

FAMILY COURT SERVICES INFORMATION

1. What is Family Court Services (FCS)?

Once you decide to separate, the Court would like you to create a parenting plan for timeshare and custody that is in *your children's best interests* (not yours). We prefer that you make these decisions because you know your family best, but if you can't, FCS can help. The mediators/ investigators are licensed therapists with expertise in the issues of separated parents and their children. Their office is a neutral setting where you can discuss parenting issues and work through your differences. FCS is available to anyone who has a Santa Cruz County case number and parenting issues, including dissolution, paternity, or domestic violence. An FCS Mediation/ Investigation **never** involves a discussion of money, support, or property issues.

2. Best Interest of the Child

The best interest of the child includes having two caring parents actively and consistently in their lives. Research has shown that children with an absentee parent are more likely to use drugs and alcohol earlier, become teen parents, drop out of school, and exhibit criminal behavior. Therefore, it is in their best interest that both parents actively spend time with them.

When you separate, you may feel angry and upset at the other parent, and want to hurt that parent in some way. The easiest way is to deprive them of your child. Even though you might want to cut the other parent out of your life, **your children** do not want that to happen. Your children love both of you, and at this painful time they need both of you to reassure them that you love them. They want hassle-free access to both of you

Because the Court and the mediators are neutral parties, they can look at the situation more clearly to figure out what really is best for your child. They are not on *your side* or the *other parent's side*, but the *child's side*. If you and the other parent do not reach a full agreement, the Court may make some decisions you don't like, based on what is in the *child's best interests*, according to Court rules.

3. The Importance of a Positive Attitude

Parents have a very strong influence on their children. Your attitude can help your children or make the situation worse. It is important for **you** to encourage contact between the children and the other parent. When it is time for the children to see the other parent, be positive and supportive because that reassures your children and makes an easy transition from one parent to the other. When your children tell you they miss the other parent, or that they had a good time with the other parent, or show you a gift they got from the other parent, try to be happy and supportive. If that's too difficult, at least be **neutral**; otherwise, you may make your child feel sad or anxious or guilty.

4. Filing Papers

The Court process can be confusing. If you do not have an attorney or a paralegal to help you with your paperwork, you can use the free services of the Family Law Facilitator's Office, located inside the Courthouse in the corner near Department 4. They can also help you with financial issues, which FCS does NOT address. Because they are neutral, they may help the other parent to fill out paperwork, as well. *There is no fee for these services.*

5. Family Court Services provides:

FCS has several different options for parents who have disputes or unresolved parenting issues. Some of the services are free, while others charge a fee. Parents are limited to **three hours total** of mediation per year. This includes both Screening and Recommending Mediation. If parents have not resolved their issues in their three hours of mediation, they will be referred to additional fee-based services. Below is a description of the programs available for you and your family.

- **Screening Mediation:** When you come to Court with a parenting dispute, the judge may send you out with a mediator. During that screening, you may come to a complete, partial, or temporary agreement about your parenting issues. If you reach an agreement, the judge will make it an order in open Court that day. If you do not agree, the mediator makes a recommendation to the judge in open Court, that day. Children are NOT involved in this process. Allow 2 hours for a screening (**not** including the time you wait to be sent out to mediation). Unless you are come to Court regularly to use FCS, this is a free service.
- **Recommending Mediation (RM):** This is like a Screening Mediation, but you do not need a Court date. A Recommending Mediation involves only **one** parenting or custody issue and may take up to an hour. You may reach a full, partial, or temporary agreement. Children are NOT involved in this process.
- **Family Dispute Resolution (FDR):** When you have used up your three hours of mediation, you will be referred to Family Dispute Resolution to handle issues that need to be resolved. This is a fee-based service.

