

**INFORMATION SHEET FOR COMPLETING REQUEST FOR HEARING AND APPLICATION TO CANCEL
(SET ASIDE) VOLUNTARY DECLARATION OF PARENTAGE OR PATERNITY (FORM FL-280)**

(Do **not** deliver this information sheet to the court clerk.)

If you do not have a lawyer representing you, please follow these instructions to complete the *Request for Hearing and Application to Cancel (Set Aside) Voluntary Declaration of Parentage or Paternity* (form FL-280). If you do have a lawyer representing you, the lawyer should complete the request. **Use form FL-280 if you want to set aside a voluntary declaration of parentage or paternity signed more than 60 days ago.** If you file this request, the court or the local child support agency may order you, the other person who signed the voluntary declaration, and the child to submit to genetic testing to determine the child's parentage.

You must file the completed *Request for Hearing and Application to Cancel (Set Aside) Voluntary Declaration of Parentage or Paternity* and attachments with the court clerk. You may have to pay a filing fee when you file it. **If you cannot afford to pay the filing fee, ask the court clerk for forms to apply for a waiver of court fees. If you need help completing this form, see a family law facilitator.** Provide an original *Request for Hearing and Application to Cancel (Set Aside) Voluntary Declaration of Parentage or Paternity* and attachments plus at least three copies for filing. Keep the copies of the filed request. The *Information Sheet for Service of Process* (form FL-611) gives more information about serving your request. Serve one copy of the completed request on each of the people (besides you) who signed the voluntary declaration of parentage or paternity, along with a blank *Responsive Declaration to Application to Cancel (Set aside) Voluntary Declaration of Parentage or Paternity* (form FL-285). Serve another copy of the request on the local child support agency if that office is providing services in the case. Be sure to file your *Proof of Service* with the court clerk. Keep the other copy for your records. Someone other than you, who is at least 18 years old, must serve the other people (and the local child support agency, if applicable) with the request.

Instructions for completing Form FL-280 (type or print in ink)

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First box, top of form, left side. Print your name, address, telephone number, and e-mail address, if any, in this box.

Second box, left side. Print the county name and the court address in the box. Use the same county name and court address that are on your judgment or order for paternity or support. If you do not have a paternity or support judgment, visit the following website to find the right court: www.courts.ca.gov/find-my-court.htm.

Third box, left side.

If an order, a judgment, or a legal action has **not** been filed in the court based on the voluntary declaration of parentage or paternity:

- a. Print your name in the space next to "Petitioner";
- b. Print the name of the other person who signed the voluntary declaration next to "Respondent"; and
- c. Leave the space next to "Other Party" blank.

If an order, a judgment, or a legal action **has** been filed in the court based on the voluntary declaration of parentage or paternity, put the same names next to "Petitioner," "Respondent," and "Other Party" that are on the order, judgment, or other legal action that was filed in the court.

First box, top of form, right side. Leave this box blank for the court to use.

Second box, right side. Print the case number shown on your judgment or order for parentage, child support, visitation, or custody. If you do not have a judgment or order, the court clerk will give you a case number.

Instructions for Numbered Paragraphs

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Item 1. The court clerk will fill in the date, time, department, or court address for setting a court hearing.

Items 3-4. If you need to have the court hear your case in less than the statutorily required time, you can ask the court for an earlier court date. If you need help with requesting an earlier court date, contact the family law facilitator in your county or go to www.courts.ca.gov/selfhelp.

Item 5. In the space provided, insert your name and check the box to indicate if you are the "Petitioner," "Respondent," or "Other." If you check the box for "Other," state your relationship to this case.

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In the box at the top of page 2, left side, fill in the names of the parties exactly as you did in the third box on page 1. In the box on the right side, fill in your case number as listed on page 1.

Item 6.

- a. Check this box if you want the court to order genetic testing and cancel (set aside) the voluntary declaration.
- b. Check this box if you want the court to find the voluntary declaration is void (invalid).

Item 7. Provide information about the voluntary declaration of parentage or paternity. In the spaces provided, list the child's name and date of birth. Then list the names of the people who signed the voluntary declaration and the date they signed it. Also list the date the voluntary declaration was filed with the Department of Child Support Services (*if known*).

