222.

<sup>9</sup> CAL. CIV. PROC. CODE § 2015.5.

separated from their children for an extended period of time. They may be helpful for non-citizen children who wish to apply for Special Immigrant Juvenile Status.<sup>10</sup>

A guardianship case is started with the filing of a Petition for Appointment of Guardian and other forms. A parent, potential guardian or other adult can file the petition. However, it would be premature for parents facing possible arrest and deportation to start a guardianship case while they are still in the community. Instead, parents who decide that a guardianship would be the best plan for their family should the need arise, can simply fill out one form in advance, nominating their chosen guardian. That form, Form GC-211, can be given to the chosen guardian for safekeeping. If a guardianship becomes necessary, their Form GC-211 can be filed with the court when the Petition for Appointment of Guardian is filed.<sup>11</sup>

Once a guardianship is granted by a probate court, it will remain in place until the parent, guardian, or child petitions to terminate it or until the child reaches age 18, the child is emancipated, marries, or joins the military, or the child or guardian dies. The Family Law Facilitators located in local Superior Courts may be able to assist individuals with guardianship petitions. For more information about probate court guardianships, contact LSPC to request our *Probate Court Packets*.

## **B. Options for a U.S. parent when the other parent wants to take their child to another country**

This section addresses the legal remedies available to parents or caregivers located in the United States who are concerned that the other parent or caregiver has taken or might take their child to another country without permission. Such a dilemma may be more likely to occur – and especially stressful – when one parent is incarcerated in prison, jail, or immigration detention in the U.S. because, as a practical matter, that parent is less able to control where the child is taken. Fortunately, whether the child *might be* moved to another country or has *already* been moved, parents in this situation have several options to help them advocate for their own rights and the child’s best interest.

### **1. Preventing a potential future move of the child**

If a parent in the United States, including an incarcerated parent, is worried that the other parent is considering moving their child – whether outside the county, state, or country – it is much easier to prevent such a move before it happens than it is to remedy an unwanted move after the fact.

---

<sup>10</sup> See LSPC’s *Incarcerated Parents Manual* for more information.

<sup>11</sup> The nomination form may specify an event (such as the detention or removal of the child’s parents from the U.S.) that triggers their approval for the caregiver to file the guardianship petition. Parents should always discuss their plans with their chosen caregiver before completing the nomination form.

If the custodial parent has not yet requested to move the child, but the non-custodial parent is concerned about that possibility – for instance, because the custodial parent has family or citizenship in another country – the non-custodial parent can file for a restraining order in family court to prevent the other parent from moving the child until the court can hear the case and decide the issue.<sup>12</sup> For a fuller discussion of how to file a case in family court or petition to modify an existing custody order, see LSPC’s *Child Custody and Visiting Rights for Incarcerated Parents*.

As a general matter, California family courts are required to make orders regarding a child’s custody and visiting arrangements that the court believes to be in the child’s best interests.<sup>13</sup> This is also true when it comes to moves of the child. Family Code section 7501 allows a parent or legal guardian with primary custody to move the child *unless* the court determines that it would interfere with the welfare of that child. The Court will consider the child’s interest in maintaining the stability of the previous agreement and the possible harm the move might cause to his or her relationship to the non-moving parent. If the proposed move is to a foreign country, the court will likely also consider factors such as potential culture shock, the distance of the move, and jurisdictional issues raised by the move.

The non-custodial parent generally has the burden of showing that the move would indeed be detrimental to the child,<sup>14</sup> but part of the court’s determination of the child’s best interests will be an attempt to ensure that the child can maintain “frequent and continuing contact” with a parent who does not have primary custody.<sup>15</sup>

## **2. Bringing the child back after a wrongful move**

### ***HAGUE CONVENTION (CIVIL LAW)***

The Hague Convention on Civil Aspects of International Child Abduction (“Hague Convention”) is a treaty that may provide a legal method for the return of a child who has been improperly removed from the United States by a caregiver or parent, depending on which country the child was brought to.<sup>16</sup> The goal of the Hague Convention is to restore the custody arrangement of a child to the way it was before they were improperly moved. It does not *change* who actually has custody rights to the child; instead, it is a way to enforce *existing* custody rights.

---

<sup>12</sup> The following standard California Judicial Council forms allow individuals to specify in their custody and visitation petitions that they are concerned that the other parent may abduct the child and/ or what special restrictions they would like placed on the ability of one or both of the parents to move or travel with the child: FL-300, FL-311, FL-341(D), and FL-341(E).