To set up an appointment:

- 1) Get the appropriate Stipulation (Recommending Mediation or Family Dispute Resolution) form in Room 110.
 - 2) Both parents and attorneys (if any) sign it.
 - 3) Return it to the clerk's office, Room 110 for the Judge's signature. You must pay all fees at this time.
 - 4) The Judge approves your Stipulation.
 - 5) You will receive your signed and validated stipulation by mail. You may then schedule an appointment with the receptionist in Judges=Chambers (Room 101C), 831-454-2380.
- **Confidential Counseling:** If the mediator determines that you two can resolve your differences and reach an agreement outside of Court, you will be referred to Confidential Counseling with a private mediator to see if you can reach a full, partial, or temporary agreement. Children usually are NOT involved in this process. The fee is \$225 for three hours; typically, parents split the cost or request a scholarship from the judge. If you do not reach an agreement, *no information* will be communicated to the Court. You may then return to Court for recommendations.

Parents may go to Confidential Counseling any time without coming to Court. Pick up the AStipulation to Confidential Counseling@form in Room 110.

To set up an appointment:

- 1) Get the Stipulation form in Room 110.
 - 2) Both parents and attorneys (if any) sign it.
 - 3) Return it to the clerk's office, Room 110 for the Judge's signature of approval.
 - 4) Make your appointment with the confidential counselors.
- **Custody Evaluations:** The Court may decide to send parents to a Custody Evaluation because it wants to take a more thorough look at the family situation to determine the best interests of your child. At the time of the referral, the judge sets a follow-up Court date one week later. The fee for the evaluation is \$60/hour.

- 1) **Partial Custody Evaluation:** Both parents sit down together with the investigator and try to work out their differences regarding timeshare, vacation/holidays, and any other parenting issues. The investigator often interviews children over 5 years old. The interview typically lasts 3 hours.

If you reach an agreement during your appointment, the investigator will write it up at that time. After you and the judge sign it that day, it becomes a Court order, and you don't need to return to Court for the follow-up Court date. If you reach only a partial agreement or no agreement, the investigator will write up a Recommendation, and either give it to you at the end of the appointment or within a day or two.

- 2) **Full Custody Evaluation:** The judge refers parents to this Custody Evaluation if there are serious allegations (drug abuse, child abuse, domestic violence, CPS involvement), or one parent wants to move away. The fee is \$1200.
- 3) **Move Away Evaluation:** If one parent wants to move away from the area (more than one hour away), and the other parent objects, the judge will send them to a Move Away Evaluation. This is exactly like the Full Custody Evaluation. The fee is \$1200.

Prior to the Full Custody and Move Away Evaluations, you both will fill out extensive paperwork about your children, and your concerns about them and the other parent. It helps to provide documentation supporting your allegations or names of people to contact (at CPS, Probation, etc.). All information you give to the custody investigator *must* be shared with the other parent. The investigator will examine police records, talk to CPS, interview knowledgeable professionals like daycare workers, teachers, medical personnel, therapists, etc., and may ask you to take a drug test.

In a Move Away Evaluation, the moving parent has to fill out a Move Away Information Sheet about the new location (including the planned housing, school, job, neighborhood, daycare, health providers, and transportation to the other parent's home. The investigator will use this information to make a decision that is in the best interest of the children about moving away.

Each parent meets separately with the investigator, as do all children over the age of five. The interviews typically last one hour for each parents (less for children). If you are the victim of domestic violence, you can have a support person with you during the interview. Then the investigator usually writes an often-lengthy Custody Evaluation report, including recommendations and sends it to you prior to your return to Court.

- 4) **Psychological Evaluation:** On rare occasions, the judge may order the parents to see a psychologist for an evaluation to determine if one or both parents have mental health issues that put the children at risk or impair the parents' abilities/good judgment. This involves testing and interviews. The children may or may not be interviewed and/or tested, as well. This evaluation is expensive.

6. Confidentiality

- **Screening Mediation/Recommending Mediation/Family Dispute Resolution:** The information you tell the mediator is *NOT confidential*. In other words, the mediator may discuss the recommendations and reasons for them with the judge and the other parent in open Court. If you are a victim of domestic violence, however, you can ask your mediator to keep your personal information (phone #, address) confidential.
- **Child/Elder Abuse:** All mediators/investigators are mandated reporters of child and elder abuse. That means your mediator/investigator *must* report any reasonable suspicion that a child or dependent adult or elder is being abused. When a Custody Evaluation involves child abuse, FCS personnel must follow any/all CPS guidelines.

