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TRANSPORTATION TO COURT

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This 2009 edition of *Transportation to Court* updates the 2006 edition.

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INTRODUCTION

The purpose of this booklet is to notify prisoners and their legal advocates of a prisoner's legal right to request to be present at all hearings and court proceedings affecting their children. In addition, this booklet is designed to familiarize you with the procedures used to request transportation to a court hearing. The procedure does not work the same way in every California County. In this guide, we will introduce the general statewide procedures, time constraints, and departments or people responsible for initiating the process. We will also give you some sample forms that you may use to obtain a court order for transport to a proceeding affecting your parental rights. **This guide is not intended to replace your lawyer.** If you have representation, then stay in close contact with your lawyer and keep her/him informed about all aspects of your case. If you use this guide to proceed on your own (*pro se*), be sure to visit the law library to check the current status of the statutes and case law cited in this guide.

When a parent is in prison, the children become unrecognized victims and also suffer from the consequences of their parent's incarceration. Parents often do not have the time or the resources to plan for placement of their children before their incarceration. If arrangements have not been made, children are placed in temporary shelter by the welfare department or a social service agency. These circumstances further complicate the situation and could lead to permanent severance of the parent-child relationship by the court.

How important is it for a prisoner to appear in court at a juvenile court or custody proceeding?

When the incarcerated parent is having his or her parental rights challenged in court by the state or an individual, the absence of the parent from the courtroom can place him or her at a serious disadvantage. The fact that the prisoner has the opportunity to express his or her ability and qualifications as a parent to the court could become an important factor in determining the outcome of the case. This may be the only opportunity that the prisoner-parent has to address the judge directly and the only chance that the judge has to assess the attitude, behavior, and appropriateness of the parent.

The court date could also provide the incarcerated parent with the opportunity to arrange to visit with his or her children. Meetings with his or her attorney and/or social worker could be arranged to review the status of the parent and children. This could be especially valuable to an incarcerated parent housed in a county far from where his or her children reside.

How does the case *Payne v. Superior Court* support an incarcerated person's fundamental right to be present at court hearings?

Prisoners facing a civil action where their fundamental rights are being threatened, such as actions dealing with marriage and parental status, are required by the state and federal constitutions to be given an opportunity to be heard by the court.

In *Payne v. Superior Court* (1976) 17 Cal. 3d 908, 919, the California Supreme Court held that an indigent prisoner seeking to defend a civil suit has a due process right of access to the court. A trial court must exercise its discretion to determine whether access is best provided through a) a personal appearance by the prisoner, b) representation by counsel, or c) both. *Payne* at 924-25. Because incarceration can make it very hard for an attorney and client to effectively communicate, a personal appearance by the prisoner is often essential to safeguard the prisoner's interests in actions that will affect marital and parental interests—even if counsel has been appointed. *Payne* supports the granting of such access to the courts, while Penal Code section 2625 not only encourages such appearances by prisoners it actually requires that they be permitted in certain actions, at the prisoner's request. (See Penal Code section 2625(d) in Appendix 3).

How is an incarcerated parent notified of a court hearing regarding his or her children?

California regulations outline procedures for notifying parents of juvenile court proceedings. Unfortunately, the incarcerated parent is often given insufficient notification of hearings and in some cases no notification at all.

Incarcerated parents have the **right** to be notified of a court hearing:

- Where their children are adjudicated dependents of the court,
- Where their parental rights may be permanently terminated, and
- In other matters concerning their parental and familial rights.
 - (Source: California Penal Code section 2625)

In California, the courts have held that a social service department must make reasonable efforts to provide a parent with adequate notice and an opportunity to be heard before a hearing that may deprive a parent of his or her parental rights. *In re B.G.* (1974) 11 Cal. 3d 679, 690. In other custody and family law matters, the presiding judge of the court in question sets the policies and procedures as to how a prisoner is notified and ordered to appear before the court. Generally speaking, a parent has the right to either attend all hearings or have an attorney present to represent the parent's interests.

Case law generally supports the necessity of giving a prisoner 'adequate and effective' notice of a hearing. However, neither courts nor the state government has set forth exactly what 'adequate and effective' must mean. In one case, the California Court of Appeals held that the juvenile court erred because it did not allow a hearing to be delayed when the attorney had not been able to contact the parent to prepare for the hearing after reasonable efforts to do so. *In re C.P.* (1985) 165 Cal. App. 3d 270.

In North Carolina, a Department of Social Services caseworker merely sent notice to a prisoner but took no further action after the letter was returned in the mail. The North Carolina Court of Appeals held that this was not sufficient evidence that [diligent efforts] had been made to give notice and render reasonable services to assist family reunification. *Matter of Harris*, 360 S.E.2d

485, 489 (N.C. App. 1987). (Note that while decisions made in North Carolina courts are not binding in California, they may be helpful in similar cases.)

In summary, the law requires that parents get enough notice of upcoming hearings that they are given a meaningful chance to attend and be heard by the court. Unfortunately, the courts are only required to notify parents of certain types of family law hearings. In other types, the courts are allowed to make a less effective attempt to adequately notify parents.

