

JUDICIAL COUNCIL OF CALIFORNIA

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INVITATION TO COMMENT SPR18-20

Title	Action Requested
Family Law: Changes to Continuance Rule and Forms	Review and submit comments by June 8, 2018
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend rule 5.94; approve forms FL-302-INFO, FL-306-INFO, FL-308, and FL-309; revise forms FL-303 and FL-306; and revoke and replace form FL-307	January 1, 2019
As Proposed by	Contact
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Executive Summary and Origin

The Family and Juvenile Law Advisory Committee proposes changes to one rule of court and three forms relating to the procedure for continuing a hearing as described in that rule. In addition, the committee proposes two new information sheets—one that explains the process associated with form FL-306 and another that describes the options for rescheduling a hearing. The changes are intended to respond to the concerns raised by courts that form FL-306, revised effective September 1, 2017, is not being used by attorneys and parties for the limited purpose intended by the Judicial Council and to provide general information to litigants about rescheduling hearings.

Background

Effective September 1, 2017, the Judicial Council revoked form FL-306 and replaced it with two new forms—an application and an order. The title of new form FL-306, *Request to Continue Hearing*, was used to harmonize it with other civil forms used to request a continuance to effect service with temporary emergency (ex parte) orders (i.e., *Order on Request to Continue Hearing* (form DV-116), *Request to Continue Court Hearing* (form WV-115), *Request to Continue Court Hearing* (form EA-115)).

The proposals have not been approved by the Judicial Council and are not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee. These proposals are circulated for comment purposes only.

In addition, form FL-306 was “expanded to cover actions filed by the Department of Child Support Services in parentage cases and to allow a party to use the form to ask the court to continue a hearing on a *Request for Order* (form FL-300), order to show cause, or other moving papers without temporary emergency orders *to allow time for service before the hearing* (emphasis added).”¹

Subdivision (f) of rule 5.94 of the California Rules of Court and forms FL-306 and FL-307, *Order on Request to Continue Hearing*, cover requests to continue a hearing in limited circumstances. They allow a party to request that the court continue a hearing when the other parties in the case have not been served with notice of the hearing. In this situation, under rule 5.94, the moving party is not required to provide notice to the other party before seeking an order to continue the hearing. Rule 5.94 also allows responding parties who have been served to use form FL-306 to request a continuance of hearing involving temporary emergency orders, as permitted by Family Code section 245. However, the rule does not address how notice to the other party is to be provided.

When the title of the mandatory form was changed to *Request to Continue Hearing*, effective September 1, 2017, courts observed that parties and attorneys started using form FL-306 to ask to continue a hearing date in all cases, including when the other party had actually been served with notice of the hearing.

No statewide rules of court or forms cover procedures for continuances other than as provided by rule 5.94(f). The procedure for all other continuances is governed by local court rules. Local procedures generally require that the party asking to continue the hearing provide notice of the request to the other parties, thereby allowing the other parties the opportunity to be heard on the request to continue the hearing before the court makes an order.

The changes proposed to rule 5.94 and other forms would address the issue of when notice is required on the other party before asking the court to continue a hearing and provide a method for the other party to respond to the request before the court considers the request. New information sheets would also educate parties about filing and responding to a request to continue a hearing and generally describe other procedures to reschedule a hearing in family court.

The Proposal

Amendments to rule 5.94

The rule would incorporate new content to specifically address how to ask to reschedule a hearing—and respond to the request—in different circumstances. For example, the rule would be reorganized under the following subdivision titles:

¹ See Judicial Council of Cal., *Family Law: Request to Continue Hearing and Declaration Regarding Notice of Request for Temporary Emergency Orders* (Apr. 28, 2017), p. 4, <https://jcc.legistar.com/View.ashx?M=F&ID=5165106&GUID=7C168ED1-5D9D-47F5-A816-B9A99F2CAB4C>.

- (f) Rescheduling a hearing to serve papers on the other party;
- (g) Rescheduling a hearing to respond to a request for temporary emergency (ex parte) orders;
- (h) Rescheduling a hearing involving temporary emergency (ex parte) orders;
- (i) Rescheduling a hearing to attend mediation or child custody recommending counseling;
- (j) Agreements to reschedule a hearing; and
- (k) Request for order to reschedule a hearing.

Reorganizing the rule to include the new content will help the parties understand the procedures that apply in each situation and the forms and information sheets associated with those procedures.

The committee also proposes using the term “reschedule” to replace “continue” or “continuance” as a global change to the rule and forms in this invitation to comment. This change would respond to comments from court professionals and organizations that assist self-represented litigants that the term “continue” is often misunderstood and should be clarified so that a party understands that the hearing will not proceed (continue) as scheduled, but will be reset to a future date.

Changes to forms

Request to Continue Hearing (*form FL-306*)

The committee proposes changing this form as follows:

- The title of form FL-306 would be changed to *Request to Reschedule Hearing*.
- All references to “continue” or “continuance” would be replaced with “reschedule,” as previously noted.
- The content would be divided under two titles “INFORMATION ABOUT THE HEARING” and “REASON FOR REQUEST TO RESCHEDULE.”
- The content under “REASON FOR REQUEST TO RESCHEDULE” would clarify when the form can be used.
- A new notice box would clarify that the other party must be notified of the request to reschedule and would direct the user to a new information sheet to learn about filing and serving this form.
- A reference to new information about this form would be added under the caption and title.

Order on Request to Continue Hearing (*form FL-307*)

This form would be renumbered from FL-307 to FL-309. The form number FL-307 would be reassigned to a proposed new form, *Responsive Declaration to Request to Reschedule Hearing*. The renumbered order form would be revised to include a space for the court to order the parties to attend child custody mediation or recommending counseling. In addition, the term “continue” would be replaced by “reschedule,” and the title of form FL-309 would be revised.

