

CREATING A FAMILY PLAN:



A WORKBOOK FOR IMMIGRANT PARENTS

Public
Counsel

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This workbook is aimed to help parents who are facing a possible deportation make a plan for the care of their minor children in the event of a separation. This workbook does not provide legal advice. Families facing separation may want to talk with a lawyer about their specific situation.

Know your goal.

Before you make your plan, take time to think about your goal.

Do you want to eventually reunite with your children in your country of origin? Do you want your children to stay in the United States with a caregiver?

Make your plan based on the long term goal that is right for your family.

Gathering Documents

It is critical to gather documents now for many reasons because some may be needed right away and because some may be difficult to get after a deportation.

Document Check List:

- ☐ Birth Certificates - Original Certified Copy
- ☐ Social Security Cards
- ☐ Immigration Documents (Green Cards, Certificates of Naturalization)
- ☐ Passports - Get passports for your children if they do not already have them.
- ☐ Immunization Records
- ☐ Medical Information (including doctors' information, list of prescriptions with instructions, health insurance cards, and allergy information)
- ☐ School Records (including IEPs)
- ☐ Court orders for child custody or domestic violence
- ☐ Important contact info for people you know who will support your family

**Update your child's school
or daycare emergency
contact card.**

FAQs About Documents

Q.) How can I get a certified copy of my child's birth certificate?

If your child was born in California, you can get a certified copy of their birth certificate at your county's Registrar Office. You can also request one by mail here:

<https://www.cdph.ca.gov/Programs/CHSI/Pages/Vital-Records-Obtaining-Certified-Copies-of-Birth-Records.aspx>

Q.) Where should I keep the documents?

Make sure you choose a safe place to keep your documents and to tell other people where you put the documents. If you are keeping the documents at home, make sure someone has a key to enter your home.

Q.) Can I get a passport through the mail?

If you are applying for the first time, you must go in person to get a passport for yourself or your children.

Q.) How do I get a passport with only one parent?

Typically, if both parents are listed on the birth certificate, both must sign for their child's passport. However, if one parent has a court order for sole legal custody, that person can apply for their child's passport without the other parent. If special circumstances prevent you from getting the other parent's signature, you can use a Statement of Exigent Family Circumstances (form DS-5525) to ask for an exception.

Q.) Can someone else get my child's passport for me?

Yes. A third party can submit the application for a child under age 16 if they have a notarized statement from both parents/guardians.

Choose a Caregiver.

Regardless of your long term goal, you will need someone who can be immediately available to care for your children if you are detained. A caregiver for your child can either be a family member or a friend; but most importantly, it should be someone you trust. **Memorize this person's phone number!**

- Make sure the caregiver can be available immediately.
- Talk about your long term goals, especially around reunification and visitation.
- Ask the caregiver what they expect from you as far as financial support and contact.
- Discuss any special needs your child may have (i.e. allergies, medical conditions, disabilities, etc.)
- Share your wishes regarding your child's education.

Talk with your children.

Talk with your children about who will care for them if you are detained. Make sure they know who to call.

- Help your child memorize your chosen caregiver's name and phone number.
- Make sure your child knows to tell other adults, like teachers, who will care for them in the event of a deportation.

My Family Plan

If I become unavailable, I would like _____ to care for my children.

My children's names and date of births are:

My chosen caregiver's address and phone number are:

My long term goal is:

My children go to school at:

My children go to the doctor at:

Other important things to know: _____

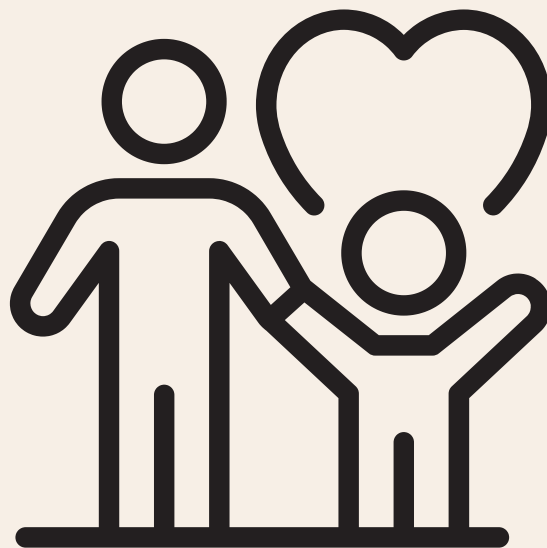
Caregiver's Affidavit

A Caregiver's Affidavit can be used by a relative caregiver to enroll the child in school and get medical care for your child. Non-relatives can also use a Caregiver's Affidavit, but can only agree to more limited medical care.

A Caregiver's Affidavit does NOT need to be:

- Notarized
- Stamped by a court
- Signed by a parent

A caregiver's affidavit does not transfer custody. In California, only a *court order can change custody*.



Caregivers Affidavit



CAREGIVER'S AUTHORIZATION 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 is 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 of age or older.

1. Name of minor: _____
2. Minor's birth date: _____
3. My name (adult giving authorization): _____
4. My home address: _____
5. ☐ I am a grandparent, aunt, uncle, or other qualified relative of the minor (see back 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 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: _____

FAQs About Choosing a Caregiver

Q.) Does the caregiver have to be documented?

A caregiver's immigration status does not matter. Anyone can be a caregiver regardless of their status. However, there are benefits to choosing someone who is not themselves at risk of deportation and who has the ability to travel.

Q.) Is there anything that a Caregiver's Affidavit cannot be used for?

You cannot use a Caregiver's Affidavit to enroll a child in daycare or preschool. You also cannot use a Caregiver's Affidavit to consent to services through Regional Center, or to access vital records or other important documents.