What kinds of hearings can prisoners get transportation to attend?

California Penal Code section 2625 gives California prisoners an **absolute** right to be transported to court for:

- A hearing that could terminate the prisoner's parental rights [conducted under Part 4 (beginning with section 7800) of Division 12 of the California Family Code, and section 366.26 of the Welfare & Institutions Code] **and**
- An adjudication hearing making the child a dependent of the court [conducted under Welfare and Institutions Code section 300, subdivisions (a), (b), (c), (e), (d), (e), (f), (i), or (j)].

This means that if the parent has requested to be present, these types of hearings cannot proceed without the parent's attorney **AND** the parent. Older case law stated that it would be enough if only a prisoner's attorney had been present, even if a prisoner had requested transportation. However, in March 2004, the California Supreme Court held that Section 2625 intends to give prisoners a right to be present, not just to have their attorney there. *In re. Jesusa V.* (2004) 32 Cal. 4th 588, 624.¹ However, this right only extends to dependency and termination of parental rights hearings. It is also important to know that the court can proceed without the physical presence of the prisoner in cases where the prisoner has signed a waiver of physical presence. In addition, if the warden or person in charge of the institution or the prisoner's representative signs an affidavit stating that the prisoner has expressed by words or action that he or she does not wish to be present, the court may proceed without the presence of the prisoner-parent. Cal. Penal Code section 2625(d).

In all other family matters (for example, divorce, child support, six-month review, guardianship, paternity), the court **may** order the prisoner before the court. This means that it is up to the court to decide whether the parent's presence is required in order to proceed. It may be difficult to obtain a court order permitting transportation to these types of hearings, and the prisoner should submit a request in writing stating the reason that his or her presence at the hearing is necessary. Sample requests of this sort are included in Appendix 1.

¹ It should be noted that the Court held that the absence of the parent in this case was "harmless error", meaning that the parent's absence from court did not prejudice the outcome of the case. The parent's attorney was present at all hearings to represent the client's interests.

Which prisoners can be transported to California courts?

Penal Code Section 2625 defines ‘prisoner’ as “any individual in custody in a state prison, the California Rehabilitation Center, or a county jail, or who is a ward of the Department of the Youth Authority, or who... is confined in a state hospital for the care and treatment of the mentally disordered or in any other public or private treatment facility.” The court **may not order** the transport of a prisoner who is sentenced to death, even where that sentence is being appealed. (Cal Penal Code Section 2625 is included here as Appendix 3)

People who are incarcerated in a Federal Prison, including an immigration detention center, are not included in Section 2625. If a parent is in federal custody, they should try contacting the family court to request a delay in proceedings until they are released. However, it may be difficult to obtain a continuance in cases where the parent is serving a long sentence and the release date is too far into the future. *Rufino S. v. Superior Court (In re Maria S.)* (1997) 60 Cal. App. 4th 1309.

Parents serving time in another state’s prisons whose parental rights are in jeopardy in a California court may have a very hard time getting transportation to court hearings. One case, *In re Gary U.* (1982) 136 Cal. App. 3d 494, held that a father serving a life sentence in Arizona was not denied due process when he was not transported to a hearing terminating his parental rights. Contact local prison authorities if this applies to you.

How do you go about requesting transportation to a court hearing regarding your children?

Generally, the prisoner must actively request to be transported to court. If the prisoner does not request to be transported, as long as he or she is notified of the upcoming hearing, and his or her attorney is present at that hearing, a court will not consider the prisoner’s due process violated. *In re Rikki D.* (1991) 227 Cal. App. 3d 1624. However, an increasing number of jurisdictions are recognizing the right of incarcerated parents to be present at court proceedings. One of the problems prisoners face in arranging transportation to a family court proceeding is that it is unclear in many jurisdictions what agency has the primary responsibility for beginning the process. The responsibility can fall on juvenile court, the probation department, the correctional facility, or even the court-appointed attorney.

In most counties, the legal advocate or court-appointed attorney is responsible for drawing up the documents to be submitted to the courts. In some counties, a public defender is specifically assigned to provide and file the proper documents or forms. To a lesser degree, counties place the responsibility on the child’s social worker or juvenile court authorities.

If the incarcerated parent is not sure whether a court order has been issued transporting him or her to the hearing, he or she should write to the appointed lawyer, the juvenile court judge, and/or the child’s social worker to advise them that he or she wishes to attend the hearing.

One important concern of family courts has increasingly become the length of trial; the legislature is trying to make sure that children do not spend huge amounts of time in court. Welfare and Institutions Code section 352 requires that a dispositional hearing regarding a child be conducted no later than six months after the children are detained in state care. If the parent has not arranged transportation to a hearing in those six months, it may be impossible to continue a dispositional hearing beyond that time frame. *D.E. vs. Superior Court of Orange County* (2003) 111 Cal. App. 4th 502. In other words, the six-month time frame for disposition cases can trump the requirement of parental presence.

