

DSS Policy and Procedure Guide

Division 03: Child Welfare

Chapter 06: Court

Item 017: Protective Custody Warrants

Suggested changes send to: [DSS PSOA](#) Mailbox

Issued: **November 10, 2015**

References: **Welfare and Institutions Code** ([WIC](#)) **340**

Revisions in Red

Replaces Issue: April 6, 2012

[Requesting the PCW](#) / [Executing the PCW](#) / [PCWs for an "Absent" Sibling](#) / [Attachment A](#) / [Attachment B](#)

Preamble

Child Welfare Policy and Procedure Guides are meant to be used as tools to relay best practice and staff expectations. It is understood that specific case scenarios may not always align themselves with the stated practices and that at all times what is of paramount importance is the Safety and Well-being of the children we are charged to protect.

Policy

If a Welfare and Institution Code (**WIC**) 300 **Protective Hold** has been attempted but Law Enforcement will not agree to place the **Protective Hold** and children remain at risk, the **assigned Social Worker (SW)** and Social Work Supervisor (SWS) shall discuss the matter. **If they assess the child(ren) to remain at risk of abuse or neglect and a safety plan is not appropriate, then they will petition the court for a Protective Custody Warrant (PCW).**

Purpose

To inform Department of Social Services (DSS) Child Welfare staff of DSS policies, procedures to obtain PCWs for children at risk when unable to obtain a protective hold.

Procedure

When a Protective Hold is Denied by Law Enforcement

If a minor is determined to be at risk of or has suffered abuse or neglect **and** a Protective Hold has been attempted and denied by law enforcement, a PCW shall be requested through Juvenile Court. Prior to filing a PCW, the **assigned SW** shall hold a Team Decision Making (TDM) meeting or a staffing. **The Court Specialist shall also be consulted.** DSS staff consensus **is needed** to request a PCW. **However, if circumstances are that having a TDM meeting or staffing prior to obtaining a PCW would place the minor in danger, this can be skipped.**

As soon as the assigned SW determines a PCW will be needed, they must consult with the Court Specialist SWS and assigned Court Specialist regarding the PCW. If there is no agreement on how

to proceed, then an Emergency Response (ER) Program Manager (PM) shall be consulted to resolve the matter.

The assigned SW shall provide the Court Specialist with the safety issues as to why the minor(s) would be at risk and/or danger if they remained at home. If sufficient evidence of risk of severe physical harm or abuse is not shown, the SW shall consult with the Court Specialist SWS and the ER PM regarding pursuing a PCW on behalf of the child(ren). For emergency situation, the assigned SW shall provide written documentation, such as an email, for the Court Specialist.

If law enforcement continues to refuse to place a Protective Hold after hours or on the weekend, the SW will consult with the on-call PM and on-call SWS to determine if the on-call Judge should be contacted.

- If all are in agreement, the on-call SWS shall call 559-600-3111 to provide the complete assessment details and request an emergency PCW by the on-call Judge.
- Complete the Protective Hold by On-Call Judge form (see "[Attachment B](#)"), indicating the name of the Judge who issued the PCW as well as the date and time of the PCW. A copy of the form will be kept in the case file and the original attached to the Detention report.
- It is recommended the SW request law enforcement assistance in serving the PCW.

Filing Required Documents/Requesting the PCW

The Court Specialist shall complete form CWS0061, Application and Declaration in Support of: Protective Custody Warrant (see [Attachment A](#)), as well as the PCW documents (description part of the Body Attachment and original petition) explaining the request for removal with sufficient information to show the requirements of [WIC §340](#) are met for the Judge to sign and issue a PCW (i.e. the circumstances of the minor's home environment may endanger the health, person or welfare of the minor). The petition will not have a Court date on the front page, as the hearing will be a detention or arraignment hearing, depending on whether or not the Judge signs the PCW. Once completed the Court Specialist shall immediately give all documents to the assigned SW.

The assigned SW shall immediately walk the petition, Body Attachment, and PCW to Juvenile Dependency Court; and provide all copies to the DSS Court Officer. The Court Officer shall review the documents and present them to the Judge on an ex-parte basis. The SW should remain until the Judge signs the PCW.

If the PCW is signed, the Judge will give the PCW documents to the Court Clerk and the SW is to obtain the filed signed warrant from the clerk's window and obtain at least three certified copies (for DSS case file, Sheriff, and local law enforcement).