Declaration Regarding Notice and Service of Request for Temporary Emergency (*Ex Parte*) Orders (form FL-303)

Page 2 of this form would be revised to add item 4a(2) for a party or attorney to indicate if other documents (not listed in 4a(1)) were served. This change would be needed to implement a proposed new procedure included in rule 5.94(h)(4) for cases in which written notice of a request to reschedule a hearing using form FL-306 must be completed less than five days before the hearing. However, the specific form numbers would not be included on form FL-303 to avoid confusion, because form FL-306 is to be used in limited cases.

New forms

How to Reschedule a Hearing in Family Court (form FL-302-INFO)

The proposed new form would generally describe four ways in which a party may ask the court to reschedule a hearing. It would also include references to resources if the party has questions about the process.

When to Use Request to Reschedule Hearing Form (form FL-306-INFO)

This form would provide detailed information about when *Request to Reschedule Hearing* (form FL-306) can be used in a family law case. The form describes how to comply with rule 5.94 of the California Rules of Court relating to notifying the other party about the request to reschedule the hearing and how to respond to the request.

No Judicial Council forms currently address the issue of continuances in family court. This area is largely a matter left to local rules and procedures. The above two new forms proposed in this cycle can generally make parties aware of the ways a hearing can be continued, and form FL-306-INFO can help parties understand when and how to use form FL-306.

Responsive Declaration to Request to Reschedule Hearing (form FL-307)

This new optional form would implement the new procedures specified in rule 5.94. The rule would require a blank copy of form FL-307 to be served on the other party when form FL-306 is used to ask to reschedule the hearing. The new form and procedures will likely encourage the other party to file and serve a response, thereby providing information for the judicial officer to consider before making an order on the request to reschedule the hearing.

Agreement and Order to Reschedule Hearing (form FL-308)

Finally, proposed optional *Agreement and Order to Reschedule Hearing* (form FL-308) would provide parties with a form to serve as their stipulation if the court does not provide a local form for this purpose. Like *Order on Request to Reschedule Hearing* (form FL-309), form FL-308 would include a space for the court to order the parties to attend child custody mediation or recommending counseling. Unlike form FL-309, the form would only be one page. It would be limited to cases in which a party is seeking only to reschedule the hearing to a new date. Parties who want to agree to reschedule the hearing as well as modify temporary emergency (*ex parte*) orders would be required to draft their own agreement for the court to sign.

Alternatives Considered

The Family and Juvenile Law Advisory Committee considered the following:

- (1) Recommending temporary technical revisions to forms FL-306 and FL-307 to respond to the concerns raised by courts that form FL-306, revised effective September 1, 2017, was not being used by attorneys and the parties for the limited purpose intended by the Judicial Council. The technical changes to the rule and form would have clarified to the parties, attorneys, and court that form FL-306 should not be used in all cases to request a continuance of a hearing.
- (2) Directing staff from the Center for Families, Children & the Courts to provide technical assistance to judicial officers and court clerks about the proper use of form FL-306 for rescheduling a hearing.
- (3) Undertaking a comprehensive review of rule 5.94 and forms and recommending changes to respond to the concerns raised by court professionals following the September 1, 2017, publication of the amended rule and revised forms.

The committee did not decide to pursue interim technical changes in (1) because doing so would have required courts to incur additional costs to produce copies over three consecutive forms publication cycles. Instead, the committee opted to proceed with options (2) and (3).

The committee decided to direct staff to provide technical assistance to the courts and concurrently draft for circulation in the subsequent public comment cycle a proposal that would include new information sheets and clarify the procedures for a party to provide notice to the other party and the opportunity for the other party to respond to a *Request to Reschedule Hearing* (form FL-306).

Implementation Requirements, Costs, and Operational Impacts

The committee anticipates that courts would incur some costs to revise forms and add them to their case management systems, train court staff about the amended rule and revised and new forms included in this proposal, and possibly revise local court rules and forms so they are consistent with the changes adopted by the Judicial Council. However, the committee expects that the changes will save resources for the courts in the long term by clarifying procedures.

Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?
- Are other changes to the rules and forms needed for the proposal to address the stated purpose?

The advisory committee also seeks comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so please quantify.
- What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?
- Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

Attachments and Links

1. Cal. Rules of Court, rule 5.94, at pages 7–12
2. Forms FL-302-INFO, FL-303, FL-306, FL-306-INFO, FL-307, FL-308, and FL-309, at pages 13–24

Rule 5.94 of the California Rules of Court would be amended, effective January 1, 2019, to read:

1 **Rule 5.94. Order shortening time; other filing requirements; request to ~~continue~~**
2 **reschedule hearing**

3
4 (a)–(d) * * *

5
6 (e) **Failure to timely serve request for order**

7
8 The *Request for Order* (form FL-300) or other moving paper such as an order to
9 show cause, along with any temporary emergency (ex parte) orders, will expire on
10 the date and time of the scheduled hearing if the requesting party fails to:

- 11
12 (1) Have the other party timely served before the hearing with the *Request for*
13 *Order* (form FL-300) or other moving paper, such as an order to show cause;
14 supporting documents; and any temporary emergency (ex parte) orders; or
15
16 (2) Obtain a court order to ~~continue~~ reschedule the hearing.

17
18 (f) ~~Procedures to request continued hearing date~~ **Rescheduling a hearing to serve**
19 **papers on the other party**

20
21 (1) If a *Request for Order* (form FL-300), order to show cause, or other moving
22 paper is not timely served on the other party before the date of the hearing,
23 and the party requesting the order wishes to proceed with the request, he or
24 she must ask the court to continue reschedule the hearing date. For purposes
25 of this rule, “reschedule the hearing” means the same as “continue the
26 hearing” under the Family Code.