- **Custody Evaluation Report:** The Custody Evaluation report is placed in your Court file in a confidential envelope. This report is also given to each parent and/or their attorneys. It is confidential, and CANNOT be shared with anyone other than the parents, attorneys, and judge involved in the case. You can discuss it in Court with the judge.
- **Confidential Counseling:** The only information Confidential Mediators will give the Court is the outcome of the sessions—full, partial, or temporary agreement, no agreement, or no-show/no-pay clients.

7. Communicating with FCS

- **Communication with a Mediator:** Mediation involves both parents together. With the exception of domestic violence, the Mediator will not discuss anything *without the other parent being present*. A conversation without the other parent, called *À Ex Parte* communication, is not allowed. Neither you nor your attorney can talk to the mediator before or after your mediation.
- **Communication with an Investigator:** Once your Custody Evaluation is set, you can talk with the investigator only in writing; the other parent must get a copy of anything you send to the investigator. During the Evaluation, the investigator may contact either parent or their attorneys. Once the report is written, however, it signals the *end of the Custody Evaluation*, and you are NOT ALLOWED to talk with the investigator. The investigator will not disclose the content of the final report before distributing it.

8. How to Prepare Yourself for Court and Family Court Services:

- **Be on Time:** It is important to show up when you are supposed to, or give advance notice if you are unable to make it at the time of the appointment.
- **Look Neat:** The courthouse, courtroom, and mediator/investigator's office are places where respect is shown by dressing/grooming appropriately. You will not make a good first impression if you are wearing inappropriate or dirty clothes, have not brushed your teeth or hair, or bathed.
- **Journal/Calendar:** It helps to document your contact with the other parent in a journal or calendar. (Examples: The other parent is consistently late to the exchanges, misses visits, threatens you, abuses the kids, violates the Court order.) This journal helps you keep things straight when you're talking to the mediator/investigator and the judge. NOTE: It helps to have witnesses or other proof, since your journal is still only your word and cannot be used as proof in Court.
- **Clean Drug/Alcohol Test:** If you think the other parent might accuse you of abusing drugs or alcohol, it helps tremendously to have a recent (within 1-3 days) drug test (preferably hair follicle, which goes back 3 months) that accurately shows what drugs might be in your system. In any case, the Court appreciates your not using drugs or being drunk when the children are with you.
- **Letters from therapists, daycare providers, teachers, school counselors:** Letters from professionals who can back up your claims are very important. Ask them to write a declaration to the Court, signed under penalty of perjury. Only involve these people when absolutely necessary because you don't want to contaminate the safe/neutral settings where your children go to enjoy themselves, learn, or talk about their feelings. Once you involve those professionals, your child may no longer trust that person. Children often feel betrayed when their privacy has been invaded.
- **Parenting plan:** The parenting plan outlines how you would like to share time with the children's other parent; it should include reasonable quality time with both parents. Bring your proposed parenting plan to Court and to the mediation/evaluation.

- **Compromise and flexible attitude:** A willingness to compromise for the best interests of your children is important. Don't expect the other parent to be a replica of you. Be flexible about the differences in your parenting styles and choices. Judges appreciate parents who are willing to compromise rather than continuing to fight with each other. More importantly, your children appreciate parents who work together to minimize conflict and hostility.

9. Legal Terms for Parents:

In Court and in mediation you will hear terms that may be new to you. It is important to know the legal terms so that you can make an informed decision about your parenting plan. If you don't understand something the mediator/investigator or judge has said, ASK!

