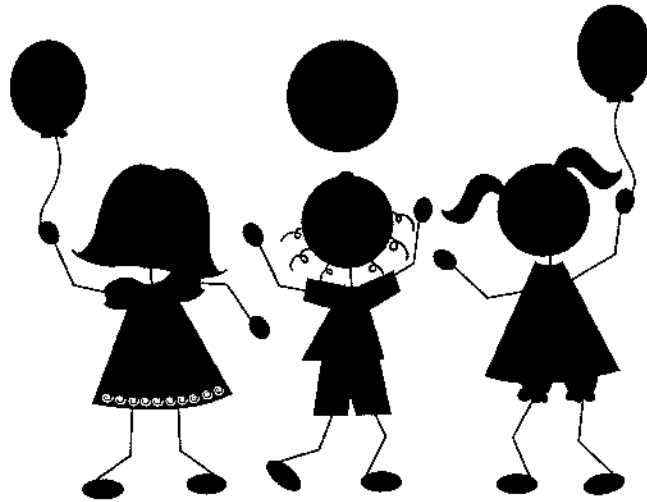


# FAMILY COURT SERVICES

MARIN COUNTY SUPERIOR COURT



FAMILY COURT SERVICES  
3501 Civic Center Drive, Room 116  
San Rafael, CA 94903  
(415) 444-7090

November 2015

## **AN INTRODUCTION TO FAMILY COURT SERVICES**

Coming to court can often feel very frightening and confusing for parents and children. The purpose of this booklet is to address your concerns by providing you with some basic information on how Family Court Services operates. It is important that you take the opportunity to educate yourself about what is expected of you by Family Court Services.

1. Family Court Services  
3501 Civic Center Drive, Room 116, San Rafael, CA 94903, (415) 444-7090  
Office Hours: 8:00 A.M. - 4:00 P.M.

Please contact Family Court Services immediately with any changes in your address, home and/or work phone numbers.

2. Superior Court Clerk's Office  
3501 Civic Center Drive, Room 113, San Rafael, CA 94903, (415) 444-7040

### **Some Important Reminders**

1. Children need to be emotionally and physically safe from parental conflict.
2. All children need consistency and stability from both parents.
3. Children need a relationship with both parents.
4. Children do better if they know they will be spending time with each parent.
5. Children of all ages who witness family violence of any kind are emotionally traumatized.
6. Parents and children experience a great sense of loss in a separation and/or divorce.
7. Parents and children usually need emotional support and guidance through the process of separation and/or divorce.
8. Parents need to move from an intimate to a more formal, business-like relationship.
9. A child-sharing plan must take into consideration the age and emotional stage of development of each child.
10. Parents who cooperate in developing a parenting plan are less likely to need future court involvement and are generally happier with the outcome.

**FAMILY COURT SERVICES  
CHILD CUSTODY RECOMMENDING COUNSELING PROGRAM**

**(NOTE: This form must be served to both parties at the time the case is filed.)**

***Mandatory Orientation:***

Before your initial counseling meeting, you must review Family Court Services Orientation. You can view the orientation online or by calling Family Court Services at (415) 444-7090 to have the orientation booklet mailed to you.

**[www.marincourt.org/family\\_services.htm](http://www.marincourt.org/family_services.htm)**

***Initial Child Custody Recommending Counseling Meeting:***

1. Family Court Services (FCS) will contact you by letter to set your initial CCR counseling session.
2. The goal of the initial CCR counseling session will be to develop a co-parenting agreement.

***If Agreement is Reached in Child Custody Recommending Counseling:***

1. The child custody recommending counselor (hereinafter "CCR counselor") will draft your agreement.
2. Parents sign the agreement.
3. The Judicial Officer signs the agreement and it becomes a court order.

***If Agreement is Not Reached in Child Custody Recommending Counseling:***

1. The CCR counselor will make a recommendation to the Court for a co-parenting agreement.
2. Parents attend the court hearing.

***Court Hearing:***

1. The court will issue a tentative ruling the day before the hearing based on the information presented, including the FCS recommendations.
2. The court will hear what both parents have to say about the FCS recommendations.
3. The court will make custody orders.
4. The court may set a Judicial Settlement Conference.
5. The court may schedule a custody trial in order to address outstanding issues.

***Family Court Services requires a full copy of the Request for Order or Order to Show Cause and Supporting Declarations when filed. No other documents needed (e.g., income & expense declaration, support calculations).***

## ***DOMESTIC VIOLENCE AND CHILD CUSTODY RECOMMENDING COUNSELING***

### ***What is Domestic Violence?***

It is the use of physical force or restraint; threats of force to compel one to do something against one's will; or, threats to do bodily harm to one's self, a person with whom one resides, or the mother or father of one's child.

