

## **FAMILY RULES**

### **RULE 2 CUSTODY AND VISITATION**

[A.-B. – no changes]

### **C. CONTESTED CASES**

[(1)-(3) – no changes]

#### **(4) CUSTODY EVALUATIONS AND BRIEF FOCUSED ASSESSMENTS (BFA) (Effective 7/1/2025)**

(a)-(g) no changes]

h. FCS will charge for evaluations, unless a fee waiver is granted for a party. The parties must submit deposits or fee waiver requests to FCS within five court days of receipt of the Court's order to an evaluation. Subject to a judicial officer's discretion and consistent with current caselaw and statutory authority, the court will evaluate the allocation of private custody evaluation or BFA fees upon the request of any party.

**(Effective 7/1/2025)**

#### **(5) RECOMMENDED ORDERS AND OBJECTIONS**

[(a)-(d) – no changes]

e. If an evaluator appointed to conduct a custody evaluation or BFA becomes aware of or develops a concern regarding a safety risk to the minor child/ren who is/are the subject of the evaluation, they will notify all counsel and/or self-represented parties that they intend to file a Request for Interim Orders with the court. If the child/ren is/are represented by Minor's Counsel, Minor's Counsel will file the Request for Interim Orders as an *ex parte* request immediately. If child/ren is/are not represented, and the parties are represented by counsel, counsel will file the Request for Interim Orders as an *ex parte* request.

**(Effective 7/1/2025)**

#### **(7) EMERGENCY SCREENINGS**

(a) In any case in which there are serious and immediate safety risks to the child/ren, the Court may order a staff member of FCS, other than the mediator, or a

private screener, at the parties' expense, to conduct an "emergency screening" (a preliminary and limited investigation), to make recommendations regarding the temporary custody, visitation, and related conditions for the minor children. In most cases, the Court will not order any emergency screening based solely on an ex parte application, but may order protective orders until the hearing date on an adequate showing that serious harm to a child may result if no order is issued. FCS, the private screener, and/or the Court will provide instructions for emergency screening to all parties and attorneys when a screening is ordered. For FCS emergency screenings, any documents or other materials submitted to FCS must be provided no later than 48 hours in advance of the screening date and copied to opposing parties, including Minor's Counsel if applicable. If the parties wish to have a screener review audio or video files, the files must be provided on a USB or flash drive and they must comply with all the requirements detailed in FM-1080 "Emergency Screening General Information." Parties must comply with FCS' or the private screener's instructions, rules, and procedures. Attorneys and parties must be available as required by FCS, or the Court may reschedule the screening. A private screening will be conducted in compliance with these Local Rules, but without the involvement of FCS. The Court will not provide reports of criminal history or CPS records to any private screener.

(Effective 7/1/2025)

[(b) – no changes]

(c) If a party objects to the FCS or private screener's screening recommendations, a brief hearing, generally less than 30 minutes, will be held on the day of the screening, or as soon as possible. All parties must be personally present for the hearing, except for Minor's Counsel, who may appear remotely.

(Effective 7/1/2025)

[(d) – no changes]

(e) If a private emergency screening is ordered, the hearing will be set within 21 days or as soon thereafter as possible. On the date of the hearing, the screener, the parties, and the minor child/ren must be present at the courthouse by 3 p.m. The parties must provide childcare by a neutral third-party, over the age of 18, for the children who are the subject of the screening while they are at the courthouse. The parent who has custody of the children at the time of the screening is responsible for providing childcare during the screening. The child/ren will remain at the courthouse until released by the screener. Screening recommendations are to be released to the parties at the courthouse.

(Effective 7/1/2025)

[(8) – no changes]



**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SANTA CLARA  
FAMILY JUSTICE CENTER**

**YOU ARE ORDERED BY THE COURT TO GO TO AN EMERGENCY SCREENING  
REGARDING CUSTODY AND VISITATION OF YOUR CHILDREN**

**YOU ARE ORDERED TO APPEAR:**

**Date:**



**Where:**

**Family Court Services, 5<sup>th</sup> Floor Lobby**  
Superior Court of California, Santa Clara County,  
201 North First Street, San José, California 95113  
**8:00 a.m.**