Q.) Are Caregiver's Affidavits only for relatives?

No. Non-relatives can also use a caregiver's affidavit, but with more limits. A non-relative will only be enroll your child into school and consent to school-related medical care with a Caregiver's Affidavit.

Q.) What about Power of Attorney (POA)?

A POA cannot be used to transfer custody in California so we do not recomend it for these purposes. You may want a POA to give someone the power to make decisions about things like your lease, car, or bank accounts. for financial things.

Q.) Are there other ways to give someone the power to make decisions about your children?

Yes. You can authorize a third party to consent to medical decisions in a more limited way using an authorization.

Long Term Goal: Reuniting with children

Reuniting with your children in your country of origin requires a lot of advance planning and, likely, help from other people.

Make sure you have passports and a signed travel consent document for your children.

1

Think through how the children will travel to you - and who will bring them if they cannot travel on their own.

2

Make a plan for who your children can stay with temporarily while you are detained.

3

4 If you have family law custody orders, see a lawyer right away - even if you have sole custody, you may need to ask permission to “move away” with the children.

FAQs About Reunification

Q.) If I have sole custody, does that mean I can send for my children to reunite with me in my home country after I am deported?

No, although having sole custody does mean that it is more likely a court will say it is okay for you to move, you still must ask for permission to move the children to your country of origin.

Q.) How does a guardianship impact my ability to reunify?

If a guardianship has been issued, your parental rights have been suspended. It is now up to the guardian, and the court, to decide where your children should live and how and if they should see you.

Q.) What if the other parent does not agree?

If the other parent does not agree with your plan to reunite with your children in your home country, the other parent does not have to send the children to you. Either you or the other parent could go to court to ask the court to make an order about where the children should live.

Long Term Goal: Legal Guardianship

In a legal guardianship, the judge orders custody of a child to a person who is not a parent to that child.

A legal guardian will be able to make all medical and educational decisions on your child's behalf and is responsible for providing them with food and shelter.

1

A legal guardian is appointed when the court finds that the child's parents are unable or unwilling to care for the child.

2

The guardian can be a relative to the child (such as a grandparent) or a non-relative (such as a friend of the family).

3

When a guardian is appointed, a parent's rights are suspended and will not be reinstated unless the guardianship is terminated by court order.

4

How To Nominate a Guardian

Although you do not need to nominate a guardian in advance - you can! The easiest way to nominate a guardian is to complete a court form called the GC-211, Consent of Proposed Guardian, Nomination of Guardian, and Consent to Appointment of Guardian and Waiver of Notice. This form will tell the court that you agree with the guardianship. Below is a copy of the form.

GC-211																									
ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____ SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____ GUARDIANSHIP OF THE ☐ PERSON ☐ ESTATE OF (Name): _____ ☐ CONSENT OF PROPOSED GUARDIAN ☐ NOMINATION OF GUARDIAN ☐ CONSENT TO APPOINTMENT OF GUARDIAN AND WAIVER OF NOTICE	FOR COURT USE ONLY 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. <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15%;">DATE</td> <td style="width: 35%;">(TYPE OR PRINT NAME)</td> <td style="width: 15%;">(SIGNATURE)</td> <td style="width: 35%;">RELATIONSHIP TO MINOR</td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td>DATE</td> <td>(TYPE OR PRINT NAME)</td> <td>(SIGNATURE)</td> <td>RELATIONSHIP TO MINOR</td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td>DATE</td> <td>(TYPE OR PRINT NAME)</td> <td>(SIGNATURE)</td> <td>RELATIONSHIP TO MINOR</td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </table> ☐ Continued on Attachment 4.		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				
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Form Adopted for Mandatory Use Judicial Council of California GC-211 (Rev. January 1, 2004) Page 1 of 1 Probate Code, §§ 1204, 1500-1502																									

FAQs About Guardianship

Q.) What are the requirements for a guardian?

A legal guardian must be:

- Be at least 18 years old
- Be able to provide food, shelter, and basic resources for the child.
- Be able to participate in an investigation prior to guardianship being granted.

Q.) If I nominate a guardian, do they still need to go to court?

Nominating a guardian will not automatically start the guardianship. The guardian will still need to go to court and ask the court to give them guardianship. The court will consider who you nominated to be guardian when making its decision, but does not have to follow your nomination.

Q.) Does a legal guardian have to be documented?

A caregiver's immigration status is not relevant in court. However, there are benefits to choosing someone who is not themselves at risk of deportation and who has the ability to travel.

Q.) Can I get visitation with my children?

You can arrange visitation between you and the caregiver if you are on good terms. If you and the guardian do not agree, you would need to go to court in the United States to get visits.

Q.) Can I terminate the guardianship?

You can terminate a guardianship by asking the Court that issued it to terminate it. However, even if you and the guardian agree, the guardianship will only be terminated if the judge thinks that it is in your child's best interest.

Q.) What if the other parent does not agree? Can I transfer custody?

You cannot transfer custody of your child to someone else. The other parent is entitled to notice about the guardianship case and may tell the court that they would prefer the child live with them.

Help with a Legal Guardianship

If the person you ask to care for your child needs help to file a legal guardianship, the Public Counsel Guardianship Clinic helps people free of charge. It is located at the Superior Court in Downtown Los Angeles. Help is available in English and Spanish.

Pro Per Guardianship Clinic

Los Angeles Superior Court
Stanley Mosk Courthouse
111 N. Hill Street, Room 230
Los Angeles, CA 90012

**Monday to Wednesday
9:00 AM to 3:00 PM**

Please try to arrive by 9am to sign-in.

We assist the public on a first come, first served basis. We only assist litigants who do not have a lawyer helping them. We cannot assist those who already have a lawyer and we cannot provide you with a lawyer or with legal advice.