27
28 (2)(1) On a showing of good cause or on its own motion, the court may:

- 29
30 (A) ~~Continue~~ Reschedule the hearing and set a new date; and
31
32 (B) Modify or terminate any temporary emergency (ex parte) orders
33 initially granted with the *Request for Order*, order to show cause, or
34 other moving paper.

35
36 (3)(2) If the court ~~grants a continuance~~ reschedules the hearing and makes no
37 change to the temporary emergency (ex parte) orders, those orders are
38 extended until the time of the ~~continued~~ rescheduled hearing or to another
39 date specified by the court.
40

1 (4) ~~The party served with a *Request for Order* (form FL-300), order to show~~
2 ~~cause, or other moving paper that includes temporary emergency (ex parte)~~
3 ~~orders:~~

4
5 (A) ~~Is entitled to one continuance as a matter of course for a reasonable~~
6 ~~period of time to respond. A second or subsequent request by the~~
7 ~~responding party to continue the hearing must be supported by facts~~
8 ~~showing good cause for the continuance;~~

9
10 (B) ~~May ask the court to continue the hearing by using *Request to Continue*~~
11 ~~*Hearing* (form FL-306); and~~

12
13 (C) ~~Must file and serve a *Responsive Declaration to Request for Order*~~
14 ~~(form FL-320) before the date of the new hearing, as required by law or~~
15 ~~described in *Order on Request to Continue Hearing* (form FL-307).~~

16
17 (5)(3) ~~The following procedures apply to either the party's request asking to~~
18 ~~continue reschedule the hearing because the responding party has not been~~
19 ~~served with the moving papers:~~

20
21 (A) ~~The party asking for the continuance must complete and submit an~~
22 ~~original *Request to Continue Reschedule Hearing* (form FL-306) with~~
23 ~~two copies for the court to review, as follows:~~

24
25 (i) ~~The form should be submitted to the court no later than five court~~
26 ~~days before the hearing date set on the *Request for Order*, order~~
27 ~~to show cause, or other moving papers; or~~

28
29 (ii) ~~The party may present the form FL-306 to the court on the date~~
30 ~~of the hearing.~~

31
32 (iii) ~~The party who on the date of the hearing, makes an oral request~~
33 ~~to the court to continue the hearing, is not required to complete~~
34 ~~form FL-306, but must complete and submit an *Order on Request*~~
35 ~~*to Continue Hearing* (form FL-307) if the court grants the~~
36 ~~request.~~

37
38 (B) ~~The party may make an oral request to reschedule the hearing on the~~
39 ~~date of the hearing and is not required to complete form FL-306.~~
40 ~~However, the party must still follow the procedures as described in (C).~~

41
42 (B)(C) ~~Along with form FL-306, The party asking for the continuance to~~
43 ~~reschedule the hearing to serve papers must submit to the court an~~

1 *Order on Request to ~~Continue~~ Reschedule Hearing* (form FL-3079)
2 with the caption and initial items completed as described on the form.

3
4 ~~(C)~~(D) After the court signs and files form FL-3079, a filed copy must
5 be served on the other party as follows, unless the court orders
6 otherwise:

7
8 (i) If the ~~continuance is granted~~ court reschedules the hearing, the
9 *Order on Request to ~~Continue~~ Reschedule Hearing* (form
10 FL-3079) must be attached as the cover page and served along
11 with the *Request for Order* (form FL-300) or other moving
12 papers such as an order to show cause; any temporary emergency
13 (ex parte) orders; and supporting documents.

14
15 (ii) If the court grants the responding party's request for a
16 ~~continuance, and the party who asked for the orders was absent~~
17 ~~when the continuance was granted, then *Order on Request to*~~
18 ~~*Continue Hearing* (form FL-307) must be attached as the cover~~
19 ~~page to any documents the court orders served on that party.~~

20
21 ~~(iii)~~(ii) Service must be in the manner required by rule 5.92 or as
22 ordered by the court.

23
24 ~~(D)~~(E) If the *Order on Request to ~~Continue~~ Reschedule Hearing* (form
25 FL-3079), *Request for Order* (FL-300) or order to show cause, original
26 or modified temporary emergency (ex parte) order, and supporting
27 documents are not timely served on the other party, and the requesting
28 party wishes to proceed with the hearing, he or she must repeat the
29 procedures in this rule ~~unless the opposing party agrees to waive notice~~
30 ~~and proceed with the hearing unless the court orders otherwise.~~

31
32 (g) **Rescheduling a hearing to respond to a request for temporary emergency (ex**
33 **parte) orders**

34
35 The party served with a *Request for Order* (form FL-300), order to show cause, or
36 other moving paper that includes temporary emergency (ex parte) orders:

37
38 (1) Has the right under Family Code 245 to reschedule the hearing one time for a
39 reasonable period to respond. Additional requests by the responding party to
40 reschedule the hearing on the temporary emergency (ex parte) order must be
41 supported by facts showing good cause to reschedule the hearing.
42

- 1 (2) May ask the court to reschedule the hearing in writing before or at the
2 hearing, or orally at the hearing, using the procedures described in (h).
3
4 (3) Should file and serve a *Responsive Declaration to Request for Order* (form
5 FL-320) before the date of the new hearing, as required by law or described
6 in the *Order on Request to Reschedule Hearing* (form FL-309).
7

8 **(h) Rescheduling a hearing involving temporary emergency (ex parte) orders**
9

10 Either party may ask the court to reschedule the hearing involving temporary
11 emergency (ex parte) orders. The request may be made in writing before or at the
12 hearing, or orally at the hearing.
13