<sup>13</sup> See, e.g., CAL. FAM. CODE § 3020.

<sup>14</sup> See *Marriage of LaMusga* (2004) 32 Cal.4th 1072.

<sup>15</sup> CAL. FAM. CODE § 3040(a)(1).

<sup>16</sup> The US adopted the Hague Convention in 1988 as the International Child Abduction Remedies Act. 42 U.S.C. § 11601-11.

Though the law under the Hague Convention is fairly straightforward, the logistical and political challenges to litigating these kinds of cases can be significant. Therefore, parents or guardians considering filing under the Hague Convention are encouraged to do so with the assistance of an attorney.

### ***When does the Hague Convention apply?***

The Hague Convention *only* applies if all of the following criteria are met:

1. It has been less than one year since the child was moved,
2. The child is under 16 years of age, *and*
3. Both countries are party to the convention (meaning the child was moved from one country that has signed the Hague Convention to another country that has also signed it).<sup>17</sup> See *Appendix I for full list of parties.*

### ***What is the process?***

In general, a parent or guardian, or their legal representative, should begin a Hague Convention case by filing a “petition for return,” along with certain supporting documents. This should be done as soon as possible after the “left-behind parent” discovers that the child has been improperly taken from the country.

If the child’s home country is the United States, the “petition for return” must be filed with the Office of Children’s Issues in the U.S. State Department’s Bureau of Consular Affairs.<sup>18</sup> That office has been designated as the United States’ “Central Authority” to process cases under the Hague Convention. The job of the Central Authority in the child’s home country is (a) to communicate with the Central Authority in the country to which the child was taken, (b) to help identify the whereabouts of the child, and (c) to help facilitate the legal process. The Central Authority can facilitate the legal process by, for example, providing information about legal aid to parents seeking the child to be returned to their home country.<sup>19</sup>

Once an application has been accepted by the Office of Children’s Issues, the case will be assigned to a “country officer” who is familiar with the particular Hague Convention procedures in the country where the child was taken. The country officer cannot provide legal advice, but they will send the Hague Convention application to the country where the child is located. That country’s Central Authority may try to mediate between the parents or guardians for the voluntary return of the child. If needed, that Central Authority may file a case in court to secure an order for return.

---

<sup>17</sup> Hague Convention on the Civil Aspects of International Child Abduction, Oct. 25, 1980, T.I.A.S. No. 11670, 1343 U.N.T.S. 89.

<sup>18</sup> The Office of Children’s Issues can be reached by calling 1-888-407-4747. Learn more about the State Department’s role by visiting [www.travel.state.gov/content/childabduction/en/from.html](http://www.travel.state.gov/content/childabduction/en/from.html).

<sup>19</sup> See footnote 17.

If a Hague Convention case must be taken to court, it will be heard in a court in the country where the child is current located (i.e., the country the child was taken to). The Hague Convention requires the court, in most cases, to make a final decision within six weeks of when the petition is filed (although the processing of an entire Hague Convention case will, in many cases, take longer). As described above, the foreign court will only decide whether the removal violated the left-behind parent's "rights of custody" or "rights of access;" it will *not* evaluate what the parents' custody rights *should* be.<sup>20</sup>

### ***What are a "right of custody" and a "right of access"?***

The Hague Convention requires that "rights of custody or access" be interpreted broadly to help accomplish the purpose of discouraging child abduction. The Hague Convention defines "rights of custody" as including "rights relating to the care of the person of the child and, in particular, the right to determine the child's place of residence." It defines "rights of access" to include "the right to take a child for a limited period of time to a place other than the child's habitual residence."<sup>21</sup> Having a formal custody order from a court in the child's country of "habitual residence" is helpful, but it is not always necessary.

The question of "custody or access rights" under the Hague Convention is not all-or-nothing. Typically, even if the left-behind parent only has a right to visits, an unauthorized move to another country can be found to have violated that right -- because the left-behind parent can no longer realistically exercise that right in the same way. Note, however, that a possible defense to the left-behind parent's claim is that they were not exercising whatever "rights of custody or access" they had at the time of the child's move.<sup>22</sup>

The following are some examples of what, under California state law, might be understood by a Hague Convention authority to be valid "rights of custody or access." For a fuller discussion of each of these custody and visiting arrangements, see LSPC's *Incarcerated Parents Manual* and *Child Custody and Visiting Rights for Incarcerated Parents*.