1. Upon receipt of this Order, please report directly to the Family Court Services (FCS) lobby on the 5<sup>th</sup> floor to begin the Emergency Screening intake process. *\*For parties appearing remotely, you will receive a courtesy call from a FCS representative to begin the intake process.*
2. During the intake process, you will be asked to complete both the FCS intake form and Domestic Violence Questionnaire. Both forms must be completed and returned to FCS at least *two days* prior to the scheduled Emergency Screening.
3. Screening Documents/Recording Submissions:
  - **Documents:** FCS will review the existing court file. For additional documents you would like the Screener to review, FCS will only accept fifteen (15) single-sided pages.
  - **Audio/Visual Recordings:** All recordings, together, should equal no more than ten (10) minutes of total recording time and must be provided on a USB stick.
  - All documents and recordings must be submitted to FCS **48 hours** in advance of the Screening day.
  - A FCS proof of service form (*Local form FM-1061*) must be executed and attached to all submissions, indicating all parties to the matter have been properly served.
4. All parties and minor children **MUST** report ***in-person*** to the FCS lobby at 8:00 a.m. on the day of the Emergency Screening. All parties should plan to remain at the courthouse until 5:00 p.m. that day. *\*Parties may be charged additional fees for rescheduling due to tardiness or no-show cancellations.*
5. **Childcare for Screenings:** A neutral third-party caretaker, over the age of eighteen, must be present all day to provide childcare for the children who are the subject(s) of the Screening. Children are to remain at the courthouse until the Screener has given permission for their release. **The parent who has custody of the children at the time of the screening is responsible for providing childcare during the screening.**
6. **Collateral Contacts:** Please give notice to all social workers, counselors, teachers, physicians or other people that have important information about the specific safety issues related to the Screening to be available by telephone on the day of the Screening. Screenings may be continued if important information is not immediately available. *\*FCS Release of Information forms will be provided to you during the intake process.*

**EMERGENCY SCREENING GENERAL INFORMATION**

**IMPORTANT: READ BOTH SIDES OF THIS FORM FOR ALL INSTRUCTIONS.**

**WHAT IS AN EMERGENCY SCREENING?** - An Emergency Screening is a focused investigation limited to urgent issues regarding the safety and well-being of children at risk of harm. Screenings are completed by mental health clinicians with expertise in child custody issues.

**HOW DOES A SCREENING WORK?** – An investigator from Family Court Services (FCS) will learn about the immediate safety concerns that they have been directed to investigate. Screening investigations typically conclude on the same day they are started. However, some are scheduled to return in order to thoroughly complete the investigation.

*The Screener may:*

- Talk with the parents and their attorneys and the children's attorney (if they have one).
- Talk to the children and observe how they interact with parents or other family members.
- Review the court file and other documents related to the emergency issues.
- Look at criminal records of anyone living in the house with the children.
- Review CPS records involving the children.
- Talk with other witnesses, professionals or family members by phone, or, in-person.

The Screener will then present written recommendations first to the parents and their attorneys. If both sides agree with the recommendations, they will become orders of the court. If either of the parties object to the recommendations, the recommendations will be presented to the Judge and the parties will have a hearing.

**WHAT DOES A SCREENING COST?** - The fee for an Emergency Screening conducted by FCS is \$160 per hour, divided equally between the parties, unless otherwise ordered by the court. If you cannot afford to pay the Screening fees, you can ask for a fee waiver and complete the associated forms. *\*The fee waiver forms are available at the FCS lobby on the 5<sup>th</sup> floor.*

**WHAT IF THERE IS DOMESTIC VIOLENCE?** If either party has been the victim of domestic violence, FCS will make arrangements to have the parties on separate floors throughout the entire Screening day. If there is a current criminal order and/or civil restraining order wherein you are the listed victim, you have the right to have a support person with you. Please contact FCS for more information.

**IS A SCREENING CONFIDENTIAL?** - Any information given to FCS throughout the course of the Screening investigation is not confidential. The Screener may testify about the information provided. *\*Please note, all Screeners are mandated reporters and are subject to mandated reporting requirements.*

**WHERE DO I GET MORE INFORMATION?** - For more information, please visit the FCS section of the court's website here: <https://santaclara.courts.ca.gov/divisions/family-division/family-court-services-fcs>.