



How Do I Get a Court's Reasons for Making a Family Court Order?

Proof of the judge's reasoning is **very important** if you want to ask the court to change an order or appeal an order later on. There are different ways to get a judge to provide their reasons for making a decision. In some types of cases, the judge **must** give their reasons. In most other cases, you may still be able to get the judge's reasons even when the judge is not required to provide them. This tip sheet provides information on ways to get the court's reasoning in your case.¹

When a Court Must Give Its Reasons for the Decision

A judge **must** give a "statement of reasons" for an order in some—but not all—family law cases involving restraining orders, custody and visitation, spousal support, and child support. The judge can give their reasons **either in writing or out loud** during the hearing ("on the record"), if there is a court reporter to take down the judge's statements.

These are common cases where a judge must give reasons:

- Denying a domestic violence restraining order. ([Fam. Code sec. 6340\(a\)\(2\)\(B\).](#))
- Denying a temporary restraining order. ([Fam. Code sec. 6320.5\(a\).](#))
- Granting sole or joint custody to a parent who has committed domestic violence. ([Fam. Code sec. 3011\(a\)\(5\)\(A\)](#); [Fam. Code secs. 3044\(f\)\(1\)-\(2\)](#); Also see [FVAP's Code section 3044 Tipsheet for more details.](#))
- Modifying or terminating a joint custody order, when a parent disagrees. [Fam. Code sec. 3087.](#)
- Awarding custody to a nonparent, when a parent disagrees. ([Fam. Code sec. 3041\(a\).](#))
- Awarding custody or visitation to a parent convicted of murdering the other parent ([Fam. Code sec. 3030\(c\)](#)) or to a child abuser, registered sex offender, or murderer ([Fam. Code secs. 3030\(a\)\(1\); \(a\)\(2\); \(c\).](#))
- When awarding permanent spousal support, the court must state the facts about the family's standard of living during the marriage. ([Fam. Code sec. 4332.](#))
- If a court changes a child support order because a parent becomes unemployed or has an out-of-state military deployment, and the court orders the change to begin on a date besides the date of the request for the change, or the date of the deployment. ([Fam. Code sec. 3653\(b\) & \(c\).](#))
- If the court sets a child support amount that differs from the standard amount which is calculated using a state formula. ([Fam. Code sec. 4056\(a\).](#))

¹The statutes in this tip sheet are from the California Family Code ("Fam. Code") (which covers restraining orders, custody, visitation, and other family court proceedings) and the California Code of Civil Procedure ("Code Civ. Proc.") (which covers some of the rules and procedures for family court). The statutes are all available at <http://leginfo.legislature.ca.gov/faces/codes.xhtml>. Hyperlinks to the statutes are also included in the digital version of this tip sheet available at www.fvaplaw.org.

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Tips to get a statement of reasons:

- When you file your papers asking the court for an order, you can include a written request for a statement of reasons:
 - For example: “If this court is inclined to (grant / deny) the request for (type of order requested), I ask that the court issue a detailed statement of reasons for the decision required by Family Code section (section number).”
- At your hearing, gently remind the judge of the Family Code section requiring a statement of reasons. See above for Family Code sections.
- **A statement of reasons** is not as formal or detailed as a statement of decision and may be easier to obtain than a statement of decision. The trial court is required to provide a statement of reasons in the family law cases listed above. **Even if you get a statement of reasons, you may still want to ask for a statement of decision.**

When a Court Is Not Required to Give Its Reasons for the Decision

In most family court proceedings, such as Domestic Violence Restraining Order (“DVRO”) cases in which the judge issues a DVRO, the judge is **not required** to state the reasons for its decision. If the judge in your case is not required to provide a “statement of reasons” but you still want to know their reasoning, you can ask the judge for a “**statement of decision**” (SOD). A SOD is the judge’s explanation of the **factual and legal basis** for their decisions about the **main issues** at trial. You may not always be able to get a SOD, but **you can always ask** for one. Any party appearing in the case can request a SOD. ([Code Civ. Proc. sec. 632.](#))

How do I request a SOD?

The request for a SOD must be very **specific** about the issues you want the judge to include in the SOD. ([Code Civ. Proc. sec. 632.](#)) You should include any issues that the parties disagree about, including what facts the judge finds are true and are important to its decision. You can make the **request in writing** before the trial begins. You can also **ask the judge orally** (out loud) in court to make a SOD before the hearing has finished. If you do this, it’s best to read from something you’ve already prepared to make sure you include all the issues you want the SOD to talk about.

Tip: Usually the SOD must be **in writing**. However, if there is a court reporter, the judge may say the SOD out loud if both parties agree or if the hearing is shorter than one day (8 hours). If there is no court reporter, the SOD must be in writing. ([Code Civ. Proc. sec. 632.](#)) If the trial takes **more than one day**, you can request the SOD orally in court, or in writing within 10 days after the hearing. ([Code Civ. Proc. sec. 632.](#))



What do I do after I request a SOD?

After someone has requested the SOD, **any party** can say what they want the judge to include in the SOD. ([Code Civ. Proc. sec. 632](#); [Cal. Rules of Court, Rule 3.1590\(d\)](#).) After getting a request for a SOD, the judge must prepare a **“proposed SOD.”** ([Cal. Rules of Court, Rule 3.1590\(f\)](#).) The proposed SOD can be combined with the court’s order. Then, any party may file objections to the proposed SOD within 15 days. ([Cal. Rules of Court, Rule 3.1590\(g\)](#).) Objections must be **specific** about anything the proposed SOD is missing or that is unclear. ([Ermoian v. Desert Hosp. \(2007\) 152 Cal.App.4th 475, 494-495, 497.](#))

After the 15 days, the judge should either (1) issue a **“final SOD,”** or (2) set a hearing on the objections. ([Cal. Rules of Court, Rule 3.1590\(k\)](#).) If there is a hearing, the judge will typically issue the final SOD within 10 days, but **there is no specific deadline.** ([Sperber v. Robinson \(1994\) 26 Cal.App.4th 736, 744.](#))

Tip: If there is no “proposed” SOD, just a SOD issued by the court, you should treat that SOD like a “proposed SOD” and file objections anyway.

Is there anything else I can do to get the court’s reasons?

Here are a few other strategies to get a record of what happened at the hearing

- Call the clerk and ask if there will be a court reporter present.
 - If you are low income and qualify for a fee waiver, you have a right to a free court reporter upon request. ([Jameson v. Desta. \(2018\) 5 Cal.5th 594.](#) , [Template Request for a Court Reporter](#))
- Ask if you can bring your own recording device.
- Bring one or two friends to take notes. Have them write down everything they can, including who says what.
- Right after the court hearing, write down everything you can remember about what happened at the hearing, including who said what. Keep your notes in a safe place along with your court papers.

How do I get more assistance? Contact FVAP at info@fvapl原因.org or (510) 858-7358 for questions.