- 14 (1) The party may make an oral request at the time of the hearing when all
15 parties are present. The party must complete the items indicated in the order
16 and submit two copies of *Order on Request to Reschedule Hearing* (form
17 FL-309) for the court to complete and sign.
18
19 (2) The party making a written request should provide written notice no less than
20 five court days before the hearing. To do so, the party must:
21
22 (A) Have the other party personally served with a copy of *Request to*
23 *Reschedule Hearing* (form FL-306), a blank *Responsive Declaration to*
24 *Request to Reschedule Hearing* (form FL-307), and *Order on Request*
25 *to Reschedule Hearing* (form FL-309) with the required items on the
26 form completed; and
27
28 (B) File the original form FL-306 with the court, along with proof that the
29 other party was personally served with the forms described in (A). An
30 original and two copies of the order (form FL-309) must also be
31 submitted to the court clerk at that time.
32
33 (C) After the judicial officer signs the order, serve the other party the *Order*
34 *on Request to Reschedule Hearing* (form FL-309) as the cover page to
35 all documents listed on the order. Service must be in the manner
36 ordered by the court or as described in rule 5.92.
37
38 (D) File with the court proof that the other party was served with the order
39 and documents listed in the order on or before the date of the original
40 hearing.
41
42 (3) The responding party must file any response to the written request to
43 reschedule at least three court days after being served with the request.

1 Responsive Declaration to Request to Reschedule Hearing (form FL-307)
2 may be used for this purpose.

3
4 (4) If written notice to reschedule the hearing is given less than five court days
5 before the hearing:

6
7 (A) The party (or attorney) must:

8
9 (i) Notify the other party by no later than 10 a.m. the day before
10 submitting forms FL-306 and FL-307 to the court clerk;

11
12 (ii) Personally serve on the other party or the attorney an unfiled
13 copy of completed form FL-306, a blank form FL-307, and
14 form FL-309 with the necessary items completed;

15
16 (iii) File form FL-306 with the court and:

17
18 a. File a declaration describing how and when the other parties
19 were notified of the request to reschedule the hearing and
20 served with the papers. *Declaration Regarding Notice and*
21 *Service of Request for Temporary Emergency (Ex Parte)*
22 *Orders* (form FL-303) may be used for this purpose; and

23
24 b. Submit an original *Order on Request to Reschedule Hearing*
25 (form FL-309) (with the required items completed) and two
26 copies to the court clerk; and

27
28 (iv) When the court signs form FL-309, have the other party served
29 with a file-stamped copy, along with the other documents listed
30 on that order.

31
32 (B) The other party may file and serve a *Responsive Declaration to Request*
33 *to Reschedule Hearing* (form FL-307) before the date and time set for
34 the emergency hearing.

35
36 (i) **Rescheduling a hearing to attend mediation or child custody recommending**
37 **counseling**

38
39 (1) When parties need to reschedule a hearing relating to child custody and
40 visitation (parenting time) because they have been unable to attend the family
41 court services appointment, they should follow their local court rules and
42 procedures for requesting and obtaining an order to reschedule the hearing.

1 (2) If the local court has no local rules and procedures for rescheduling hearings
2 under (1), the parties may:

3
4 (A) Complete and file an agreement (stipulation) for the court to sign. See
5 (j) of this rule; or

6
7 (B) Complete and file form FL-306 as described in (h)(2) or (h)(4).
8

9 (j) **Agreements (stipulations) to reschedule a hearing**

10
11 The court may order that the hearing date of a *Request for Order* (FL-300), order to
12 show cause, or other moving paper be rescheduled based on an agreement
13 (stipulation) between the parties and/or their attorneys.

14
15 (1) The parties may complete *Agreement and Order to Reschedule Hearing*
16 (form FL-308) for this purpose.

17
18 (2) The parties may agree to reschedule the hearing to a date that must be
19 provided by the court clerk.

20
21 (3) If temporary emergency orders are in effect, the parties may further agree
22 that those orders will remain in effect until after the end of the new hearing
23 date, or until another date that is ordered by the court.

24
25 (4) The court must approve and sign the agreement to make it a court order.

26
27 (5) The court may limit the number of times that parties can agree to reschedule
28 a hearing.

29
30 (k) **Request for order to reschedule a hearing**

31
32 If there is no agreement to reschedule a hearing—or if the hearing must be
33 rescheduled for reasons other than those specified in *Request to Reschedule*
34 *Hearing* (form FL-306)—the party seeking to reschedule may:

35
36 (1) File and serve *Request for Order* (form FL-300) to ask the court to
37 reschedule the hearing as described in rule 5.92; or

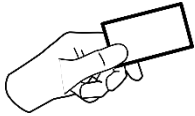
38
39 (2) If time before the hearing is insufficient to file and serve a *Request for Order*
40 (form FL-300) seeking an urgent order to reschedule, file a *Request for Order*
41 seeking an order shortening time (temporary emergency [ex parte] order) to
42 reschedule the hearing under rules 5.151, 5.165, 5.167, and 5.169.

FL-302-INFO How to Reschedule a Hearing in Family Court

If you need to reschedule (continue) a hearing date for a *Request for Order* or *Order to Show Cause*, you will need a court order. This form describes the ways you can seek a court order to reschedule a hearing.

1 Request to Reschedule Hearing (Form FL-306)

Use this form to ask to reschedule the hearing only if the following applies to your case:



Serve papers

A *Request for Order* or *Order to Show Cause* (with or without temporary (ex parte) emergency orders) could not be served on the other party or parties as required before the hearing.



