

FREEDOM FROM PARENTAL CUSTODY AND CONTROL CASE

(Fam. Code, § 7800 et seq.)

NOTICE OF APPEAL

Forms: The attached forms are for use in an appeal in the Court of Appeal, Fourth Appellate District, from a judgment or order granting or denying a non-dependency termination of parental rights (freedom from parental custody and control) under the Family Code, starting at section 7800. In some such cases an indigent party may have a right to court-appointed counsel. The forms include:

- **Notice of Appeal.** The notice of appeal should be filled out completely and must be signed by either you or your trial counsel. (If counsel signs it, the box indicating the client has authorized the appeal must be checked.)
- **Motion for Appointment of Counsel on Appeal.** If you cannot afford to retain an attorney on appeal, the motion for appointment of counsel at the bottom of the notice of appeal should be filled out and signed by you (preferably) or trial counsel. If you have no income and are not in custody, you must explain how living expenses are met.
- **Instructions for Filling Out Notice of Appeal.**
- **Background Information.** This information helps to ensure that your appeal is processed correctly and that you are properly represented on appeal. Please file with page 1. It is not confidential.
- **Change of Address.** Detach and keep the change of address form for use as needed. It is critical you keep the Court of Appeal, Appellate Defenders, Inc., and your appellate attorney informed of your current address at all times.

When: A notice of appeal must be filed within **60 days** from the date of the judgment or order being appealed.

What: Family Code sections 7894 and 7895 and Code of Civil Procedure section 45 govern appeals from a judgment or order granting or denying a petition to declare a child free from parental custody and control.

Where: File the notice of appeal in the superior court where the decision being appealed was made. The main courthouses handling these cases in each county of the Fourth Appellate District are listed below. (If your case was at a branch courthouse, check with your attorney or a court clerk for the filing location.)

SAN DIEGO COUNTY

▫ 2851 Meadowlark, San Diego, CA 92123-2792

IMPERIAL COUNTY

▫ 939 Main Street, El Centro, CA 92243

RIVERSIDE COUNTY

▫ 4175 Main Street, Riverside, CA 92501

SAN BERNARDINO COUNTY

▫ 351 N. Arrowhead Ave., San Bernardino, CA 92415

INYO COUNTY

▫ 168 North Edwards Street, Independence, CA 93526

ORANGE COUNTY

▫ Lamoreaux Justice Center, 341 The City Drive, Room 702, Orange, CA 92868-3209

For assistance: Contact Appellate Defenders, Inc., a firm of appellate attorneys that manages the entire system of court-appointed counsel in the Fourth Appellate District Court of Appeal: 555 West Beech Street, Suite 300, San Diego, CA, 92101. Telephone: (619) 696-0282. Website with e-mail contacts, forms, ADI California Criminal Appellate Practice Manual, and multiple other resources: <http://www.adi-sandiego.com>

INSTRUCTIONS ON PAGE 2. This Notice of Appeal must be filed within 60 days of the decision being appealed, in the county superior court where the decision was made. File the background information form (p. 3) along with it.

(1) Name of appellant : _____

Address: _____

City _____ State _____ Zip _____

Phone (if applicable): _____ Date of birth: _____

For Court Use Only

SUPERIOR COURT OF THE STATE OF CALIFORNIA,
COUNTY OF (2) _____

(3) In re _____, a Minor _____
)
 Print child's name Date of birth)

Other children involved in this appeal (list name and date of birth): _____)

(4) Superior Court No. _____

NOTICE OF APPEAL

(Family Code § 7800)

(5) Appellant's relationship to minor(s): _____)

Mother Father Other (describe): _____)

(6) This appeal is from (check one):

A judgment *granting* freedom from parental custody and control.

A judgment *denying* freedom from parental custody and control.

Other (*describe*): _____

(7) Date of order being appealed: _____

(8) Signature of appellant or counsel (required): _____

Signature of Appellant

Date of Signature

OR This appeal is authorized by my client.

Signature of Counsel (with State Bar no.)

Date of Signature

The filing of a notice of appeal by counsel is not an undertaking to handle the appeal. (Pen. Code, § 1240.1, subd. (b).)

(9) MOTION FOR APPOINTMENT OF COUNSEL

The appellant requests the Court of Appeal appoint an attorney for appeal. The appellant does not have sufficient means to hire an attorney. The appellant and his or her spouse (if applicable) have the following combined income and property:

Take-home pay from job (monthly): \$ _____

Other income (monthly): \$ _____

Money in bank at this time: \$ _____

Home ownership? (Check one.) Yes No

Trial attorney was: (Check one.)

A public defender or court-appointed attorney.

An attorney paid for by appellant.

Other: _____

I declare under penalty of perjury under the laws of the State of California that this information is true and correct:

_____ Date

_____ Signature of Appellant (preferred) or Trial Counsel

INSTRUCTIONS FOR FILLING OUT NOTICE OF APPEAL

Please follow these instructions carefully. If you have any questions, ask your trial attorney or Appellate Defenders, Inc., for help.

A notice of appeal must be filed within **60 days** of the decision being appealed. It is filed with the **county superior court** where the decision was made.