The SW shall immediately walk a copy of the PCW and Body Attachment to the Sheriff's Department to be filed in their warrant system.

Executing the PCW/Court Timeframes

The assigned SW shall attempt to execute the PCW and remove the minor, if the minor's location is known. It is recommended the SW request law enforcement assistance in serving the PCW. SW and/or law enforcement officer will serve the PCW at the scene. If the SW is unable to serve the PCW in a timely fashion the PCW will be served by the swing or standby SW staff. Once the child is removed:

- Be conscious of the time of removal, as an amended petition needs to be filed within 2 court days showing the minor was removed and a detention hearing set within 1 court day after the filing of the petition.
- The top right hand box on the first page of the petition shall state, "PCW Served".
- Call the Warrants division of the Sheriff's Department at 559-600-8402 in order to cancel the PCW.

Note to SW: If the Judge denies the warrant, the narratives shall clearly document that the Court Specialist SWS and an ER PM were consulted regarding a possible arraignment hearing. For further information regarding arraignment hearing, please refer to PPG 03-06-029, *Arraignment Hearings*.

PCWs for an "Absent" Sibling

When a Protective Hold has only been placed on part of a sibling group, a PCW shall be requested on any absent minor, if that minor is assessed to have suffered or is at risk of suffering abuse or neglect.

Filing Required Documents/Requesting the PCW

When the original petition is filed on the siblings that have been removed, the absent minor shall be included in the petition. The petition shall include:

- A separate count for the absent minor.
- That the absent minor has not been detained.

A PCW, application, and Body Attachment shall be submitted with the sibling's Detention report, requesting that the remaining minor be detained.

Once the PCW is signed, the assigned SW shall obtain at least three certified copies and immediately walk a copy to the Sheriff's Department for the PCW and Body Attachment to be filed in their warrant system.

Executing the PCW/Court Timeframes

The assigned SW shall request law enforcement assistance to execute the PCW if the location is known and remove the minor. Once removed, the SW shall call the Warrants division of the Sheriff's Department at 559-600-8402 in order to cancel the PCW.

If the sibling is removed pre-jurisdiction, be conscious of the time of removal, as the following must occur:

- An amended petition must be filed within 2 court days indicating that the minor has been removed and requesting that a detention hearing be set within 1 court day after the filing of the petition.
- The top right hand box on the first page of the petition shall include the wording, "PCW Served", that this is a detention hearing for the newly removed minor, and that a jurisdiction hearing has been set for the siblings.
- The counts regarding all siblings shall be merged into one count, including all of the children as a sibling group, including the time of removal or any new information.
- The detention report for the newly removed minor shall request that the jurisdiction hearing be held on the same date as their previously detained siblings.
- Parents for all the children must be given notice of the detention hearing.

If the sibling is removed post-jurisdiction, the following must occur:

- A petition must be filed within 2 court days indicating that the minor has been removed via "PCW Served" and requesting that a detention hearing be set within 1 court day after the filing of the petition.
- The counts regarding the newly removed sibling are to remain separate, indicating the time of removal and any new information.

If the ER SW is unable to locate the missing sibling prior to transferring the sibling's case to Family Reunification (FR), the ER SW shall transfer the whole family, including the missing sibling, to FR. Once the missing sibling is located, the FR SW can request the assistance of ER to serve the PCW and detain the sibling.

“Attachment A”

PETITIONER OR ATTORNEY (Name and Address): Fresno County Department of Social Services 1404 “L” Street Fresno, CA 93721 TELEPHONE NO.: (559)-600-6400 FAX NO.	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF FRESNO STREET ADDRESS: 1100 Van Ness Avenue, Second Floor, Room 200 MAILING ADDRESS: 1100 Van Ness Avenue, Second Floor, Room 200 CITY AND ZIP CODE: Fresno, California 93724-0002 BRANCH NAME: Juvenile Dependency Court	
CHILD(REN)'S NAME(S):	CASE NUMBER:
APPLICATION AND DECLARATION IN SUPPORT OF: <input type="checkbox"/> PROTECTIVE CUSTODY WARRANT <input type="checkbox"/> ORDER AUTHORIZING ENTRY INTO HOME <input type="checkbox"/> ORDER AUTHORIZING INTERVIEW OF CHILD (Welfare and Institutions Code §§ 340, 328)	