- **Joint Legal Custody:** This is when both parents share legal responsibility for the child. Neither parent can make decisions for the child without input from the other parent. That means being responsible for decisions about the child's schooling, extracurricular activities, medical issues, counseling, and any legal issues involving the police or other public entities. Both parents have equal access to all information about the child.
- **Sole Legal Custody:** One parent has sole legal responsibility for the child. The other parent has no legal right to make decisions or have access to information. This is **not** a common custody arrangement; it is done usually when one parent is absent, in prison, a serious substance abuser, convicted of domestic violence, or a danger to the child.
- **Joint Physical Custody:** Both parents share in the day-to-day schedule of care of the child—feeding, clothing, transportation, etc. This schedule is the most important element of your parenting plan (see Parenting Plan, below).
- **Sole Physical Custody:** One parent is responsible for the children all the time, while the other parent has visitation with the children. This custody arrangement is **not** common; it is usually done when one parent has been absent, in prison, abusing substances, or a danger to the child.
- **Primary Residence:** This indicates with whom the child lives *most of the time*. The child's primary residence often determines where the child goes to school.
- **Parenting Plan:** This describes when each parent is responsible for the children. This is the timeshare schedule in action. It covers the school year, summers, holidays. Usually, all of the times *not* specified in the Parenting Plan will be the responsibility of the parent with *primary residence*. If parents share time equally, the schedule will show which parent is responsible for the children at what times, usually without designating a *primary residence*.

10. Parenting Plans

What is the right parenting plan for your children? There is no one right parenting plan, since every situation is different. The best one is with both parents living together as a family. Since that is no longer possible, the best plan gives the child regular, consistent contact with both parents, depending on the child's age and development. Generally, it is not good for the child to go for a long period of time without seeing the other parent.

Each parenting plan is crafted according to parents' work schedules, home schedules, daycare requirements, availability, age, developmental needs of the child, travel time, distance apart, etc. One plan may be every other weekend with one evening per week; another may be every other week; another may be all vacations and holidays (usually because the parents live far apart). Some issues to consider when making your ideal parenting plan:

- **Frequent, consistent, continuing contact with both parents:** Studies have shown the benefits of children having frequent, consistent contact with BOTH parents. Make sure whatever plan come up with includes frequency and consistency.
- **Telephone contact:** How often can a parent call the children, and when? If telephone access has been a problem in the past, or the parents must not talk because of restraining orders, tell the mediator or judge.
- **Holidays:** What holidays do you celebrate? Do you have a schedule around the holidays that the children are used to following? This information is important for you to think about so that children can share in holiday celebrations at both homes.
- **School breaks:** How do you split school breaks and summers? Bring 2 copies of the childrens school calendars, one for other parent and one for the mediator.
- **Long distance parenting:** If the parents live more than two hours apart, the Court considers that long distance parenting. Pay special attention to transportation if long distance parenting applies to you.
- **Transportation/Exchanges:** The children need transfers from one parent to the other to be as smooth as possible. Natural transitions, such as before and after school, reduce parents-face-to-face contact, if necessary and are usually hassle-free. Questions to consider: Who will drive the children? Where they will be picked up and dropped off? Who else should be involved in transfers if the parents cannot transport the children?

11. Things That Might Affect Your Parenting Plan:

- **Domestic violence/Restraining orders:** A Restraining Order is also called a protective order. The Court will grant a protective order if there is obvious danger to the child or the parent. This protective order may be temporary (until the hearing), or for a longer period (1-3 years). Once the Restraining Order is in place, the restrained parent must obey it. Violating that order may mean jail time or other punishment. Restrictions may also be imposed on the parenting plan, such as sending one or both parents to counseling or ordering a parent to have supervised contact with the children.
- **Child Abuse:** If a parent is suspected of, or found to have abused a child, the parenting plan will be crafted to protect the child from further harm. That might include no visitation, supervised or therapeutic visitation, or counseling for the parent and/or child. If CPS is involved with your family, the mediator/investigator will consult with CPS to determine which agency will handle your family's case. It is helpful to know the CPS worker's name when you come to Court.
- **Drugs/Alcohol:** If a parent is suspected of, or found to be abusing drugs or alcohol, the Court may request drug/alcohol testing. Treatment for the addicted/troubled parent, counseling, and protection for the child may be part of the parenting plan.
- **Supervised Exchanges:** Exchanges can be very traumatic for the child when parents start arguing or yelling during the transfer. One way to calm the situation is with professionally supervised exchanges. You go to a specified meeting point where you exchange your child through a professional supervisor. You and the other parent have **NO** contact during supervised exchanges. The parents may agree to use non-professionals supervisor for exchanges.
- **Supervised Contact:** If there are serious problems, for example, child abuse, substance abuse, neglect, or other problems that interfere with properly caring for the child, the Court may order that a parent have supervised visits with a professional supervisor. In that case, the parent visits with the child in a structured, safe environment. Supervised contact is rarely a permanent solution. It keeps the children safe or helps to ease the transition while the parent needing supervision works towards resolving the issues that caused them to need supervision in the first place.