New mediation date

The parties have not been able to meet with a child custody mediator or recommending counselor before the hearing as ordered by the court. Ask your mediator or child custody recommending counselor for information if this situation applies to you. Most courts have local procedures and forms in these cases, but will accept form FL-306 or your agreement (for example, form FL-308) to reschedule the hearing.



Temporary emergency (ex parte) orders

Either party has a good reason (“good cause”) for rescheduling a hearing that involves temporary emergency (ex parte) orders. If the hearing is rescheduled, the court may extend, change, or end the temporary emergency (ex parte) orders.

Note: The person responding to temporary emergency (ex parte) orders served with a *Request for Order* or *Order to Show Cause* has a legal right to reschedule one hearing to provide a reasonable time to respond, but must provide a good reason for the court to reschedule additional hearings.



DO NOT USE FORM FL-306:

- If you and the other party have an agreement (a “stipulation”) to reschedule the hearing. See item 2.
- To ask to change the date of a domestic violence restraining order hearing. Read [DV-115-INFO](#), *How to Ask for a New Hearing Date*, for more information.
- For any reason not listed on form FL-306. If you cannot agree to a new date, a party must file a *Request for Order* (form FL-300) to ask the court to reschedule the hearing. See items 3 and 4.

Notice to the other party:

Before filing form FL-306, the party asking to reschedule the hearing must let the other parties know about the request and serve them a copy of the form with any other documents related to the request (unless the need to reschedule is because the other party was not served before the hearing).

For more information, including procedures and deadlines for providing notice and filing form FL-306, read *Information Sheet for Request to Reschedule Hearing* (form FL-306-INFO).



2



Agreement (Stipulation) to Reschedule Hearing

The judge in your family court case may order that the hearing date be rescheduled based on an agreement (stipulation) between the parties or their attorneys.

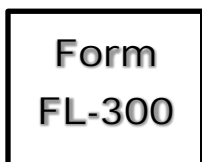
- You have to file the written agreement with the court. You can file it the day of the hearing, but it is best if you can file it at least five days before that date, so the judge doesn't have to read your file multiple times.
- You must follow your court's local procedures to obtain the new hearing date from the court clerk.
- You may use *Agreement and Order to Reschedule Hearing* (form FL-308), use a local form approved by the court, or write your own agreement.
- Some courts may limit the number of times the parties can agree to rescheduling a hearing. Check your local court rules before submitting your written agreement.

Important! If the court has issued temporary emergency orders and those orders are in effect, the parties could further agree that those emergency orders will remain in effect until the end of the new hearing. A draft of a new temporary order with new end dates may have to be given to the court for the judge to sign with your agreement.

For information about how to write up your agreement, get it approved by the court, and filed in your case, see <http://www.courts.ca.gov/selfhelp-agreeFL>, speak with an attorney, or get help at your court's self-help center or Office of the Family Law Facilitator.

3

Request for Order (Form FL-300)



A party may file a *Request for Order* ([form FL-300](#)) to ask the court to reschedule the hearing if there is enough time before the scheduled hearing to do so. This may be an option only if the court grants the request and the order can be served on the other party at least 15 days before the original hearing date.

The *Request for Order* must be filed with the court. It must also be served on the other party and a proof of service filed with the court.

For more information about completing and serving form FL-300, read *Information Sheet for Request for Order* ([form FL-300-INFO](#)). The form can be found online at www.courts.ca.gov/forms.htm.

4 Request for Temporary Emergency (Ex Parte) Order to Reschedule Hearing

Form
FL-300

If there is not enough time to file *Request for Order* (form FL-300) as described in **3**, there is another option. A party can file a *Request for Order* to ask the court to decide to change the date of the hearing on an emergency basis. To do so, the party asks the court for an “order shortening time,” which would allow a party to have the papers served on the other party less than 15 days before the hearing.

Form
FL-305

Do not use this procedure to ask to change the date of a domestic violence restraining order hearing. Read [DV-115-INFO](#), *How to Ask for a New Hearing Date*, for more information.

Form
FL-303

To request an order shortening time:

- Complete form FL-300. Describe the emergency and explain why you need an urgent order to reschedule the hearing. On the first page, after the title “Request for Order,” check the box for “Temporary Emergency Orders.” Then check the box for “Other” and write “Order Shortening Time.” Next, complete items 9 and 10, describing the emergency, and explain why you need an urgent order to reschedule the hearing.
- Complete *Temporary Emergency (Ex Parte) Orders* (form [FL-305](#)) to serve as your proposed temporary order.
- Include a declaration describing how and when you notified and served the other parties (or why you could not or did not do so) about your urgent request to reschedule the hearing. You may use form [FL-303](#).
- Complete other forms if required by your local court rules.
- Follow your court’s local procedures for reserving the day for the emergency (ex parte) hearing on your request to reschedule, if required, and submitting your paperwork. Check your court’s local rules and forms online at www.courts.ca.gov/3027.htm

More information about temporary emergency (ex parte) orders can be found on the California Courts Online Self-Help Center at www.courts.ca.gov/_____ (to be developed)

5 Do you have questions or need help?

- Find a lawyer through your local bar association, the State Bar of California at calbar.ca.gov, or the Lawyer Referral Service at 1-866-442-2529.
- For free and low-cost legal help (if you qualify), go to www.lawhelpca.org.
- Contact the family law facilitator or self-help center for information, assistance, and referrals to local legal services providers. Go to www.courts.ca.gov/selfhelp-courtresources.htm.

PARTY WITHOUT ATTORNEY OR ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY Draft not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	
DECLARATION REGARDING NOTICE AND SERVICE OF REQUEST FOR TEMPORARY EMERGENCY (EX PARTE) ORDERS	CASE NUMBER:

NOTICE: Do not use this form to ask for domestic violence restraining orders. Before completing this form, read your court's local procedures for requesting temporary emergency orders and obtaining the information needed to complete item 2 of this form. Courts may grant temporary emergency orders with or without an emergency hearing. Find local rules at courts.ca.gov/3027.htm.