- *When the parent is on the birth certificate, and there is no court order:* According to California state law, a parent who is on the birth certificate has automatic legal and physical custody of the child, unless there has been a court order or power of attorney modifying these rights (see below).
- *When there is a court order in family or dependency court:* If the child's parents have obtained custody and visiting orders through a case in family court (such as a divorce or parentage

---

<sup>20</sup> Hague Convention, *supra* note 19.

<sup>21</sup> *Id.*

<sup>22</sup> Other defenses include that the left-behind parent consented to the move, that the move happened more than a year before the case was started and the child has now settled into their new environment, or that the child would be placed in "grave risk" of physical or psychological harm if returned to their home country. John Crouch, *International Child Custody Cases*, 16 GP Solo & Small Firm 24 (1999).



action), or a caregiver has a custody order from the dependency court, the most recent judicial order will dictate who has custody rights and what kind. Unless exclusive custody rights have been granted to the taking parent (with no visiting rights for the left-behind parent or other party), or there is a restraining order between the left-behind parent and the child, most left-behind parents or caregivers will retain sufficient custody or visiting rights to satisfy the Hague Convention.

- *When there is a power of attorney or probate guardianship:* Often, when a parent who is the primary caregiver for a child becomes incarcerated, they may choose to temporarily assign certain custody rights to a trusted adult like a friend or extended family member. If a child is taken to another country by the other parent while an individual holds a power of attorney or is a court-appointed guardian of that child, then the holder of the power of attorney, the probate court guardian and/or the left-behind parent may each have sufficient custody rights to satisfy the Hague Convention.

### ***What happens if the court decides that the move violated the rights of custody or access of the left-behind parent?***

If the court determines that the removal of the child violated the left-behind parent or guardian's "rights of custody," then the court in the country where the petition was filed is required issue a judicial order for the return of the child to California (or to the state that was the child's "place of habitual residence" before the improper move).

If the court finds that the move violated a "right of access," the court may order the child to be returned. Alternatively, the court may issue an order on behalf of the left-behind parent so that their access or visiting rights may be exercised without the child having to be returned.<sup>23</sup>

Once the child is returned, if one or more of the parents or caregivers would then like to change who *should* have custody or visiting rights to the child, that parent can begin a family law case or petition to modify an existing custody/visiting order in the state where the child usually lives.<sup>24</sup> If the child usually lives in California, for instance, then a California court would have jurisdiction over the merits of the custody dispute, and California custody law would then apply.

## ***PARENTAL KIDNAPPING ACT (CRIMINAL LAW)***

The procedures under the Hague Convention and California law described above are civil proceedings. A parent can also consider seeking a criminal prosecution as a way to enforce *existing* custody rights. The

---

<sup>23</sup> Where appropriate, the court may order the parent who improperly moved the child to pay for expenses, such as travel costs, incurred by the other parent.

<sup>24</sup> See LSPC's *Incarcerated Parents Manual* and *Child Custody and Visiting Rights for Incarcerated Parents* and Section 2 below.

International Parental Kidnapping Act of 1993 makes it a crime to remove a child under age 16 from the U.S. with the intent to obstruct parental rights, including visiting rights.<sup>25</sup>

Seeking criminal prosecution of a parent or guardian who takes a child to another country can complicate the situation, but it may also be a helpful option when there is a significant risk that the taking parent will not cooperate with civil procedures under the Hague Convention. If a district attorney chooses to pursue kidnapping charges, they are supposed to take actions to ensure the return of the child to the United States, including potentially hiring private counsel in the foreign country to assist with the case. Parental kidnapping is also an extraditable offense under some extradition treaties, including that between the U.S. and Mexico.<sup>26</sup>

## II. FAMILIES IN DIFFERENT U.S. STATES

---

This section provides information that may be helpful to families in which a parent or guardian lives in one U.S. state and the child – and likely the other parent or guardian – live in a different U.S. state. In modern times, it is increasingly common for members of immediate families to live in separate states. Such arrangements can be particularly common in families where one or more parent is incarcerated or subject to immigration proceedings. For these “interstate” families, legal disputes over custody and visiting rights, and the enforcement of those rights, may initially seem complicated. Fortunately, a unified federal law – which has been adopted by 49 states, the District of Columbia, and the Virgin Islands – answers many of the questions raised by the unique nature of these disputes.

The Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) lays out the basic rule that *only one state* can have jurisdiction over a child custody case at a time.<sup>27</sup> By extension, each state must protect the parentage orders of another state, so long as the original state retains jurisdiction. The UCCJEA recognizes three different jurisdictional contexts when more than one state is involved, depending on the stage of the case and the nature of the legal action.

- ***If no case yet exists***, any initial child custody and visitation petition should be filed in the child’s “home state.” The home state, with “original jurisdiction,” is the state where the child has lived for at least six consecutive months before the case is started.<sup>28</sup>

---

<sup>25</sup> 18 U.S. Code § 1204.

<sup>26</sup> Extradition Treaty, U.S.-Mex., May 4, 1978, 31 U.S.T. 5059.

<sup>27</sup> “Jurisdiction” is the authority to make binding decisions on this particular legal issue and these particular individuals.

<sup>28</sup> If there is no one state where the child has lived consecutively for the last six months, the state where the child has the most “significant connection” will have original jurisdiction.

- When a parent or guardian is seeking to **modify an existing order** in a custody and visitation case, the same court will usually maintain “modification jurisdiction” over the case, except where the parents and child move out of that state or the home state loses jurisdiction for another specified reason.
- Finally, any state has “enforcement jurisdiction” to compel parents and legal guardians within the state to **comply with current custody and visiting orders** of other states.

It can be difficult to navigate cases in which more than one state is involved. However, every state provides information on their court websites; legal aid offices and other legal services organizations may be helpful also.

## CONCLUSION

---

All families face challenges; for many families those challenges include being physically separated by state or country borders. But even with the challenges created by physical distance, everyone – regardless of incarceration or immigration status – has the right to family unity. Whether you are a legal advocate assisting individual clients or a directly impacted person seeking to resolve a custody or visiting issue facing your family, we hope you find this manual informative and empowering.

## Appendix I:

### List of Countries That Have Signed the Hague Convention

Albania
Andorra
Argentina
Armenia
Australia
Austria
Bahamas
Belarus
Belgium
Belize
Bolivia
Bosnia and Herzegovina
Brazil
Bulgaria
Burkina Faso
Canada
Chile
China, People's Republic of
Colombia
Costa Rica
Croatia
Cyprus
Czech Republic
Denmark
Dominican Republic
Ecuador
El Salvador
Estonia
Fiji
Finland
Former Yugoslav Republic of Macedonia
France

Gabon
Georgia
Germany
Greece
Guatemala
Guinea
Honduras
Hungary
Iceland
Iraq
Ireland
Israel
Italy
Jamaica
Japan
Kazakhstan
Korea, Republic of
Latvia
Lesotho
Lithuania
Luxembourg
Malta
Mauritius
Mexico
Monaco
Montenegro
Morocco
Netherlands
New Zealand
Nicaragua
Norway
Pakistan
Panama
Paraguay
Peru

Philippines
Poland
Portugal
Republic of Moldova
Romania
Russian Federation
Saint Kitts and Nevis
San Marino
Serbia
Seychelles
Singapore
Slovakia
Slovenia
South Africa
Spain
Sri Lanka
Sweden
Switzerland
Thailand
Trinidad and Tobago
Tunisia
Turkey
Turkmenistan
Ukraine
United Kingdom of Great Britain and Northern Ireland
United States of America
Uruguay
Uzbekistan
Venezuela
Zambia
Zimbabwe

Last updated: 8/2/2017

Appendix II: Sample Power of Attorney for Minor Child –  
*Triggered by Future Event, with Witnesses*  
(see next page)

**POWER OF ATTORNEY FOR MINOR CHILD**

I, \_\_\_\_\_, being of sound mind and body, declare the following:

1. I am the mother/father of \_\_\_\_\_ who was born on \_\_\_\_\_.

2. I give Power of Attorney to \_\_\_\_\_ with respect to the care and custody of my child \_\_\_\_\_ to become effective upon the occurrence of the following triggering event(s):

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

3. Specifically, I give \_\_\_\_\_ full Power of Attorney with respect to the care and custody of \_\_\_\_\_ in matters affecting his/her medical needs, schooling, legal matters, public assistance, Medi-Cal, CalWORKS, and all other matters pertaining to his/her well-being.

4. I understand that this Power of Attorney is not a legal custody order and that I am not giving up my parental rights by signing this document.