Supervised visits may also be ordered for parents who have been absent from their child's life, so that the child gets the opportunity to become familiar with that parent over a period of time. getting extended non-supervised visitation.

- **Professional Supervision/Exchange:** In Santa Cruz County, *Santa Cruz Safe Connection for Kids* provides professional supervision and exchange for parents. They are in downtown Santa Cruz (831-420-0928). You must fill out their paperwork before starting the exchanges or supervision.

12. **Potential Outcomes of the Process: Stipulation vs. Recommendation**

What are the possible outcomes? And what are your rights, in the event that you are unhappy with the outcome?

- **Stipulation:** This is another word for Agreement. It is the Parenting Plan that you two have worked out together. Both of you, and the judge, will sign your stipulation. Once the judge signs the stipulation, it becomes an Order of the Court.
- **Recommendation:** The mediator/investigator writes a recommendation when you are unable to reach an agreement. It may be accepted as is, or modified by the judge, as s/he sees fit. The written recommendations will be given to you before the judge sees them. You have the right to see the Full Custody/Move Away Evaluation Report 10 days prior to your Court date, so that you can prepare a response, if necessary.
- **Disagreement:** If you disagree with all or part of the recommendations, write down your objections in advance, along with your proposed solutions; then in Court, you can explain to the Judge what you disagree with and what you would like instead. You also have the right to a hearing if you disagree with the recommendations.
- **Hearing:** At the hearing, you can bring witnesses and other evidence to support your case.

13. **What about the other people (the children, spouses, etc.) involved in the Court process?**

- **What to tell the children:** Before you go to Court on parenting issues, tell the children something like, *We're going to work on getting a plan for both parents to share in your life.* Children need to know that you and the other parent are working together to come up with a plan. Sometimes parents have the urge to explain the whole Court process to the children. Stifle that urge. They don't need to hear the gory details! Do tell your children prior to their interview with the investigator or mediator that they will be asked questions about how everything is going for them, now that their parents are separated. Reassure them that the mediator or investigator is here to help, and will not make them choose between their parents or get a parent in trouble.
- **Children's Involvement:** Because children are often stuck in the middle, they feel unable to express to their parents what they really feel or want. Children over 5 years are usually interviewed privately during a Custody Evaluation by the Court investigator, who is an experienced professional. The investigator can help your child to give their perspective in a safe and neutral environment. This information is not confidential and may be discussed with the judge and/or included in the Custody Evaluation Report. *Do not coach your child!* It puts pressure on the child. That will make you look bad, not the other parent when the investigator picks up on the coaching.
- **Contacting Other People:** Sometimes the investigator may speak to a spouse or step-sibling. If, and how much, involvement people other than the parents of the case have, is determined by the investigator. Professionals involved in the case (therapists, teachers) will only speak to the investigator once a release is signed by both parents authorizing the professionals to speak with one another. Or they can write a declaration, which you file with your Court papers (and copy to the other parent).

- **Support Person:** In the case of domestic violence, the victim of (alleged) violence has the right to have a support person present in Court and during a mediation or Custody Evaluation.

14. **Typical issues and appropriate responses:**

Many issues come up for parents that can cause great feelings of anxiety, sadness, or frustration. How you respond can have a great influence of your well-being and that of your children.