1. I am (specify) attorney for petitioner respondent other parent/party
 not a party in the case (name and title/relationship to party):
2. I did did not give notice that
 there will be an emergency court hearing on a request for temporary emergency (ex parte) orders.
 papers will be submitted to the court asking a judicial officer to grant temporary emergency orders without a hearing on the date, time, and location indicated below:

a. Date: _____ Time: _____ <input type="checkbox"/> Dept.: _____ <input type="checkbox"/> Room: _____ b. Address of court: <input type="checkbox"/> same as noted above <input type="checkbox"/> other (specify): _____

3. **NOTICE** (If you gave notice, complete item 3a. If you did not give notice, complete item 3b or 3c.)
 - a. I gave notice as described in items (1) through (5):
 - (1) I gave notice to (select all that apply)

<input type="checkbox"/> petitioner.	<input type="checkbox"/> petitioner's attorney.
<input type="checkbox"/> respondent.	<input type="checkbox"/> respondent's attorney.
<input type="checkbox"/> other parent/party.	<input type="checkbox"/> other parent's/party's attorney.
<input type="checkbox"/> child's attorney.	<input type="checkbox"/> Other (specify): _____
 - (2) I gave notice

<input type="checkbox"/> personally on (date): _____ at (location): _____, California; at	<input type="checkbox"/> a.m.
	<input type="checkbox"/> p.m.
<input type="checkbox"/> by telephone on (date): _____ telephone no.: _____ at	<input type="checkbox"/> a.m.
	<input type="checkbox"/> p.m.
<input type="checkbox"/> by voicemail on (date): _____ voicemail no.: _____ at	<input type="checkbox"/> a.m.
	<input type="checkbox"/> p.m.
<input type="checkbox"/> by fax on (date): _____ fax no.: _____ at	<input type="checkbox"/> a.m.
	<input type="checkbox"/> p.m.
 - (3) I gave notice (select one):

<input type="checkbox"/> by 10 a.m. the court day before this emergency hearing.
<input type="checkbox"/> after 10 a.m. the court day before this emergency hearing because of the following exceptional circumstances (specify): _____

PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	CASE NUMBER:
---------------------------------------------------	--------------

3. a. (4) I notified the person in 3a(1) that the following temporary emergency orders are being requested (specify):

(5) The person in 3a(1) responded as follows: Attachment 3a(5)

(6) I do do not believe that the person in 3a(1) will oppose the request for temporary emergency orders.

b. **Request for waiver of notice.** I did not give notice about the request for temporary emergency orders. I ask that the court waive notice to the other party to help prevent an immediate (identify the exceptional circumstances)

- (1) danger or irreparable harm to myself (or my client) or to the children in the case.
- (2) risk that the children in the case will be removed from the state of California.
- (3) loss or damage to property subject to disposition in the case.
- (4) Other exceptional circumstances (specify):

Facts in support of the request to waive notice include (specify): Attachment 3b.

c. **Unable to provide notice.** I did not give notice about the request for temporary emergency orders. I used my best efforts to tell the opposing party when and where this hearing would take place but was unable to do so. The efforts I made to inform the other person were (specify below): Attachment 3c.

4. **SERVICE OF FORMS**

a. (1) An unfiled copy of Request for Order (form FL-300) for temporary emergency orders, Temporary Emergency (Ex Parte) Orders (form FL-305), and related documents were served on the parties in (3).

(2) Other documents served on the parties in (3) are (specify):

- (3) Petitioner Petitioner's attorney Other parent/party Other parent/party's attorney
- Respondent Respondent's attorney Child's attorney
- Other (specify):

b. Method of service:

- Personal service on (date): _____ at (location): _____, California; at a.m. / p.m.
- Fax on (date): _____ fax no.: _____ at a.m. / p.m.
- Overnight mail or other overnight carrier.

c. Documents were not served on the opposing party due to the exceptional circumstances specified in 3b, above 3c, above Attachment 4c.

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

Date: _____

 (TYPE OR PRINT NAME) ▶ _____
(SIGNATURE)

PARTY WITHOUT ATTORNEY OR ATTORNEY STATE BAR NUMBER: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY <h2 style="margin: 0;">DRAFT</h2> <h2 style="margin: 0;">Not approved by the Judicial Council</h2>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT/PARTY:	
<p style="text-align: center;">REQUEST TO RESCHEDULE HEARING</p> <input type="checkbox"/> And Extend Temporary Emergency (Ex Parte) Orders	CASE NUMBER:

Notice: Read *Information Sheet for Request to Reschedule Hearing* (form FL-306-INFO) before you complete this form.

INFORMATION ABOUT THE HEARING

1. Name of person asking to reschedule the hearing (*specify*):
2. I ask that the court reschedule (continue) the hearing date for the (*select one*)
 - a. *Request for Order*
 - b. *Order to Show Cause for* Contempt Seek Work.
 - c. *Other (specify)*:
3. The item in 2 was filed on (*date*):
4. The hearing is currently set for (*date*):
5. The request to reschedule includes does not include temporary emergency (ex parte) orders previously issued.

REASON FOR REQUEST TO RESCHEDULE

6. I ask that the court reschedule the hearing because the papers could not be served as required before the hearing date.
7. I ask that the court reschedule the hearing to another date because (*check all that apply*):

Important! If you check item 7a, b, or c, you must file proof that you notified the other party of your request to reschedule the hearing, unless otherwise directed by the court. Read form FL-306-INFO for filing and service information.