5. This Power of Attorney will remain in effect until \_\_\_\_\_ or until revoked in writing.

Signed this \_\_\_\_\_ day of \_\_\_\_\_ (month), \_\_\_\_\_ (year).

\_\_\_\_\_  
Signature of Parent

**STATEMENT OF WITNESSES**

On the date written above, I declare under penalty of perjury under the laws of California that the person who signed or acknowledged this document is personally known to me (or proved to me on the basis of convincing evidence) to be the principal, that the principal signed or acknowledged this power of attorney in my presence, that the principal appears of sound mind and under no duress, fraud, or undue influence, that I am over the age of eighteen, and that I am not the person appointed as attorney in fact (agent) by this document.

\_\_\_\_\_  
[Signature of Witness #1]  
\_\_\_\_\_  
[Printed or typed name of Witness #1]  
\_\_\_\_\_  
[Address of Witness #1, Line 1]  
\_\_\_\_\_  
[Address of Witness #1, Line 2]

\_\_\_\_\_  
[Signature of Witness #2]  
\_\_\_\_\_  
[Printed or typed name of Witness #2]  
\_\_\_\_\_  
[Address of Witness #2, Line 1]  
\_\_\_\_\_  
[Address of Witness #2, Line 2]

[Probate Code sections 4121 and 4122.]

Appendix III: Sample Power of Attorney for Minor Child –  
*Triggered by Future Event, with Notary*  
(see next page)





Appendix IV: Sample Power of Attorney for Minor Child –  
*While Incarcerated, with Witnesses*  
(see next page)

**POWER OF ATTORNEY FOR MINOR CHILD**

I, \_\_\_\_\_, being of sound mind and body, declare the following:

- 1. I am the mother/father of \_\_\_\_\_ who was born on \_\_\_\_\_.
- 2. I am presently incarcerated at \_\_\_\_\_ located in \_\_\_\_\_.
- 3. During this time, my child \_\_\_\_\_ is being cared for by \_\_\_\_\_.
- 4. I give Power of Attorney to \_\_\_\_\_ with respect to the care and custody of my child \_\_\_\_\_.
- 5. Specifically, I give \_\_\_\_\_ full Power of Attorney with respect to the care and custody of \_\_\_\_\_ in matters affecting his/her medical needs, schooling, legal matters, public assistance, Medi-Cal, CalWORKS, and all other matters pertaining to his/her well-being.
- 6. I understand that this Power of Attorney is not a legal custody order and that I am not giving up my parental rights by signing this document.
- 7. This Power of Attorney will remain in effect until \_\_\_\_\_ or until revoked in writing.

Signed this \_\_\_\_\_ day of \_\_\_\_\_ (month), \_\_\_\_\_ (year).

\_\_\_\_\_  
Signature of Parent

**STATEMENT OF WITNESSES**

On the date written above, I declare under penalty of perjury under the laws of California that the person who signed or acknowledged this document is personally known to me (or proved to me on the basis of convincing evidence) to be the principal, that the principal signed or acknowledged this power of attorney in my presence, that the principal appears of sound mind and under no duress, fraud, or undue influence, that I am over the age of eighteen, and that I am not the person appointed as attorney in fact (agent) by this document.

\_\_\_\_\_  
[Signature of Witness #1]  
\_\_\_\_\_  
[Printed or typed name of Witness #1]  
\_\_\_\_\_  
[Address of Witness #1, Line 1]  
\_\_\_\_\_  
[Address of Witness #1, Line 2]

\_\_\_\_\_  
[Signature of Witness #2]  
\_\_\_\_\_  
[Printed or typed name of Witness #2]  
\_\_\_\_\_  
[Address of Witness #2, Line 1]  
\_\_\_\_\_  
[Address of Witness #2, Line 2]

[Probate Code sections 4121 and 4122.]

Appendix V: Sample Power of Attorney for Minor Child –  
*While Incarcerated, with Notary*  
(see next page)

**POWER OF ATTORNEY FOR MINOR CHILD**

I, \_\_\_\_\_, being of sound mind and body, declare the following:

- 1. I am the mother/father of \_\_\_\_\_ who was born on \_\_\_\_\_.
- 2. I am presently incarcerated at \_\_\_\_\_ located in \_\_\_\_\_.
- 3. During this time, my child \_\_\_\_\_ is being cared for by \_\_\_\_\_.
- 4. I give Power of Attorney to \_\_\_\_\_ with respect to the care and custody of my child.
- 5. Specifically, I give \_\_\_\_\_ in matters affecting his/her medical needs, schooling, legal matters, public assistance, Medi-Cal, CalWORKS, and all other matters pertaining to his/her well-being.
- 6. I understand that this Power of Attorney is not a legal custody order and that I am not giving up my parental rights by signing this document.
- 7. This Power of Attorney will remain in effect until \_\_\_\_\_ or until revoked in writing.