In at least one instance, a parent was denied his request to be transported to dependency proceedings because he was in his criminal trial during the same time. The county refused to reschedule the family court hearing as it was unclear how long his criminal trial would last, and the six-month time period for dependency cases was over. *In re Axsana S.* (2000) 78 Cal. App. 4th 262. His attorney, however, was present at the proceedings.

Would it be possible for the incarcerated parent to file a request for transportation to a juvenile court hearing on his or her own behalf?

An alternative to a lawyer's representation would be for the prisoner to submit the forms on his or her own behalf *pro per*. Just be careful to send the forms as soon as possible so as not to encounter the problem of the six-month time frame. Attached in Appendix 1 are sample forms requesting transportation to court, along with blank forms (in Appendix 2) for you to fill out and an explanation of how to fill out these forms.

Who is responsible for transporting prisoners to court?

The Sheriff's Department in the county where the hearing is to take place is responsible for making arrangements to physically transport an incarcerated parent to a court hearing. A list of Sheriff's Departments and addresses is attached in Appendix 4.

How long before the hearing should a request for transportation be made?

Whether the request for transportation is made through a government agency, individual attorney, or prisoner filing in *pro per*, the Sheriff's Department will need sufficient time to arrange the transportation. Sheriffs in different counties have various definitions for "sufficient time." They might require from two weeks before to one month before the court date, and they can sometimes require as long as six weeks. Try to request transportation as early as you can. A copy of the order for transport must be given to the warden or person in charge of the prisoner's institution not less than **15 days** before the prisoner is transported to the hearing.

What happens if notification of hearing is not received by the prisoner in time to arrange for transportation?

Although a social services agency may send notice within an appropriate time period, correctional procedures may cause the parent to receive notification just before the hearing or even after it has taken place. If this is the case, a prisoner should immediately write to both the court and the court-appointed attorney explaining the circumstances of the late notification and request that the attorney continue (delay) the matter until the prisoner can be transported to court. If the judge does not allow continuance, it might be appropriate to file an appeal (see below). If it is possible, ask a relative to appear at the hearing for you to explain that you were not given enough time to request transportation. This would be a way of showing the court your concern for your children. According to Penal Code section 2625, the court is not supposed to go forward with any hearing that might terminate parental rights without the parent or his/her attorney present.

Can a prisoner appeal a decision that was made in his or her absence due to lack of transportation?

Unfortunately, an incarcerated parent's lack of transportation is not always enough reason to overturn a dependency hearing. First of all, if the parent's attorney was present, and if the court decides that the parent had 'adequate notice' of the hearing, the court will probably decide that the parent was not denied his or her rights—if they did not request to be transported. Secondly, even if they do request transportation, and the county fails to transport the prisoner for any reason, the hearing will not necessarily be overturned. The appellate courts will only strike a hearing if the parent's absence resulted in some prejudice to the parent. This means that to appeal a negative decision, you must show that the outcome would likely have been different if the parent had been present at the hearing.

A case is more likely to be overturned if the incarcerated parent has not received adequate notice of the hearing. Inadequate notice would probably include anything that was received between 0-5 days before a hearing. However, as explained above, the requirement for adequate notice only extends to hearings adjudicating a child's dependency status and hearings terminating parental rights.

Will a prisoner lose good time if he or she goes to a hearing concerning his or her child?

No. The California Code of Regulations requires that you continue to receive good time during the time that you are "removed to out-to-court status," which is considered an authorized absence. "S' time credit shall be applied to an authorized absence from the inmate's work/training assignment by order of the prison administration. The inmate shall receive sentence-reducing credit that would have been earned if the inmate had been able to work." California Code of Regulations, Title 15, section 3045.3.

REMEMBER, if your child is over 3 years old and is made a dependent of the juvenile court, you have a period of twelve (12) months in which to reunify with your child. While some juvenile courts will give a parent an additional six (6) months for a total of eighteen (18) months, this is not always the case, and the court can **terminate your parental rights** within the twelve-month time limit if you do not stay in touch with your child and prove to the court that you are fulfilling the terms of your reunification plan and that you will actually reunify with your child within the time limit. If your child was under the age of 3 at the time s/he was removed from the parent's custody, *then only six (6) months* of reunification time is available. This is why it is so important to be present at each and every hearing involving your child.