 - a. the parties have not been able to meet with a child custody mediator or child custody recommending counselor as ordered by the court.
 - b. I am the party responding to the papers in 2. Under Family Code section 245, I have a legal right to one continuance for a reasonable period to respond to the request for temporary emergency (ex parte) orders.
 - c. the hearing concerns temporary emergency (ex parte) orders. For good cause, either party may ask the court to reschedule the hearing. My reasons for rescheduling are stated below [on Attachment 7\(c\)](#):

8. I have completed the required sections of *Order on Request to Reschedule Hearing* ([form FL-309](#)). (*Note: Form FL-309 must be submitted to the court with this form.*)

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

Date:

(TYPE OR PRINT NAME)

▶ _____
SIGNATURE

FL-306-INFO When to Use Request to Reschedule Hearing Form

If you need to reschedule (continue) the court date for a *Request for Order* or *Order to Show Cause*, you will need a court order. This form describes when you can use form FL-306 for this purpose. For other ways to reschedule a hearing, read *How to Reschedule a Hearing in Family Court* (form FL-302-INFO).

1 When can I use form FL-306?

Use of this form is limited to the following situations:

Service required

To ask that the court reschedule a hearing because a *Request for Order* or *Order to Show Cause* (with or without temporary emergency orders) could not be served on the other party or parties as required before the hearing.

Attend mediation

To ask for a new hearing date because the parties have been unable to attend mediation or because the child custody recommending counselor needs more time to complete a report before the hearing.

Time to respond to emergency orders

To respond to temporary emergency (ex parte) orders served with a *Request for Order* or *Order to Show Cause*.

The responding party has the legal right to reschedule one hearing for a reasonable time to respond to the request for temporary emergency (ex parte) orders.

If a responding party is asking the court to reschedule the hearing on the ex parte orders more than one time, the responding party must provide a good reason (“show good cause”) why the hearing should be rescheduled.

“Good cause” means a substantial reason for changing the hearing date, taking into account the prejudice or irreparable harm a party will suffer if a hearing is not held on the date originally set by the court.

Cases involving temporary emergency orders

To ask the court to reschedule a hearing and extend the expiration date of (or change or end) the temporary emergency (ex parte) orders served with a *Request for Order* or *Order to Show Cause*. Either party in the case may ask the court to do so for good cause.

2 Can I use form FL-306 in a domestic violence restraining order case?

No. To ask to change the date of a domestic violence restraining order hearing. Read [DV-115-INFO](#), *How to Ask for a New Hearing Date*, for more information.

3 Does the other party need to know that I want to reschedule the hearing?

Yes. For information about providing notice to the other party, see item **5**.

However, if the *Request for Order* (form FL-300) could not be served on the other party or parties as required before the hearing, you do not have to give the other party notice that you want to reschedule the hearing to serve the papers.

4 What can I do if I need a new hearing date to attend mediation or child custody recommending counseling

You should follow your local court’s rules and procedures for asking and obtaining an order to reschedule the hearing.

If your local court has no local rules or procedures, the parties may:

- Use form FL-306 to ask the court for a new hearing date. Follow the instructions in “Written request before the hearing” in item **5**.
- Complete and file an agreement to reschedule the hearing with the court for the judge to sign. Note: The court clerk must provide the new hearing date.

5 What if my cases involves temporary emergency (ex parte) orders?

For these cases, the law allows either party to ask the court to reschedule the hearing in writing before the hearing or orally at the hearing, as described on the following page.

- **Verbal request at hearing**

If a party makes a verbal (oral) request to reschedule the hearing at the time of the hearing when all parties are present, form FL-306 is not required. But the party must bring the original and two copies of *Order on Request to Reschedule Hearing* (form FL-309), with the top part completed to court on the date of the hearing

- **Written request before the hearing**

To provide written notice before the hearing, form FL-306 should be served on the other party no later than five court days before the hearing (if the notice is personally served). Include a blank copy of *Responsive Declaration* (form FL-307) and *Order on Request to Reschedule Hearing* (form FL-309), with the top part completed. Then file a proof of service with the court before or at the hearing.

Note: If the forms are served by mail to the other party within California, service must be completed five court days, plus five calendar days, before the hearing.

Any response to the request must be served and filed at least three court days after the party is served with the request (form FL-307 is available for this purpose).

- If written notice must be given less than five court days before the hearing, the party must:

- (1) Notify the other party no later than 10 a.m. the day before submitting the papers in (4) to the court clerk;
- (2) Serve an unfiled copy of forms FL-306, FL-307, and FL-309 on the other party or attorney (form names are shown above);
- (3) Complete a declaration describing how and when the other parties were notified and when papers were personally served. *Declaration Regarding Notice and Service of Request for Temporary Emergency (Ex Parte) Orders* (form FL-303) may be used; and
- (4) File form FL-306, the declaration regarding notice, and submit form FL-309 with the first items completed.

The other party may file and serve a *Responsive Declaration* (for example, form FL-307) before the date set for the court to consider the request.

6 How will the court let me know if the hearing will be rescheduled?

If a party made a verbal request at the hearing, the court will complete the order. It will be file stamped and the parties will be given a copy.

If the written request is filed with the court before the hearing, the party asking to reschedule must arrange to pick up a filed copy of the order from the court clerk and have it served on the other party as noted in 7, unless the court orders otherwise.

7 What do I do after the court makes the order?

You must have the other party served with the order and other documents. For example:

- If the court sets a new court date because the other party could not be served before the hearing, the order (form FL-309) must be attached as the cover page and served on the other party, along with the:
 - Filed *Request for Order* (form FL-300) or other moving papers;
 - Any temporary emergency (ex parte) orders; and
 - Other supporting papers.
- If the court sets a new court date at the request of the *responding party* for a hearing involving a temporary emergency (ex parte) order, and the party who asked for the temporary emergency order was absent when the court ordered that the hearing be rescheduled, the responding party must be sure to serve the absent party with:
 - Form FL-309 as the cover page; and
 - Other documents the court orders served on that party.