Please let your CCR counselor know if there has been a history of domestic violence or if you fear potential domestic violence.

The presence of domestic violence is ALWAYS harmful to children and inappropriate in all families! Children who have witnessed or overheard severe or repeated incidents of violence involving their parents are likely to be traumatized. These children are at risk for developing emotional, behavioral and social problems – including long-term victim or abuser roles. Even those children who do not directly witness spousal abuse are affected by the climate of violence in their homes and are likely to experience impairment of development and socialization skills.

Even very young children and infants who are not thought to be aware of the violence are negatively affected. For these reasons, children – as well as adults – need to be protected from exposure to threats of violence or actual violence by a parent, caretaker, or other adults.

Please be advised that CCR counselors are required by law to report instances of child abuse.

### ***The Right to Have Separate CCR Counseling in Cases Involving Domestic Violence***

Where there has been a history of domestic violence, or fear of current violence, you may request to meet with the CCR counselor separately at the same time or separately at different times.

Please make the request in advance so the CCR counselor can meet your needs.

### ***The Right to Have a Support Person Present in CCR Counseling Cases Involving Domestic Violence***

Where there has been a history of domestic violence or fear of current violence, you may request to bring a support person to the session. The request must be made of the CCR counselor in advance. The support person must be willing to abide by the process of the CCR counseling.

### ***A CCR Counselor May Exclude a Support Person from a CCR Counseling Session if:***

The support person attempts to participate in the CCR counseling session;  
The support person acts as an advocate for the victim in a CCR counseling session;  
The support person's presence disrupts the process of the CCR counseling; or  
The support person's activity disrupts the CCR counseling session.

### ***Other Safety Considerations:***

Personnel are available by prior request to accompany victims of domestic violence to their cars following an appearance at Family Court Services. The residential addresses and phone number of victims of domestic violence will be kept confidential.

*When adults experience problems with domestic violence, both the victim and the abuser are encouraged to seek professional counseling assistance. Children exposed to domestic violence should also receive professional counseling assistance. Some local agencies which specialize in providing services for families of domestic violence are listed on our website under "Family Court Services - Community Resources".*

*Welcome to the  
Child Custody Mediation  
Orientation  
for Parents & Guardians*



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**Topics:**

- *An Introduction to the Legal Process*
- *Important Terms to Know*
- *Tips for Making the Most of Child Custody Recommending Counseling ("CCR Counseling")*
- *Children and Divorce*
- *Answers to Frequently Asked Questions*

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**A special note about:**

**Agreements**

Some parents work out agreements on their own, or with the help of a professional.

*If parents already have a written, signed and dated agreement on custody and visitation, they are not required to come to CCR counseling.*



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**The Legal Process**

- Starting the Legal Process
- CCR Counseling
- Child Custody Recommending Counselor's ("CCR Counselor's") Recommendation
- The Hearing
- After the Hearing



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**Starting the Legal Process**

- A *Motion* is filed to bring this matter before the court.
- The other party *must be served* with the papers.
- A CCR counseling *appointment is set*:

Marin Civic Center, Room 116  
Monday - Friday • 8:00 a.m.- 4:00 p.m.

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**CCR Counseling**

A meeting between disputing parties and a neutral third person – *the CCR counselor* – whose role is to assist the parties in reaching an agreement. The CCR counselor does not represent either party, but remains impartial.



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## CCR Counseling

When parents do not agree on custody and visitation arrangements, California law requires that they attend CCR counseling *before the court hearing*. We will attempt to reach an agreement on the custody and visitation with your child.

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## CCR Counselor

A trained professional assigned to help parents discuss their child's needs and assist them in finding a schedule that best serves the child.



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## Best Interests of the Child

When the court makes an order for a parenting plan, the judicial officer must consider what is in the *best interest of the child*.

This will guide *all custody and visitation* decisions in Family Court.



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- After a motion has been filed you will receive an appointment letter. This letter will tell you when to attend CCR counseling.
- Court ordered CCR counseling is mandatory. A missed appointment may impact your custody case.
- FCS cannot reschedule appointments without the agreement of both parents or good cause.

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## CCR Counseling Process

- The goal is to develop a co-parenting agreement.
- This agreement is designed to address the family's custody needs.
- The CCR counselor will draft your agreement.
- A judicial officer will sign the agreement and it will become a court order.

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## If no agreement is reached

- If there is no agreement, then the CCR counselor is required to make a recommendation regarding a co-parenting plan to the court.
- The parents will receive the CCR counselor's recommendations prior to their *Request for Order hearing (RFOR)*.
- The parents attend their RFOR hearing.

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### At the RFOR hearing

- The judicial officer will hear what the parents have to say about the recommendations and orders will be made.
- The court may schedule a Judicial Settlement Conference or set the matter for a custody trial.