SUMMARY: IMPORTANT POINTS TO REMEMBER

- You have a **right** to be notified of any court hearing where your parental rights or other custody matters concerning your children are at stake.
- Appearing in court may be **very important** in the determination of your case. This may be the only chance you have to address the judge directly and to demonstrate that you are a responsible parent.
- You have an **absolute** right to be transported to court proceedings in any action that could terminate your parental rights or to hearings where your child may be made a dependent of the court. (California Penal Code Section 2625). Additionally, in all other family matters (for example, a divorce or child custody hearing) the court **may** order you before the court. If you are not sure if an order has been issued, write to your appointed attorney, the juvenile court judge, or your child's social worker to advise them that you wish to attend the hearing.
- You **can** file a request for transportation without an attorney. Appendix 1 contains sample forms requesting transportation and Appendix 2 contains blank forms for you to fill out. Page 8 has an explanation of how to do this.
- Note that it may take time to arrange transportation. Try to file your request *as early as possible*. Some Sheriff's Departments require up to six weeks to arrange transportation. The law says that a warden must be given at least 15 days to arrange transportation.
- If you do not receive notification of a hearing in time to arrange for your transportation, **immediately** write to the court or court-appointed attorney explaining the circumstances of the late notification and requesting that the attorney continue the matter until you can be transported to court. Also, write to the court-appointed attorney to ask that the court be notified of the problem. You may be able to appeal a decision resulting from this hearing.
- You will **not** lose good time if you attend a hearing concerning your child. The time is considered an authorized absence. Cal. Code of Regulations, Title 15, section 3045.3.

- Forms you will need (see Appendix 1 for samples; Appendix 2 for blank forms)
 - Notice of Motion and Motion to Transfer Prisoner to Court (2 pages)
 - Declaration Supporting Petitioner’s Motion to Transfer Prisoner to Court (2pages)
 - Memorandum of Points and Authorities Supporting Petitioner’s Motion to Transfer Prisoner to Court (3 pages)
 - Order for Transportation of Prisoner to Court (JV-450)

Note: Form JV-450, Order for Prisoner’s Appearance at Hearing Affecting Prisoner’s Parental Rights, is one page with a waiver on the back. **Do not sign the waiver if you wish to attend the hearing!**

REQUESTING TRANSPORTATION TO COURT (INSTRUCTIONS)

Following these instructions are the forms that you are required to file in order to petition the court for permission to attend hearings in which either you are a party (i.e. divorces), or otherwise involved (i.e. child custody and related matters.)

- * The first set of forms (Appendix 1) is samples that have been filled in with fake information so that you can see how it should be done.
- * You may use these sample forms as worksheets if you cross out the information in the brackets and substitute it with your own personal information. Then simply type (if possible) the proper information onto the blank forms in Appendix 2.
- * Try to type the blank forms, if possible. If you don’t have access to a typewriter or word processor, then **print** the information clearly. Make sure you use **blue or black ink**.
- * **Do not use pencil.**
- * When forms are completely filled in, make 4 copies of all the forms:
 - (1) Mail the original and two copies to the court clerk, and request that the court file-stamp and return one copy to you; be sure to include a self-addressed, stamped envelope so the court clerk can return your file-stamped copy;
 - (2) If you are in state prison, send one copy to the sheriff; if you are in federal prison, send one copy to the warden
 - (3) Keep one copy for your records (when the court clerk returns the file-stamped copy to you, the file-stamped copy will become your “official” copy).

APPENDIX 1

SAMPLE FORMS: EXAMPLES TO FOLLOW

Form 1: Notice of Motion and Motion

Form 2: Declaration Supporting Petitioner's Motion

Form 3: Memorandum of Points and Authorities (with 4 examples of "facts")

[your name and cdc number]
[name of prison/jail]
[street address]
[city, state, zip code]

In Pro Per

SUPERIOR COURT, COUNTY OF [insert name of county]

Case No.

In re)
)
)
)
)
)
)
_____)

A Minor

**NOTICE OF MOTION AND MOTION
TO TRANSFER PRISONER TO COURT
(PENAL CODE § 2625)**

Hearing:
Dept.:
Hearing judge:
Action filed:
Trial date:

PLEASE TAKE NOTICE that Petitioner, [your name here], moves the court under California Penal Code § 2625 for an order transporting [her/him] to the above-entitled court for the hearing in this case now set for [date of hearing].

The court is located at [address for court].

This Motion is based on the attached documents and exhibits including the declaration of [your name], dated [date of declaration], the Memorandum of Points and Authorities Supporting Petitioner's Motion, and on all papers filed and records in this action, and on any evidence received at the hearing.

Dated: [insert date here]

[sign on the above line; type or print your
name directly below the line]
Petitioner in Pro Per

[Facts continued]

POINTS AND AUTHORITIES:

I. Under California Penal Code § 2625, a prisoner has an absolute right to be present at any court proceeding brought under Family Code §§ 7800 et.seq., and Welfare & Institutions Code § 366.26 which may terminate the prisoner's parental rights, or any proceeding under Welfare & Institutions Code § 300, where the prisoner's child may be adjudicated a dependent of the court. In any other action in which a prisoner's parental or marital rights are subject to adjudication, the court **may** order that the prisoner be brought before the court.

II. The California Supreme Court has held that an indigent prisoner seeking to defend a civil suit has a due process right of access to the courts. (*Payne v. Superior Court* (1976) 17 Cal.3d 908, 919). A trial court must exercise its discretion to determine whether access is best provided through a personal appearance by the prisoner, representation by counsel, or both. (*Payne, supra*, 17 Cal.3d at pp.924-25). Because incarceration creates unusual obstacles to effective communication between attorney and client even when counsel has been appointed, a personal appearance by the prisoner is often essential to safeguard the prisoner's marital and parental interests in actions which will affect those interests.