Signed this \_\_\_\_\_ day of \_\_\_\_\_ (month), \_\_\_\_\_ (year).

\_\_\_\_\_  
Signature of Parent

**ACKNOWLEDGEMENT**

State of California )  
 )  
County of \_\_\_\_\_ )

On \_\_\_\_\_ [date], before me, \_\_\_\_\_  
[name and title of officer], personally appeared \_\_\_\_\_ [name of signer], who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that s/he executed the same in his/her authorized capacity, and that by his/her signature on the instrument, the person, or the entity upon behalf which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
[Notary Public Signature]

Appendix VI: Caregiver Affidavit  
(see next page)

# Caregiver Affidavit

Use of this affidavit is authorized by Part 1.5 (commencing with Section 6550) of Division 11 of the California Family Code.

Instructions: Completion of items 1 - 4 and the signing of the affidavit are sufficient to authorize enrollment of a minor in school and authorize school-related medical care. Completion of items 5-8 is additionally required to authorize any other medical care. Print clearly.

The minor named below lives in my home and I am 18 years of age or older.

1. Name of minor: \_\_\_\_\_.

2. Minor's birth date: \_\_\_\_\_.

3. My name (adult giving authorization): \_\_\_\_\_.

4. My home address (street, apartment number, city, state, zip code):

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

5.  I am a grandparent, aunt, uncle, or other qualified relative of the minor (see page 2 of this form for a definition of "qualified relative").

6. Check one or both (for example, if one parent was advised and the other cannot be located):

I have advised the parent(s) or other person(s) having legal custody of the minor of my intent to authorize medical care, and have received no objection.

I am unable to contact the parent(s) or other person(s) having legal custody of the minor at this time, to notify them of my intended authorization.

7. My date of birth: \_\_\_\_\_.

8. My California's driver's license or identification card number: \_\_\_\_\_.

**Warning: Do not sign this form if any of the statements above are incorrect, or you will be committing a crime punishable by a fine, imprisonment, or both.**

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: \_\_\_\_\_ Signed: \_\_\_\_\_

Appendix VII: Probate Guardian Nomination Form  
(see next page)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):  <hr/> <p style="text-align: center;">TELEPHONE NO.: _____ FAX NO. (Optional): _____</p> <p>E-MAIL ADDRESS (Optional): _____</p> <p>ATTORNEY FOR (Name): _____</p>	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
GUARDIANSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE OF (Name): _____	
<input type="checkbox"/> <b>CONSENT OF PROPOSED GUARDIAN</b> <input type="checkbox"/> <b>NOMINATION OF GUARDIAN</b> <input type="checkbox"/> <b>CONSENT TO APPOINTMENT OF GUARDIAN AND WAIVER OF NOTICE</b>	CASE NUMBER: _____

**CONSENT OF PROPOSED GUARDIAN**

1. I consent to serve as guardian of the  person  estate of the minor.

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

\_\_\_\_\_  
(TYPE OR PRINT NAME)



\_\_\_\_\_  
(SIGNATURE OF PROPOSED GUARDIAN)

**NOMINATION OF GUARDIAN**

2. I am  a parent of the minor  a donor of a gift to the minor. I nominate (name and address):

as guardian of the  person  estate of the minor.

3. I am  a parent of the minor  a donor of a gift to the minor. I nominate (name and address):

as guardian of the  person  estate of the minor.

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

\_\_\_\_\_  
(TYPE OR PRINT NAME)



\_\_\_\_\_  
(SIGNATURE)

**NOTICE: The guardian of the person of a minor child has full legal and physical custody until the child becomes an adult or is adopted, the court changes guardians, or the court terminates the guardianship. Parents or other interested persons must petition the court to terminate the guardianship. The court will not do so unless the judge decides that termination would be in the child's best interest.**

**CONSENT TO APPOINTMENT OF GUARDIAN AND WAIVER OF NOTICE**

4. I consent to appointment of the guardian as requested in the *Petition for Appointment of Guardian of Minor*, filed on (date): \_\_\_\_\_. I am entitled to notice in this proceeding, but I waive notice of hearing of the petition, including notice of any request for independent powers contained in it. I waive timely receipt of a copy of the petition.