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### Settlement Conference

- A Settlement Conference includes a judicial officer (not necessarily the judicial officer who presides over your case), the attorneys, and the parents.
- This is an opportunity to resolve custody issues, using the CCR counselor's recommendations, so further court involvement can be avoided.

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### If an agreement is reached

- The agreement is reviewed by the parents and the attorneys and signed.
- The judicial officer signs the agreement and it becomes a court order effective immediately.



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### The CCR Counselor's Recommendation

- is not a court order
- is not enforceable unless it becomes an order.
- may not become an order. Judicial officers may make different orders.

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### The CCR Counselor's Recommendation

May include tasks for the parents to complete. For example:

- *Parenting Classes*
- *Anger Management Classes*
- *Batterer's Treatment*
- *Drug or Alcohol Treatment*
- *Counseling*



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### ■ When can I get a copy of the CCR counselor's recommendation?

Your CCR counselor will make every effort to provide you with a copy prior to your hearing.

When there is little time before the hearing, however, you may not receive your copy until you appear in court.

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### ■ What if I disagree with the CCR counselor's recommendation?

Let the judicial officer know the reasons why you do not agree by completing form FL027 - Statement of Agreement/Disagreement provided to you with your copy of the recommendation. Judicial officers are not required to follow the CCR counselor's recommendation. *Information presented in court can influence the judicial officer's final decision.*

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### Remember:

It is the best interests of the child ~ *not necessarily the needs of the parents* ~ that guides the CCR counselor's recommendations and the judicial officer's orders.



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### Child Abuse Reporting

The CCR counselor must disclose suspected child abuse and neglect to County of Marin's Children & Family Services.



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### Important Terms to Know

Here are a few terms which are helpful to know as you go through this legal process.

- *Custody: Legal & Physical*
- *Petitioner & Respondent*
- *The Parenting Plan*

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### Custody

There are two kinds of custody:



*Legal Custody*  
&  
*Physical Custody*

It's important to know the difference between them.

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### Legal Custody

- *Legal Custody* - who has the right to make decisions about a child's education, religious upbringing, social development and non-emergency medical care.
- *Joint Legal Custody* - permits both parents to be involved in these decisions.
- *Sole Legal Custody* - gives one parent authority to make these decisions.

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## Physical Custody

- *Physical Custody* - the actual time that the child spends with each parent.
- *Joint Physical Custody* - each parent has significant time with the child. *It does not require that time is shared equally.*
- *Sole Physical Custody* - the child resides with one parent, subject to the power of the Court to order visitation.

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## Petitioner & Respondent

The *Petitioner* is the person who filed the papers that started the court action.

The *Respondent* is the other party, who was served with the Petitioner's papers and then filed a response.

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## Co-Parents

Parents who share responsibility for raising a child, even though they no longer live together.



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## Parenting Plan

A *Parenting Plan* is a detailed plan for sharing time with your children. It includes:

- *Custody - Legal & Physical*
- *Time-Sharing Arrangements*
- *Logistical Arrangements: Who Provides Transportation, Exchange Locations, etc.*



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## Primary Residence Primary Physical Custody

The home in which the child spends the majority of time. This term is only required when a parent is applying for public benefits on behalf of the child.



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## A special note about: Domestic Violence

In cases where there are sworn allegations of domestic violence, the parties may each meet separately with the CCR counselor.

If you choose to meet with the other party, you may bring a support person to the session. This person is not permitted to participate, but may offer you emotional support.

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## What we *can* do in CCR counseling:

- ◆ Reach an agreement about *custody* of your children;
- ◆ Reach an agreement about a *schedule* for sharing time with your children;
- ◆ Work out the *details of that schedule* in the parenting plan.
- ◆ Take important information from both parties to help the judicial officer make an order when there is no agreement.

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## *Do not bring children to your CCR counseling appointment.*

If it is appropriate and necessary to interview your child, the CCR counselor will advise you and another appointment will be arranged.



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## The Hearing

If you do not reach an agreement in your CCR counseling session, your matter will be heard by the judicial officer in Family Court.

At the hearing, the judicial officer may review the CCR counselor's recommendations, and may ask you questions. The judicial officer will then make an order.



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## After the Hearing

The judicial officer's order will be detailed in a document called the *Order After Hearing*.

*The judicial officer's order is enforceable* and remains in effect until another order is made to replace it.

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## Tips for the Court Hearing

- Be on time.
- Be organized and prepared.
- Address your comments to the judicial officer, not the other party.
- Do not bring children to court.
- Turn off cell phones and pagers.



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## Prepare

*There is no substitute for preparation!*

Give careful thought to a parenting plan that will work for your child. Designing the parenting plan should include the active participation of both parents.



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## Preparing for CCR Counseling



Some parents find it helpful to *write out a schedule* and bring it to CCR counseling.