III. *Payne* supports the granting of such access to the courts, while Penal Code § 2625 not only encourages such appearances by prisoners, but actually requires that they be permitted in certain actions at the prisoner's request.

Dated:

Respectfully submitted,

[sign your name on line above; type or print
your name directly below the line]
Petitioner in Pro Per

Example 4:

Sec 366.26-- Permanent Plan Hearing

On August 15th, 2000, I was arrested by the San Jose Police Department at 3am for possession of narcotics and taken into custody. I was eventually sentenced to three years in prison.

I am the parent of a 5-year old daughter, Bernice. As a result of my arrest, Bernice was taken into custody by Child Protective Services. Because I was immediately taken into custody, I did not have an opportunity to arrange for the care of my child.

I have been in regular contact with Bernice since my arrest, both by telephone and through written correspondence. I believe that my sister, Thelma, has also been in regular contact with Bernice. Thelma has been very close with Bernice all of her life. I believe that Thelma would be an excellent caregiver for my child.

On October 23rd, 2001, I did not attend Bernice's detention hearing. I was not able to attend because I did not receive notice of the hearing in time to arrange transportation. [*OR I attended Bernice's detention hearing.*] I was also not able to attend the jurisdiction hearing on December 18th because I did not have sufficient notice to arrange for transportation to the hearing. [*OR I attended Bernice's jurisdiction hearing.*]

It is important that I attend the Permanent Planning Hearing on April 4th. The decisions made at this hearing will permanently affect the placement and care of my child. I wish to attend the hearing in order to assist my attorney in persuading the court to find a suitable living arrangement for my child.

Without a court order for transportation to the hearing I will not be able to attend the hearing.

APPENDIX 2

BLANK FORMS

Form 1: Notice of Motion and Motion

Form 2: Declaration Supporting Petitioner's Motion

Form 3: Memorandum of Points and Authorities

Form 4: Order for Prisoner's Appearance at Hearing

Affecting Prisoner's Parental Rights (JV 450—Rev. July 1, 2006)

Form 5: Orden de Comparecencia de un Prisionero en una Audiencia que
Afecta los Derechos de Padre del Prisionero (JV-450 S---Rev. January 1, 2006)

In Pro Per

SUPERIOR COURT, COUNTY OF

Case No.

In re

A Minor

**NOTICE OF MOTION AND MOTION
TO TRANSFER PRISONER TO COURT
(PENAL CODE § 2625)**

**Hearing:
Dept.:
Hearing judge:
Action filed:
Trial date:**

PLEASE TAKE NOTICE that Petitioner, _____, moves the court under California Penal Code § 2625 for an order transporting _____ to the above-entitled court for the hearing in this case now set for _____.

The court is located at _____.

This Motion is based on the attached documents and exhibits including the declaration of _____, dated _____, the Memorandum of Points and Authorities Supporting Petitioner’s Motion, and on all papers filed and records in this action, and on any evidence received at the hearing.

Dated: _____

Petitioner in Pro Per

In Pro Per

SUPERIOR COURT, COUNTY OF

_____)
 In re)
)
)
)
 A Minor.)
)
)
 _____)

Case No.:

DECLARATION OF
SUPPORTING PETITIONER’S
MOTION TO TRANSFER
PRISONER TO COURT
 (PENAL CODE § 2625)

Hearing:
Dept.:
Hearing judge:
Action filed:
Trial date:

Petitioner declares:

1. My name is
2. I am the natural _____ of
3. I am presently incarcerated at
4. I am deeply concerned with the welfare and legal status of my child, and I desire to be present at any and all court proceedings affecting _____ and my parental rights as is my right under California Penal Code § 2625.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated:
 Declaration Supporting Petitioner’s
 Motion to Transfer Prisoner to Court

In Pro Per

SUPERIOR COURT, COUNTY OF

In re _____

A Minor

Case No.:

**MEMORANDUM OF POINTS AND
AUTHORITIES SUPPORTING
PETITIONER'S MOTION FOR
TRANSPORTATION OF PRISONER
TO COURT**

Hearing:

Dept.:

Hearing judge:

Action filed:

Trial date:

California Penal Code § 2625 and *Payne v. Superior Court* (1976) 17 Cal.3d 908 provide statutory and judicial authority for this order. These authorities uphold a prisoner's right to appear in court for a hearing regarding his or her marital or parental interests.

FACTS:

[Facts continued]

POINTS AND AUTHORITIES:

I. Under California Penal Code § 2625, a prisoner has an absolute right to be present at any court proceeding brought under Family Code §§ 7800 et.seq., and Welfare & Institutions Code § 366.26 which may terminate the prisoner's parental rights, or any proceeding under Welfare & Institutions Code § 300, where the prisoner's child may be adjudicated a dependent of the court. In any other action in which a prisoner's parental or marital rights are subject to adjudication, the court **may** order that the prisoner be brought before the court.

