

The Santa Clara County District Attorney's Child Abduction Unit works to locate and recover parentally abducted children and assists in the enforcement of custody and visitation orders. It is the District Attorney's goal to ensure the peaceful enforcement of court orders so all children may enjoy a healthy relationship with both parents. You may contact the unit by calling (408) 792-2921.



County of Santa Clara
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Parental Child Abduction *and* Parental Visitation Violations



CHILD ABDUCTION IS A CRIME

It is a crime to take, entice away, keep, withhold or conceal a child and to maliciously deprive any person who has a right of custody (California Penal Code §§ 278 and 278.5). The crime of kidnapping may also be charged (California Penal Code § 207).

If you think the other parent may be planning to abduct your child, you can notify the local police department where you live or the District Attorney's Child Abduction Unit and ask that the parent be advised that taking the child is a crime.

If you have been a victim of this crime, please call the Santa Clara County District Attorney's Child Abduction Unit at (408) 792-2921.

INTERFERING WITH THE CUSTODY EXCHANGE PROVISIONS OF YOUR FAMILY COURT ORDER IS A CRIME

It is a crime to take, entice away, keep, withhold or conceal a child and to maliciously deprive any person who has a right of custody (California Penal Code §278.5).

If the other parent has violated any visitation provisions of your order you may contact the Child Abduction Unit to learn what steps to take to open a case. The Child Abduction Unit does not accept telephone visitation violation cases.

THE PENALTY FOR CHILD ABDUCTION AND VISITATION VIOLATIONS INCLUDES:

The penalties for child abduction and visitation violations may include:

- Three years in state prison and a fine of \$10,000
- One year in county jail and a fine of \$1,000
- Being held in civil contempt
- And/or being responsible for the costs incurred by the District Attorney in locating and recovering the child and/or attempting to resolve the visitation violation.

HOW THE DISTRICT ATTORNEY PROVIDES ASSISTANCE IN CHILD ABDUCTION AND VISITATION CASES:

In appropriate cases, the Child Abduction Unit will attempt to resolve the custody and visitation issues without criminal action. State law authorizes the District Attorney to assist the courts in locating and returning missing children and parents. We will assist in locating, recovering, and returning the child(ren) to the person with custody. The Child Abduction Unit will utilize all legal means to locate and return a child taken out of the United States, which may include taking steps pursuant to federal treaties and conferring with the State Department. The Child Abduction Unit will also assist in locating and returning a child if the child is removed from California to another state, or from another state to California. The District Attorney is not a party to the family court action and does not represent you. We suggest that you hire an attorney who can represent your interests before the court.

WHAT CAN I DO IF MY CHILD IS TAKEN?

1. If a parent or other person having custody or visitation rights over the child abducts your child, immediately file a Missing Persons Report at your local police station. If you have a copy of your most recent custody/visitation order, bring it with you when you go to the station. Also bring a photo of the abducting parent and of the missing child. Be prepared to tell the police as much information about the missing child and abducting person as you have.
2. If you do not have a custody or visitation order, both parents have equal rights to the custody of a child. The Child Abduction Unit can begin an investigation to locate the child regardless of whether a court order was in existence at the time of the abduction. For help in learning how to get a custody/visitation order, you may:
 - Consult with a private attorney. Call the Santa Clara County Bar Association's Lawyer Referral Service at (408) 971-6822, for a referral to an attorney on their list. There is a \$41 charge for a single half-hour consultation.

- Obtain free assistance at the Santa Clara County Court's Self-Help Center/Family Law Facilitator's Office at the Family Justice Center Courthouse: 201 N. First Street, San Jose, California. The Center is open Monday to Thursday from 8:30 a.m. to 3:00 p.m. and Friday from 8:30 a.m. to 12:30 p.m. Assistance is provided on a first-come-first-served basis. Visit www.sccourt.org for more information.

- Visit the Judicial Council of California, Administrative Office of the Court's Self-Help web site at www.courtinfo.ca.gov/selfhelp.

WHAT DO I DO IF I AM A VICTIM OF DOMESTIC VIOLENCE?

If you are a victim of domestic violence, you may want to go to a domestic violence shelter. Immediately make a police report. Tell the police officer that you want an Emergency Protective Restraining Order (EPRO), which will give you temporary protection, while you are obtaining a restraining order. The restraining order can include a custody/visitation order. Workers at the shelter can assist you in preparing and filing the appropriate court document.

If you are fleeing domestic violence with your children, you must file a "good cause report" with the District Attorney's Child Abduction Unit within ten days of leaving your home with the children. This report lets the authorities know that you are fleeing domestic violence and are not merely abducting your children. You may request a "Good Cause" Reporting Form by calling (408) 792-2921.

You may also apply for a Domestic Violence Prevention Act Restraining Order. To get the court forms and help in completing and filing these forms, you may visit Family Justice Center Courthouse: 201 N. First Street, San Jose, California. This office is open Monday through Friday, from 8:30 a.m. to 12:30 p.m. and 1:30 p.m. to 3:00 p.m. and assists people on a first come, first served basis.