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## Preparing for CCR Counseling

*Think through the details of the average day:*

- Your child's needs
- Your child's schedule
- Your schedule
- The other party's schedule
- Other details



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## Preparing for CCR Counseling

*Think of special circumstances:*

- Sharing *holidays & birthdays*
- *Vacations & travel plans*
- *Transportation details*
- *Exchange locations*



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## Preparing for CCR Counseling

- ✓ *Be realistic.* Even the best plan won't work if it's not possible to carry out.
- ✓ *Stay focused on your child's needs.* This could be an emotionally difficult experience for you. Staying focused on your child will help you in this process.
- ✓ *Plan B.* Have more than one proposal.

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## ■ What should I bring to CCR counseling?

- ✓ Your parenting plan proposal
- ✓ Schedules and/or calendars
- ✓ Relevant documents (such as report cards or letters from the child's therapist)
- ✓ Your questions
- ✓ *Your best ideas & an open mind*



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## Children and Divorce



Children experience anxiety, distress and insecurity during separation.

Expect some changes in your child.

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## The First Year

The first year following the separation is a critical time for kids. Parents may be more distracted, and routines may be disrupted.

Everyone, including the child, is struggling to find a new balance.



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## Parental Co-operation

Children's post-divorce adjustment is directly related to their *parents' ability to cooperate* with one another.

*Reassure your child* that there will be an on-going relationship with each parent and shield your child from the conflict.



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## "T.M.I."

With *too much information* from parents, children will be brought into the conflict. Don't share the "gory details" with your kids.



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## Kids & Conflict

Children exposed to on-going parental conflict have more emotional, behavioral, social and academic problems than children who are sheltered from the fight.



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## Remember:

Respect your child's right to an on-going relationship with the other parent.

*You are separating from the other parent.*



*Your child is not.*

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## Frequently Asked Questions

### ■ Will the CCR counselor interview my child?

In some cases, the CCR counselor may wish to interview the children. The CCR counselor will arrange this with you, usually after the first meeting with the parents.



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■ **What if the other party doesn't come to CCR counseling?**

The court is advised when a parent doesn't participate.

■ **What if the other party doesn't come to court?**

The judicial officer will either make an order for your family or set another court date.

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■ **Can I bring my boyfriend/ girlfriend to CCR counseling or to court?**

Only individuals that are *named as parties* or *legally joined to the action* may participate in counseling. You must file papers to become legally joined to the action.

Anyone may attend and *observe* the court hearing.

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■ **How long is the CCR counseling?**

Times can vary depending on the complexity of the case, but plan to spend at least one hour.

■ **How many sessions will we attend?**

There will be one CCR counseling session before the first hearing. The court may refer the matter for additional sessions when necessary.

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■ **Do I need a lawyer if the other party has one?**

Not necessarily. Many parents successfully represent themselves in custody matters. Attorneys can be especially helpful when there are complex financial matters.

*Whether or not you hire an attorney is your decision.*

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■ **What if the other party doesn't follow the court order?**

You can ask law enforcement agencies to enforce the order or you can file a motion to change the order.

Please do not call the CCR counselor to report non-compliance with court orders.

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■ **What if the other party does not return my child from a visit?**

Notify the police.



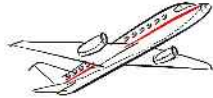
Please do not call the CCR counselor to report these matters.

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■ **Who pays transportation costs when there is a great distance between the homes?**

The judicial officer makes all decisions regarding money and expenses.



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■ **What is “supervised visitation” and how can I get it?**

A supervised visit is a meeting of parent and child in the presence of a third person.

It is ordered when the court has concerns about the safety of the child with a parent.

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■ **Do we have to come back to court in order to change our custody schedule?**

If you and the other parent agree to change the parenting plan, there is no need to return to court. *It is best to put your new plan into a written, dated and signed document and submit it to the court for a signed order.*

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■ **What if the other parent is speaking badly about me to the children?**

It is very damaging to children when parents speak badly about each other.

Avoid the temptation.



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**What type of paperwork/proof should I bring to CCR counseling?**

Bring only documents from *neutral third parties* such as:

- *Police reports*
- *Letters from therapists or teachers*
- *Children & Family Services reports*



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■ **Does the judicial officer ever order that one parent cannot see the child? When does that happen?**

Rarely. In extreme cases, the Court may order that there be no visitation if it is deemed to be in the child's best interest.

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■ **If the other party has a restraining order against me, can I still see my children?**

The court may permit visitation, but if the children are named as protected persons, the court may stop visitation or require supervised visits.

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■ **How does the custody order affect the amount of child support?**

Many factors are considered when calculating child support, including parent income and the amount of time with the child.



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**Good Luck!**

We wish you and your family the best in your co-parenting efforts.



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