II. The California Supreme Court has held that an indigent prisoner seeking to defend a civil suit has a due process right of access to the courts. (*Payne v. Superior Court* (1976) 17 Cal.3d 908, 919). A trial court must exercise its discretion to determine whether access is best provided through a personal appearance by the prisoner, representation by counsel, or both. (*Payne, supra*, 17 Cal.3d at pp.924-25). Because incarceration creates unusual obstacles to effective communication between attorney and client even when counsel has been appointed, a personal appearance by the prisoner is often essential to safeguard the prisoner's marital and parental interests in actions which will affect those interests.

III. *Payne* supports the granting of such access to the courts, while Penal Code § 2625 not only encourages such appearances by prisoners, but actually requires that they be permitted in certain actions at the prisoner's request.

Dated:

Respectfully submitted

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CASE NAME:	
ORDER FOR PRISONER'S APPEARANCE AT HEARING AFFECTING PRISONER'S PARENTAL RIGHTS <input type="checkbox"/> Waiver of Appearance	CASE NUMBER:

1. A hearing regarding the custody of the following children (names):

will be held

on (date):	at (time):	in Dept.:	Room:
------------	------------	-----------	-------

located at court address above other (specify address):

2. The hearing will be held under:

- a. Welfare and Institutions Code section 300 (to declare the child a dependent of the court)
- b. Welfare and Institutions Code section 366.26 to
 - (1) Terminate parental rights
 - (2) Appoint a legal guardian
 - (3) Identify a placement _____ with a specific goal of _____
- c. Other (specify code section and hearing purpose):

3. To the Warden or Director of (name of institution): _____

You are ordered to deliver prisoner (name and identification number): _____
 who is a party, into the custody of (name): _____ so the prisoner may be
 transported to this court for the hearing unless the prisoner executes the attached waiver or refuses to be transported. The sheriff is
 ordered to return the prisoner to _____ when the prisoner's appearance is no longer necessary.

Date: _____

 JUDICIAL OFFICER

- 4. The Waiver of Right to Be Present at Hearing Affecting Prisoner's Parental Rights on reverse is completed (item 7).
- 5. The Declaration of Interpretation on reverse is completed (item 8).
- 6. The Declaration That Prisoner Does Not Wish to Attend Hearing on reverse is completed (item 9).

CASE NAME: _____	CASE NUMBER: _____
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WAIVER OF RIGHT TO BE PRESENT AT HEARING AFFECTING PRISONER'S PARENTAL RIGHTS

7. I HEREBY WAIVE MY RIGHT TO ATTEND THE HEARING.

- a. I authorize my attorney of record to represent me at the hearing.
- b. I request that an attorney be appointed to represent me and to appear for me at the hearing.
- c. I waive my right to be represented by an attorney.

Date:

(TYPE OR PRINT NAME)	▶	(SIGNATURE OF PARENT)
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DECLARATION OF INTERPRETER

(To be completed if prisoner does not understand English sufficiently to read this form.)

- 8. a. The prisoner's primary language is Spanish other (specify):
- b. I certify that I interpreted this form for the prisoner in the prisoner's primary language to the best of my ability.

Date:

(TYPE OR PRINT NAME)	▶	(SIGNATURE OF INTERPRETER)
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DECLARATION THAT PRISONER DOES NOT WISH TO ATTEND HEARING

9. The prisoner (*name*): _____ has stated to me, or by conduct indicated to me, that he or she does not wish to attend the hearing in this matter.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)	▶	(SIGNATURE)
		(TITLE OF PRISON OFFICIAL)

ABOGADO O PARTE SIN ABOGADO (<i>Nombre, Número del Colegio Estatal de Abogados (si es abogado) y Dirección Postal</i>): <hr/> NO. DE TELÉFONO: _____ NO. DE FAX (<i>Optativo</i>): _____ DIRECCIÓN ELECTRÓNICA (<i>Optativa</i>): _____ ABOGADO DE (<i>Nombre</i>): _____	SOLO PARA USO DE LA CORTE Solo para información No entregue a la corte
CORTE SUPERIOR DE CALIFORNIA, CONDADO DE _____ DIRECCIÓN (<i>Calle y Número</i>): _____ DIRECCIÓN POSTAL: _____ CIUDAD Y CÓDIGO POSTAL: _____ NOMBRE DE LA SUCURSAL: _____	Sólo para información
NOMBRE DEL CASO: _____	
ORDEN DE COMPARECENCIA DE UN PRISIONERO EN UNA AUDIENCIA QUE AFECTA LOS DERECHOS DE PADRE DEL PRISIONERO <input type="checkbox"/> Renuncia a la comparecencia	NÚMERO DEL CASO: _____ No entregue a la corte

1. Una audiencia relativa a la custodia de los siguientes menores (*nombres*):

tendrá lugar

el (<i>fecha</i>): _____	a las (<i>hora</i>): _____	en el Depto.: _____	Sala: _____
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ubicado en la dirección de la corte que figura arriba otra (*especifique la dirección*): _____