- **False Accusations:** If you are being falsely accused of something by the other parent, be calm and cooperative, and present evidence to back up your story. Although you may feel terrible, you will find that the other parent will look bad, not you. *Falsely accusing the other parent is against the law.*
- **New Partners/Step-Parents:** When one parent has a new partner, many times that person can act as a buffer between parents who do not get along--and it can be great for the children, too. An extra adult to play with, get homework help from, and talk to without feeling stuck in the middle can be just the thing your child needs right now.
- **Long Distance Parenting/Move Away:** Long distance parenting, or if a parent wants to move away, might feel frustrating and worrisome. Your children need both of you. ***If you don't have to move, don't.*** If you must move or if you have a long distance parenting arrangement, you must both work to ensure that each parent has frequent and continued contact with the children.
- **High Conflict/Poor Communication:** High conflict and lack of communication can lead to many problems for parents and children. If you cannot communicate with the other parent, talk to the mediator about how other parents have handled the same situation. FCS has handouts for high conflict parents that may help you reduce conflict.
- **Mentally Ill, Addicted, or Absent Parents:** Some parents have problems that prevent them from being consistent, or even safe with their children. If you feel the other parent might have a problem, it is important to do two things. First, talk to your children about being safe. Let them know the other parent loves them, but has problems that make it hard to be there for the children the way the children want him/her to be. Second, take whatever steps are necessary, including coming to Court, to ensure safe contact between the children and the troubled parent. Eliminating contact is not a good option; supervised or even inconsistent contact is better than nothing. You can only control your behavior with the children, so focus on what you can do for them, and be there for them as much as possible.
- **Helpful Handouts:** Ask your mediator for handouts on the following topics: *Definition of Joint Legal Custody, New Relationships, Step-Parents, High Conflict Co-Parenting, Reactions to Breaking Up, Exchanges, Making Changes Easier, What to Tell Your Children, Long Distance Parenting, The Weather, the Informational Telephone Call, the Child's Best Interest,* and more.

15. **Co-Parent Class, Co-parent Counseling, Parenting Classes**

The mediator/investigator may recommend that one or both parents take classes to improve the family situation. Here are three classes you may be asked to take.

- **Co-Parent Class:** This is a one-time 3-hour class required for all parents who are separating. It is taught twice a month at the courthouse. It focuses on strategies to help the parents communicate with each other.
- **Co-parent Counseling:** This is counseling with a psychotherapist, with both parents in the room, trying to resolve parenting issues. This is done privately by the parents and is confidential.
- **Parenting Classes:** These are classes teaching parents about how to be a good parent. Often these are age-specific (very young children, teens, etc.)

16. Miscellaneous Information

- **Emergency Court Matters (Ex Parte):** Sometimes an emergency arises regarding the children and custody/visitation orders. For example, the other parent refuses to let you see your child on your Court ordered time. You can file an emergency motion, called an Ex Parte Motion that allows you to be seen in Court the next afternoon. At that time, the judge may ask you and the other parent to see a mediator regarding your parenting issues. You will usually have orders that day.
- **You Reach an Agreement Before Your Appointment:** If you come to an agreement **before** your scheduled mediation or Evaluation, please contact the Court (831-454-2380) to cancel your appointment. However, if you don't have an attorney, and you want your agreement written as a Court order, keep the appointment, and the mediator will write up the Court order.
- **Parking:** Parking in the parking lot is free for two hours. You can get an all day pass for \$1 at the booth in the main hallway of the County Building.
- **Fees:** Here is the fee schedule for the different services provided by Family Court Services. You must pay your fee at the clerk's office (Room 110) before your appointment. If you cannot do so, the clerk's office will arrange for a payment schedule.

Mediation: Recommending or Screening* (3 hours per year total)	No Charge
Confidential Counseling** (3 hours outside of Court)	\$225.00
Review of Parenting Plan	\$60.00 hr.
Family Dispute Resolution.....	\$60.00 hr
Child Interview	\$60.00 hr.
Evaluation Partial	\$120.00 hr.
Evaluation, Full	\$1200.00
Move Away Evaluation.....	\$1200.00
Testifying.....	\$120.00 hr