DATE	(TYPE OR PRINT NAME)		(SIGNATURE)	RELATIONSHIP TO MINOR
DATE	(TYPE OR PRINT NAME)		(SIGNATURE)	RELATIONSHIP TO MINOR
DATE	(TYPE OR PRINT NAME)		(SIGNATURE)	RELATIONSHIP TO MINOR

Continued on Attachment 4.



## Appendix VIII: Family Law and Immigration Resources

### **ABA Immigration Justice Project of San Diego**

2727 Camino Del Rio South, Suite 223

San Diego, CA 92108

[Pro bono legal services for those in immigration proceedings in San Diego]

### **Advancing Justice - Asian Law Caucus**

55 Columbus Ave

San Francisco, CA 94111

[Impact litigation, community education, and advocacy for immigrants facing deportation due to criminal convictions]

### **African Advocacy Network**

938 Valencia St.

San Francisco, CA 94110

[Serves African and Afro-Caribbean immigrants, refugees and asylees in the Bay Area]

### **Arab Resource and Organizing Center**

522 Valencia St.

San Francisco, CA 94110

[Legal services for low income Arab and Muslim immigrants in San Francisco]

### **Casa Cornelia Law Center**

2760 5th Ave., Suite 200

San Diego, CA 92103

[Pro bono legal services to victims of human and civil rights violations in Imperial and San Diego County]

### **Catholic Charities of Los Angeles – Esperanza Immigrant Rights Project**

1530 James Wood Blvd.

Los Angeles, CA 90015

[Pro bono Legal representation for adults in Adelanto Detention Center and unaccompanied children]

### **Catholic Charities of San Bernardino - Refugee & Immigration Services (Moreno Valley Office)**

23623 Sunnymead Blvd., Suite 3

Moreno Valley, CA 92553

[Legal and immigration information and resources]

### **Catholic Charities of San Bernardino - Refugee & Immigration Services (San Bernardino Office)**

1450 N. D St.

San Bernardino, CA 92405

[Legal and immigration information and resources]

### **Central American Resource Center (San Francisco Office)**

3101 Mission St., Suite 101

San Francisco, CA 94110

[Low cost legal services, community education, and family wellness programs]

### **Centro Legal de la Raza**

3400 E. 12th Street

Oakland, CA 94601

[Free or low-cost legal aid and representation for residents in the Bay area]

### **Coachella Valley Immigration Service and Assistance, Inc.**

934 Vella Road

Palm Springs, CA 92264

[Low cost representation with special attention with clients with physical or mental disabilities]

**Coastside Hope**

99 Avenue Alhambra, #1089

El Granada, CA 94018

[Provides wide range of programs and services to homeless or poor from emergency food provisions to immigration and citizenship services]

**Community Legal Services in East Palo Alto**

1861 Bay Road

East Palo Alto, CA 94303

[Legal information and advocacy for immigrants facing deportation, youth, affordable housing, and economic advancement]

**Dolores Street Community Services**

938 Valencia St.

San Francisco, CA 94110

[Assistance with deferred action for Childhood Arrivals, removal hearings, and community services in San Francisco]

**East Bay Community Law Center**

2921 Adeline St.

Berkeley, CA 94703

[Legal representation, health, and economic services for low-income community in Alameda and Contra Costa County]

**East Bay Sanctuary Covenant**

2362 Bancroft Way

Berkeley, CA 94704

[Support, advocacy, and protection through Refugee rights program, community development and education program]

**Educators for Fair Consideration (E4FC)**

354 Pine St., Suite 700

San Francisco, CA 94104

[Free legal information for undocumented young people (must be under 35)]

**El Rescate Legal Services**

1501 W. 8th St., #100

Los Angeles, CA 90017

[Legal representation for those who have been physically abused or subjected to mental cruelty by U.S. citizen, spouse or parent]

**Human Rights Project**

201 S. Santa Fe Ave., Suite 101

Los Angeles, CA 90012

[Assistance to immigrants and refugees who have been victims of torture and violence, deals with women's and children's rights]

**Immigration Center for Women and Children (San Francisco Office)**

3543 18th St., #32

San Francisco, CA 94110

[Wide range of legal services on sliding scale fee system based on income]