2. La audiencia tendrá lugar conforme al:

- a. Código de Bienestar e Instituciones sección 300 (para declarar al menor dependiente de la corte)
- b. Código de Bienestar e Instituciones sección 366.26 para
 - (1) terminar los derechos de padre.
 - (2) nombrar a un tutor legal.
 - (3) Identificar a una colocación _____ con un objetivo específico de _____
- c. Otro (*especifique la sección del código y el propósito de la audiencia*): _____

3. Al celador o director de (*nombre de la institución*): _____
 Se le ordena entregar al prisionero (*nombre y número de identificación*): _____
 quien es una parte del caso, a la custodia de (*nombre*): _____ para que el prisionero sea trasladado a esta corte y esté presente en una audiencia, a menos que el prisionero firme la renuncia adjunta o se niegue a ser trasladado. Se le ordena al alguacil devolver al prisionero a _____ cuando su comparecencia ya no sea necesaria.

Fecha: _____

FUNCIONARIO JUDICIAL

- 4. Se llenó la Renuncia al derecho a estar presente en la audiencia al dorso (número 7).
- 5. Se llenó al dorso la Declaración del intérprete (número 8).
- 6. Se llenó al dorso la Declaración de que el prisionero no quiere asistir a la audiencia (número 9).

NOMBRE DEL CASO: Sólo para información	NÚMERO DEL CASO: No entregue a la corte
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RENUNCIA AL DERECHO A ESTAR PRESENTE EN UNA AUDIENCIA QUE AFECTA LOS DERECHOS DE PADRE DEL PRISIONERO

7. POR LA PRESENTE RENUNCIO A MI DERECHO A COMPARECER EN LA AUDIENCIA.

- a. Autorizo a que mi abogado del caso me represente an la audiencia.
- b. Solicito que se me asigne a un abogado para representarme y comparecer en mi nombre en la audiencia.
- c. Renuncio a mi derecho a ser representado por un abogado.

Fecha:

(ESCRIBA SU NOMBRE A MÁQUINA O EN LETRA DE MOLDE)	▶	(FIRMA DEL PADRE)
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DECLARACIÓN DEL INTÉRPRETE
(A ser llenado si el prisionero no entiende Inglés lo suficiente como para leer este formulario.)

- 8. a. El idioma primario del prisionero es español otro (*especifique*):
- b. Certifico que interpreté este formulario al prisionero en su idioma primario al mejor de mi capacidad.

Fecha:

(ESCRIBA SU NOMBRE A MÁQUINA O EN LETRA DE MOLDE)	▶	(FIRMA DEL INTÉRPRETE)
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DECLARACIÓN DE QUE EL PRISIONERO NO QUIERE ASISTIR A LA AUDIENCIA

9. El prisionero (*nombre*): _____ me ha dicho, o por su conducta me indicó, que no desea asistir a la audiencia para tratar este tema.

Declaro bajo pena de perjurio bajo las leyes del estado de California que lo que antecede es veraz y correcto.

Fecha:

(ESCRIBA SU NOMBRE A MÁQUINA O EN LETRA DE MOLDE)	▶	(FIRMA)
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 (PUESTO DEL FUNCIONARIO DE LA PRISIÓN)

APPENDIX 3

PENAL CODE SECTION 2625

2625. (a) For the purposes of this section only, the term "prisoner" includes any individual in custody in a state prison, the California Rehabilitation Center, or a county jail, or who is a ward of the Department of the Youth Authority or who, upon a verdict or finding that the individual was insane at the time of committing an offense, or mentally incompetent to be tried or adjudged to punishment, is confined in a state hospital for the care and treatment of the mentally disordered or in any other public or private treatment facility.

(b) In any proceeding brought under Part 4 (commencing with Section 7800) of Division 12 of the Family Code, and Section 366.26 of the Welfare and Institutions Code, where the proceeding seeks to terminate the parental rights of any prisoner, or any proceeding brought under Section 300 of the Welfare and Institutions Code, where the proceeding seeks to adjudicate the child of a prisoner a dependent child of the court, the superior court of the county in which the proceeding is pending, or a judge thereof, shall order notice of any court proceeding regarding the proceeding transmitted to the prisoner.

(c) Service of notice shall be made pursuant to Section 7881 or 7882 of the Family Code or Section 290.2, 291, or 294 of the Welfare and Institutions Code, as appropriate.

(d) Upon receipt by the court of a statement from the prisoner or his or her attorney indicating the prisoner's desire to be present during the court's proceedings, the court shall issue an order for the temporary removal of the prisoner from the institution, and for the prisoner's production before the court. No proceeding may be held under Part 4 (commencing with Section 7800) of Division 12 of the Family Code or Section 366.26 of the Welfare and Institutions Code and no petition to adjudge the child of a prisoner a dependent child of the court pursuant to subdivision (a), (b), (c), (d), (e), (f), (i), or (j) of Section 300 of the Welfare and Institutions Code may be adjudicated without the physical presence of the prisoner or the prisoner's attorney, unless the court has before it a knowing waiver of the right of physical presence signed by the prisoner or an affidavit signed by the warden, superintendent, or other person in charge of the institution, or his or her designated representative stating that the prisoner has, by express statement or action, indicated an intent not to appear at the proceeding.