The notice of appeal form is designed to be completed easily by checking boxes or filling in the blanks with your case information. Wherever you see a line like this, _____, fill the blank in with the appropriate information. The numbers below refer to the numbers on the notice of appeal form:

- (1) **Name and other information:** Print your name. Give your address at the time you file the notice of appeal. (Use the change of address form for later changes.) Provide phone number if applicable and date of birth.
- (2) **County:** Show the county where the dispositional order (or order after disposition) in your case was made.
- (3) **Child or children involved:** Print the name and date of birth of the child involved in the appeal. If there are more than one, check the box and list the names and dates of birth of the others.
- (4) **Superior court number:** Show the case number(s) on the notice of appeal form. Ask your attorney if you do not know your superior court number(s). If you were involved in more than one case at the same time, include all of the case numbers you want to appeal.
- (5) **Appellant's relationship to child:** Check the appropriate box showing whether you are the mother or father of the child or children involved. If you have a different relationship, describe.
- (6) **Type of order being appealed:** *One of these boxes must be checked.*

Indicate whether the trial court *granted* or *denied* the petition for freedom from parental custody and control, or describe other order being appealed.
- (7) **Date:** Enter in this blank the date on which the court made the decision you are appealing. If you are not sure, check with your attorney or write, "On or about" and the closest date that you can recall.
- (8) **Signature:** Your signature or your attorney's signature is required. If the attorney is signing, the box indicating that the appeal is authorized by the client *must* be checked.
- (9) **Motion for appointment of counsel:** You may be entitled to court-appointed counsel on appeal if you do not have the funds to retain an attorney. (See Family Code, § 7895, subd. (b); see also *In re J. W.* (2002) 29 Cal.4th 200; cf. *In re Bryce C.* (1995) 12 Cal.4th 226.) Fill out the form at the bottom of the notice of appeal.

REMEMBER:

- The notice of appeal must be filed with the superior court no later than **60 days** from the date of the decision being appealed. If possible, keep some proof of mailing or filing.
- Send the notice of appeal to the **superior court** of the county where your case took place.
- Be sure to complete and file **all sections** of the notice of appeal, motion for appointment of counsel, and background information form.
- Detach and keep the **change of address** form for use as needed. It is critical to keep the Court of Appeal, Appellate Defenders, Inc., and your appellate attorney informed of your current address at all times.

BACKGROUND INFORMATION

To be filed along with Notice of Appeal (page 1)

THE INFORMATION ON THIS FORM WILL BE A PART OF THE PUBLIC RECORD AND IS NOT CONFIDENTIAL.

Name: _____ Date of birth: _____ Superior court no.: _____

Current address: _____

City _____ State _____ Zip _____

If applicable: Phone: _____ A.K.A : _____

Mother Father Minor Other (explain): _____

*** IMPORTANT: YOU MUST TELL APPELLATE DEFENDERS, INC., THE COURT OF APPEAL, OR YOUR APPELLATE ATTORNEY WHENEVER YOUR ADDRESS CHANGES. IF YOU FAIL TO DO THIS, YOUR CASE MAY BE DELAYED OR LOST. CHANGE OF ADDRESS FORMS ARE ATTACHED.**

Family member or friend who will always know your address:

Name and relationship: _____ Phone: _____

Address: _____ City _____ State _____ Zip _____

Trial attorney:

Name: _____ Phone: _____

Address: _____ City _____ State _____ Zip _____

Proceeding appealed from:

Order granting termination of parental rights Order denying termination of parental rights Other (describe)

Other information about proceedings:

Did you need an interpreter in court? Yes No. If yes, in what language? _____

Do you have now, or have you ever had, any related appeals, writs, or other proceedings before this or any other California appellate court? Yes No. If yes, give case title, number, and dates, and describe proceedings:

Names of other parties and their counsel:

Possible issues on appeal (These are only suggestions. The attorney on appeal will make the final decision on which issues to raise.):

Arrangements for counsel on appeal: Have you *hired* an attorney for your appeal? Yes No. If yes:

Name: _____ Address and phone: _____

If you cannot afford to hire an attorney, you may have the right to have the court appoint one for you. Please fill out and sign the request for counsel on the bottom of the notice of appeal (page 1).

NOTIFICATION OF CHANGE OF ADDRESS

– DETACH FROM NOTICE OF APPEAL AND KEEP FOR USE AS NEEDED –

Once a notice of appeal is filed, it is important that the Court of Appeal, your appellate attorney, and Appellate Defenders, Inc., know your current address at all times while the appeal is pending. It is your responsibility to provide your correct address. If you fail to do that, your appeal may be delayed or dismissed.

You do not have to use the forms below, but they may make it easier to provide the information.

CHANGE OF ADDRESS

Appeal Number (if known): _____ Date: _____

Your Name: _____

New Address: _____

City

State

Zip

Mail to: Appellate Defenders, Inc.
555 West Beech Street, Suite 300
San Diego, CA 92101-2939

Be sure to notify your attorney, too, if an attorney has been appointed to your case.

(DETACH HERE)

CHANGE OF ADDRESS

Appeal Number (if known): _____ Date: _____

Your Name: _____

New Address: _____

City

State

Zip

Mail to: Appellate Defenders, Inc.
555 West Beech Street, Suite 300
San Diego, CA 92101-2939

Be sure to notify your attorney, too, if an attorney has been appointed to your case.