**Immigrant Defenders Law Center**

634 S. Spring St., 10th Floor

Los Angeles, CA 90014

[Assist with legal information on immigration system, provide access to legal representation for adults and children]

**Immigrant Legal Resource Center**

1663 Mission St., Suite 602

San Francisco, CA 94103

[Education services and informational resources for immigrants and their advocates]

**Jewish Family Service of San Diego**

8788 Balboa Ave.

San Diego, CA 92123

[Low-cost immigration services relating to work, travel, and family]

**Kids in Need of Defense (Los Angeles Office)**

350 S. Grand Ave.

Los Angeles, CA 90071

[Pro bono legal counsel to unaccompanied refugee and immigrant children]

**La Maestra Community Health Centers, Inc.**

41315 Fairmont Ave.,

San Diego, CA 92105

[Wide range of immigration services, economic, health, and family support]

**Legal Aid Foundation of Los Angeles (East Los Angeles Office)**

5228 Whittier Blvd.

Los Angeles, CA 90022

[Direct family and immigration education, policy advocacy, and representation]

**Libreria Del Pueblo, Inc.**

251 Carousel Mall

San Bernardino, CA 92401

[Legal advice and referrals and aid with appeals in San Bernardino County]

**McGeorge School of Law – Immigration Clinic**

3200 5th Ave

Sacramento, CA 95817

[Legal services for non-citizens below the poverty level]

**Mujeres Unidas y Activas**

3543 18th St., #23

San Francisco, CA 94110

[Legal services for Latina immigrant women and their families. Services for immigrant, domestic violence, and family law issues]

**National Center for Lesbian Rights – Immigration Project**

870 Market St., Suite 370

San Francisco, CA 94102

[Free legal assistance for LGBT immigrants including family law and prisoner advocacy]

**New Voice Immigration Assistance Services**

10701 Sampson Ave.,

Lynwood, CA 90262

[Wide variety of legal services for low and moderate-income people including family and immigration services]

**Northern California Coalition for Immigrant Rights Immigrant Lines Assistance**

995 Market St.

San Francisco, CA 94103

[Legal information, policy analysis, and job training for Latino community]

**O.L.A. Raza Inc.**

1420 19th St.

Bakersfield, CA 93301

[Education center providing immigration and citizenship services to new immigrants low-income persons, students, and families]

**Pangea Legal Services (San Francisco Office)**

350 Sansome St., Suite 650

San Francisco, CA 94104

[Legal representation and policy advocacy for immigrants in deportation proceedings]

**Public Counsel – Immigrants’ Rights Project**

610 S. Ardmore Ave.

Los Angeles, CA 90005

[Representation to low-income and indigent clients in a variety of areas including children and immigration]

**San Bernardino Community Service Center, Inc.**  
560 N. Arrowhead Ave, Suite 8B  
San Bernardino, CA 92401  
[Immigration services in Riverside and San Bernardino counties]

**Social Justice Collaborative**  
420 3rd Street, Suite 130  
Oakland, CA 94607  
[Serves low-income people in immigration and criminal matters in the Bay Area]

**Stanford Law School – Immigrants’ Rights Clinic**  
Crown Quadrangle  
559 Nathan Abbott Way  
Stanford, CA 94305  
[Student representation to individuals in removal and appeals proceedings]

**TODEC Legal Center**  
234 South D St.  
Perris, CA 92570  
[Legal information and services for limited and non-English speaking people]

**Transgender Law Center – Trans Immigrant Defense Effort (TIDE)**  
P.O. Box 70976  
Oakland, CA 94612  
[Pro bono representation for deportation and removal defense to TGNC immigrants]

**University of California, Davis School of Law - Immigration Law Clinic**  
One Shields Ave., Bldg. TB30  
Davis, CA 95616  
[Provides information on the immigration consequences for convictions and family law issues; provides few select cases with full representation]

**University of Southern California Gould School of Law – Immigration Clinic**  
699 Exposition Blvd  
Los Angeles, CA 90089  
[Pro bono representation with focus on immigrants detained by ICE at Santa Ana City Jail]

**Western State College of Law – Immigration Clinic**  
1 Banting  
Irvine, CA 92618  
[Legal representation to low-income immigrants in Orange County]

**Vital Immigrant Defense Advocacy and Services (VIDAS)**  
576 B St., Suite 1C  
Santa Rosa, CA 95401  
[Low-cost immigration services and information]