8 Do you have questions or need help?

- Find a lawyer through your local bar association, the State Bar of California at calbar.ca.gov, or the Lawyer Referral Service at 1-866-442-2529.
- For free and low-cost legal help (if you qualify), go to www.lawhelpca.org.
- Contact the family law facilitator or self-help center for information and assistance, and referrals to local legal services providers. Go to www.courts.ca.gov/selfhelp-courtresources.htm.

PARTY WITHOUT ATTORNEY OR ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY <p style="font-size: 24pt; font-weight: bold; text-align: center;"><i>DRAFT</i></p> <p style="font-size: 24pt; font-weight: bold; text-align: center;"><i>Not approved by the Judicial Council</i></p>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT/PARTY:	
<p style="text-align: center;">RESPONSIVE DECLARATION TO REQUEST TO RESCHEDULE HEARING</p> <input type="checkbox"/> And Extend Temporary Emergency (Ex Parte) Orders	CASE NUMBER:

INFORMATION ABOUT THE HEARING

1. The person asking to reschedule the hearing is (name):
2. The hearing is currently set for (date):
3. The request to reschedule includes does not include temporary emergency (ex parte) orders previously issued.

RESPONSE TO REQUEST TO RESCHEDULE HEARING

4. I (choose a or b):
 - a. consent to an order to reschedule the hearing.
 and request that the rescheduled hearing date be set on after (specify date):
 - b. do not consent to an order to reschedule the hearing for the following reasons (specify):

Attachment 4b.

Important! Read Information Sheet for Request to Reschedule Hearing (form FL-306-INFO) for deadlines related to this form.

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

Date: _____

(TYPE OR PRINT NAME)

SIGNATURE

PARTY WITHOUT ATTORNEY OR ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY <h2 style="margin: 0;">DRAFT</h2> <h2 style="margin: 0;">Not approved by the Judicial Council</h2>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT/PARTY:	
AGREEMENT AND ORDER TO RESCHEDULE HEARING	CASE NUMBER:

The parties signing below agree that

1. The hearing currently scheduled for (date): _____ will be rescheduled (continued).
2. The name of the party who filed the *Request for Order*, *Order to Show Cause*, or other matter is:
3. The agreement includes does not include extending temporary emergency (ex parte) orders previously issued.
4. The rescheduled hearing date will be set on after (specify date): _____

Each party declares under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____ (TYPE OR PRINT NAME)	▶ _____ (SIGNATURE OF PETITIONER)
Date: _____ (TYPE OR PRINT NAME)	▶ _____ (SIGNATURE OF RESPONDENT)
Date: _____ (TYPE OR PRINT NAME)	▶ _____ (SIGNATURE OF ATTORNEY FOR PETITIONER)
Date: _____ (TYPE OR PRINT NAME)	▶ _____ (SIGNATURE OF ATTORNEY FOR RESPONDENT)
Date: _____ (TYPE OR PRINT NAME)	▶ _____ (SIGNATURE OF OTHER PARENT/PARTY)
Date: _____ (TYPE OR PRINT NAME)	▶ _____ (SIGNATURE OF ATTORNEY FOR OTHER PARENT/PARTY)

THE COURT ORDERS

FOR COURT USE ONLY

5. The court hearing is rescheduled (continued) to the date, time, and location shown below:

New Hearing Date: _____ Time: _____ Dept.: _____ Room: _____

Address of court: Same as noted above Other (specify): _____

The parties must attend an appointment for child custody mediation or recommending counseling as follows (specify date, time, and location): _____

6. Temporary emergency (ex parte) orders
 - a. There are no temporary emergency (ex parte) orders.
 - b. The temporary emergency (ex parte) orders previously issued remain in effect until
 - (1) the end of the new hearing in 5.
 - (2) (date): _____

Date: _____	▶ _____ JUDICIAL OFFICER
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PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT/PARTY:	CASE NUMBER:
-----------------------------------------------------------------------	--------------

8. Temporary emergency (ex parte) orders

- a. No temporary emergency (ex parte) orders were changed.
- b. The temporary emergency (ex parte) orders are MODIFIED as of this date. The new orders are stated in the attached
 - (1) *Request for Order* (form FL-300).
 - (2) *Temporary Emergency (Ex Parte) Orders* (form FL-305).
 - (3) *Order to Show Cause* Contempt Seek Work Other (*specify*):
 - (4) Other (*specify*):
- c. The temporary emergency (ex parte) orders are TERMINATED for the reasons stated on Attachment 8c
 in this section:

9. Service of order

- a. No further service is required. Both parties were present at the hearing when the court granted this order.
- b. The documents listed in 10 must be served by (*date*): _____ on (*check all that apply*)
 - (1) petitioner/plaintiff.
 - (2) respondent/defendant.
 - (3) other parent/party.
 - (4) Other (*specify*):
- c. All documents must be personally served served by mail.
- d. Other orders regarding service (*specify*):

10. Documents for service

A filed copy of this order (form FL-309) must be presented as the cover page to the following documents when served:

- a. A copy of the previously filed *Request for Order*, *Order to Show Cause*, or other moving paper
- b. A copy of the extended or modified *Temporary Emergency (Ex Parte) Orders* (form FL-305)
- c. Other (*specify*):

11. *Responsive Declaration to Request for Order* ([form FL-320](#)) must be filed and served on or before (*date*):

12. Other orders:

Date:



 JUDICIAL OFFICER