Petitioner, (ER SW) , declares as follows:
 (Print Name)

1. PETITIONER'S PROFESSIONAL QUALIFICATIONS

I am employed by the Fresno County Department of Social Services (DSS) as a child welfare worker. By virtue of my education, training and experience I am qualified, authorized and currently assigned to conduct child abuse and neglect investigations under Welfare and Institutions Code §§ 300 and 328. I am currently assigned to investigate the case involving the child names above. I make this declaration in support of an application for:

- A protective custody warrant for the child(ren) under Welfare and Institutions Code § 340;
- An order authorizing entry into the child(ren)'s home to conduct a child welfare investigation under Welfare and Institutions Code § 328.
- An order authorizing interview of child(ren) pursuant to the Welfare and Institutions Code § 328. [Green v. Camreta (2009) 588 F.3d 1011.]

2. CHILD(REN)'S STATUS

- (a) No petition has been filed, but there is reasonable cause to believe that the child(ren) may fall within Welfare and Institutions Code § 300.
- (b) A verified original § 300 petition dated _____ has been filed with the Juvenile Court, **OR** will be filed concurrently with this Application, alleging that the child(ren) named above comes within the description of § 300 of the Welfare and Institutions Code and requesting

a hearing. A true and correct copy of the petition is attached to this declaration and is incorporated herein by reference. There is reasonable cause to believe that the circumstances of the child(ren)'s home environment and continuance in the home will endanger the child(ren)'s health, person or welfare.

- (c) The child(ren) named above was/were declared a dependent child(ren) of the Juvenile Court on or about _____. A verified § 387 supplemental petition or § 342 subsequent petition dated _____ has been filed in Juvenile Court, **OR** will be filed concurrently with this Application, requesting a hearing. A true and correct copy of the petition is attached to this declaration and is incorporated herein by reference. There is reasonable cause to believe that the child(ren)'s home environment and continuance in the home will endanger the child(ren)'s health, person or welfare.
- (d) The child named above was declared a dependent child of the Juvenile Court on or about _____. On or about _____ the child ran away from his or her placement (specify)
 - relative non-relative extended family member foster home
 - Foster Family Agency home group home,

and the child's whereabouts remain unknown to petitioner's agency.

3. REQUEST FOR PROTECTIVE CUSTODY WARRANT

Based on my investigation and the facts alleged in the attached, verified juvenile court petition, it is my professional opinion that the child(ren) should be placed into protective custody under Welfare and Institutions Code § 340 because:

- (a) The child(ren) requires immediate medical care and there are no reasonable means by which the child(ren) can be protected without temporary removal from the physical custody of the parents or guardians;
- (b) The child(ren) is in imminent danger of physical or sexual abuse and there are no reasonable means by which the child(ren) can be protected without temporary removal from the physical custody of the parents or guardians;
- (c) The child(ren)'s physical environment poses an imminent threat to the child(ren)'s health or safety and there are no reasonable means by which the child(ren) can be protected without temporary removal from the physical custody of the parents or guardians;
- (d) The child(ren) is suffering severe emotional damage and there are no reasonable means by which the child(ren) can be protected without temporary removal from the physical custody of the parents or guardians;
- (e) See additional information supporting the need for protective custody described in Section 6 below.

4. REQUEST FOR ORDER AUTHORIZING ENTRY INTO HOME

Based on my investigation and the facts set forth in Section 6 below, it is my professional opinion that there is reasonable cause to believe that the child(ren) is/are a person described by Welfare and Institutions Code § 300, and that entry into the home by DSS and/or law enforcement investigators is necessary under Welfare and Institutions Code § 328 in order to see and speak with the child(ren), to inspect the safety of the home, to determine whether child welfare services should be offered to the family and to determine whether juvenile court

proceedings should be commenced. It is also my professional opinion that the scope of the intrusion set forth in section 6 below is necessary to avert harm to the child(ren).

5. REQUEST FOR ORDER AUTHORIZING INTERVIEW OF CHILD(REN)

Based on my investigation and the facts set forth in Section 6 below, it is my professional opinion that there is reasonable cause to believe that the child(ren) is/are a person described by Welfare and Institutions Code § 300, and that an interview of the child(ren) named above by DSS and/or law enforcement investigators is necessary under Welfare and Institutions Code § 328 in order to determine whether child welfare services should be offered to the family and to determine whether juvenile court proceedings should be commenced. It is also my professional opinion that the scope of the intrusion set forth in section 6 below is necessary to avert harm to the child(ren).