Item 8. Check this box if there are other cases involving the child listed in the voluntary declaration.

- a. Check this box for divorce, legal separation, or nullity, and insert the case number (*if known*).
- b. Check this box for parentage, custody, or child support, and insert the case number (*if known*).
- c. Check this box for any other type of case, and insert the case number (*if known*).
- d. Check this box if the local child support agency is providing services for the child, and insert the county.

Item 9. Check this box if there is a judgment or court order for parentage, child support, visitation, or custody based on the voluntary declaration of parentage or paternity. Fill in the date the judgment or order was entered and list the case number. (**Note:** this form is only to request the voluntary declaration be canceled (set aside); to request that a judgment of parentage be canceled (set aside), you must file a *Notice of Motion to Cancel (Set Aside) Judgment of Parentage (form FL-272)*.)

Note: Effective **January 1, 2020**, the law regarding canceling (setting aside) voluntary declarations of parentage or paternity changed. If the declaration was filed on or after that date, the people who signed the declaration may only request that it be canceled because of **fraud, duress, or material mistake of fact**. If you did not sign the declaration or if it was filed before **January 1, 2020**, there may be other reasons to request that the court cancel the declaration.

Item 10a. Check this box if you believe the voluntary declaration of parentage or paternity should be canceled (set aside), and then check the box or boxes to tell the court the reasons why.

- (1) Check this box if you were a victim of fraud, which means someone lied to you and kept you in ignorance of the true facts when you signed the voluntary declaration.

- (2) Check this box if you were under duress, which means you were threatened or mentally coerced into signing the voluntary declaration.
- (3) Check this box if you made a material mistake of fact, which means you thought that the facts were different from what they really are or were when you signed the voluntary declaration.

*The following reasons apply only to voluntary declarations filed before **January 1, 2020**, or if you did not sign the declaration.*

- (4) Check this box if any of the following statements describes what happened at the time you signed, were unable to sign, or failed to sign the voluntary declaration of parentage or paternity:
- ▮ You misunderstood the facts;
 - ▮ You ignored what would happen if you signed or failed to sign the voluntary declaration of parentage or paternity, and your lack of attention could not have been avoided with reasonable care and good sense;
 - ▮ You were unexpectedly placed in the situation of not being able to sign or failing to sign the voluntary declaration of parentage or paternity, and you could not have avoided this with reasonable care and good sense; or
 - ▮ You were unable to or failed to sign the voluntary declaration of parentage or paternity because of your neglect, and you could not have avoided this by using reasonable care and good sense.
- (5) Check this box if you have other reasons why the court should cancel (set aside) the voluntary declaration of parentage or paternity, and state the reasons.

Item 10b. Check this box if you believe the voluntary declaration is void (invalid) under Family Code section 7573.5, and tell the court the reason why in the space provided.

Item 10c. You must fully explain all of the reasons that you checked in item 10a or 10b of the request. Explain any delay in filing your request and why you believe it would be reasonable and fair to cancel (set aside) the voluntary declaration despite the delay. If you need more space, you may attach additional sheets and check the box next to "Contained in the attached declaration."

Your request must be filed within the time frame that applies to you:

- ▮ **For all declarations filed before January 1, 2020:**
(1) Before the child's second birthday, **or** (2) within six months of the entry of a court order or judgment for child custody, visitation, or support based on the declaration.
 - ▮ **For declarations filed on or after January 1, 2020, that you did NOT sign:**
(1) Within two years of the effective date* of the declaration, **or** (2) within six months of the entry of a court order or judgment for child custody, visitation, or support based on the declaration.
 - ▮ **For declarations filed on or after January 1, 2020, that you did sign:**
(1) Within two years of the effective date* of the declaration.
- (*If both parents were 18 years or older when they signed the declaration, the effective date is when the declaration was filed with the Department of Child Support Services.)
- ▮ There are **no deadlines** to assert that the declaration was void (invalid) when it was signed.

You must date the form, print your name, and sign the form under penalty of perjury. When you sign the form, you are stating that the information you have provided is true and correct.

If you need more help with this form, contact a lawyer or the family law facilitator in your county.