6. ADDITIONAL INFORMATION

Include any additional information which supports this application, as well as information which describes family strengths and any exculpatory information. Summarize the safety issues as to why the PCW is being requested. Show a nexus between what is occurring and any immediate risk and/or danger. Attach additional pages if necessary.

Additional pages attached.

7. VERIFICATION

I declare under penalty of perjury that the foregoing, including any attachment, is true and correct to the best of my knowledge and belief and was signed at (city) Fresno, California on the following date.

Date: _____

Child Welfare Worker's Name (Print)

Child Welfare Worker's Signature

Date: _____

Court Specialist's Name (Print)

Court Specialist's Signature

Date: _____

Child Welfare Supervisor's Name (Print)

Child Welfare Supervisor's Signature

FINDINGS AND ORDERS

Based on the application presented to the Court by the social worker in this matter, the Court makes the following findings and orders:

- 1. There is reasonable cause to believe that the child is, or appears to come, within the description of Welfare and Institutions Code § 300; and
- 2. There is reasonable cause to believe:

(a) **Protective Custody**

The child should be placed into protective custody because:

- (1) The child(ren) requires immediate medical care and there are no reasonable means by which the child(ren) can be protected without temporary removal from the physical custody of the parents or guardians;
- (2) The child(ren) is in imminent danger of physical or sexual abuse and there are no reasonable means by which the child(ren) can be protected without temporary removal from the physical custody of the parents or guardians;
- (3) The child(ren)'s physical environment poses an imminent threat to the child(ren)'s health or safety and there are no reasonable means by which the child can be protected without temporary removal from the physical custody of the parents or guardians;
- (4) The child(ren) is/are suffering severe emotional damage and there are no reasonable means by which the child(ren) can be protected without temporary removal from the physical custody of the parents or guardians;
- (5) The child has run from a placement in which he or she was placed by the Juvenile Court.

(b) **Entry into the Child(ren)'s Home**

Entry into the child(ren)'s home by DSS and/or law enforcement investigators is required pursuant to Welfare and Institutions Code § 328 in order for investigators to see and speak with the child(ren), to inspect the safety of the home, to determine whether child welfare services should be offered to the family and to determine whether juvenile court proceedings should be commenced.

(c) **Interview Minor(s)**

Entry into the child(ren)'s school or other location where the child may be found by DSS and/or law enforcement investigators is required pursuant to Welfare and Institutions Code § 328 in order for investigators to see and speak with the child(ren), to determine whether child welfare services should be offered to the family and to determine whether juvenile court proceedings should be commenced.

3. IT IS HEREBY ORDERED THAT:

- (a) **Protective Custody Warrant.** A protective custody warrant shall be issued for the child(ren) named above. Petitioner's agency and/or law enforcement are authorized to enter the child(ren)'s home in order to serve the warrant.

- (b) **Entry into Home.** Petitioner's agency and/or law enforcement are authorized to enter the child(ren)'s home, and the child(ren)'s parent, guardian or caretaker shall immediately permit DSS and/or law enforcement investigators to enter the child(ren)'s home, in order to see and speak with the child(ren), to inspect the safety of the home, to determine whether child welfare services should be offered to the family and to determine whether juvenile court proceedings should be commenced.

- (c) **Interview Child(ren).** Petitioner's agency and/or law enforcement are authorized to enter the child(ren)'s school or other location and seize the child(ren) in order to see and speak with the child(ren) to determine whether child welfare services should be offered to the family and to determine whether juvenile court proceedings should be commenced.

Date:

Judge of the Juvenile Dependency Court

NOTICE

- This warrant may be served any time of day or night.
- This warrant is null and void 10 Court days from the date of issuance.
- This warrant is null and void 12 months from date of issuance.

“Attachment B”

Protective Hold by On-Call Judge

Minor’s Name:	Date of Birth:
Minor’s Name:	Date of Birth:
Minor’s Name:	Date of Birth:
Minor’s Name:	Date of Birth:
Minor’s Name:	Date of Birth:

Protective Hold placed on date: and time: (a.m./p.m.) by
Fresno Superior Court Judge

SW Signature: _____

DSS SW , Employee Number , telephone number 559- or 559-600-8320.

Original to be attached to Detention Report
Copy kept in case file