(e) In any other action or proceeding in which a prisoner's parental or marital rights are subject to adjudication, an order for the prisoner's temporary removal from the institution and for the prisoner's production before the court may be made by the superior court of the county in which the action or proceeding is pending, or

by a judge thereof. A copy of the order shall be transmitted to the warden, superintendent, or other person in charge of the institution not less than 15 days before the order is to be executed. The order shall be executed by the sheriff of the county in which it shall be made, whose duty it shall be to bring the prisoner before the proper court, to keep the prisoner safely, and when the prisoner's presence is no longer required, to return the prisoner to the institution from which he or she was taken. The expense of executing the order shall be a proper charge against, and shall be paid by, the county in which the order shall be made.

The order shall be to the following effect:

County of _____(as the case may be).

The people of the State of California to the warden of _____:

An order having been made this day by me, that (name of prisoner) be produced in this court as a party in the case of _____, you are commanded to deliver (name of prisoner) into the custody of _____ for the purpose of (recite purposes).

Dated this _____ day of _____, 20__.

(f) When a prisoner is removed from the institution pursuant to this section, the prisoner shall remain in the constructive custody of the warden, superintendent, or other person in charge of the institution.

(g) Notwithstanding any other law, a court may not order the removal and production of a prisoner sentenced to death, whether or not that sentence is being appealed, in any action or proceeding in which the prisoner's parental rights are subject to adjudication.

APPENDIX 4
COUNTY SHERIFFS' OFFICES

COUNTY SHERIFFS

(Please note that all information is current as of March 2009)

ALAMEDA COUNTY

Gregory Ahern, Sheriff
1401 Lakeside Drive, 12th Floor
Oakland, CA 94612
510-272-6878

ALPINE COUNTY

John Crawford, Sheriff
PO Box 278
Markleeville, CA 96120
530-694-2231

AMADOR COUNTY

Sheriff's Office
700 Court Street
Jackson, CA 95642
209-223-6500

BUTTE COUNTY

Perry Reniff, Sheriff
33 County Center Drive
Oroville, CA 95965
530-538-7321

CALAVERAS COUNTY

Dennis Downum, Sheriff
891 Mountain Ranch Rd.
San Andreas, CA 95249
209-754-6500

COLUSA COUNTY

Scott D. Marsha, Sheriff
929 Bridge Street
Colusa, CA 95932
530-458-0200

CONTRA COSTA COUNTY

Warren E. Rupf, Sheriff
651 Pine Street, 7th Floor
Martinez, CA 94553
925-335-1500

DEL NORTE COUNTY

Dean Wilson, Sheriff
650 Fifth Street
Crescent City, CA 95531
707-464-4191

EL DORADO COUNTY

Jeff Neves, Sheriff
300 Fair Lane
Placerville, CA 95667
530-621-5655

FRESNO COUNTY

Margaret Mims, Sheriff
2200 Fresno Street
Fresno, CA 93721
559-488-3939

GLENN COUNTY

Larry Jones, Sheriff
543 W Oak Street
Willows, CA 95988
530-934-6431

HUMBOLDT COUNTY

Gary Philp, Sheriff
826 Fourth Street
Eureka, CA 95501
707-445-7251

IMPERIAL COUNTY

Raymond Loera, Sheriff
PO Box 1040, (328 Applestill Road)
El Centro, CA 92243
760-339-6302

INYO COUNTY

Sheriff's Office
550 S Clay Street
Independence, CA 93526
760-878-0383

KERN COUNTY

Donny Youngblood, Sheriff
1350 Norris Road
Bakersfield, CA 93308
661-391-7500

KINGS COUNTY

Sheriff's Office
1444 W Lacey Blvd.
Hanford, CA 93230
559-582-3211

LAKE COUNTY

Sheriff's Office
1220 Martin Street
Lakeport, CA 95453
707-262-4200

LASSEN COUNTY

Sheriff's Office
220 S Lassen St
Susanville, CA 96130
530-257-6121

LOS ANGELES COUNTY

Leroy D. Baca, Sheriff
(Transportation Unit) 441 Bauchet St.
Los Angeles, CA 90012
213-974-4562 or 213-974-4563

MADERA COUNTY

Sheriff's Office
209 W Yosemite Ave
Madera, CA 93637
559-675-7737

MARIN COUNTY

Robert T. Doyle, Sheriff
3501 Civic Center Drive, #145
San Rafael, CA 94903
415-499-7250

MARIPOSA COUNTY

James Allen, Sheriff
PO Box 276
Mariposa, CA 95338
209-966-3615

MENDOCINO COUNTY

Sheriff's Office
951 Low Gap Road
Ukiah, CA 95482
707-463-4411

MERCED COUNTY

Mark Pazin, Sheriff-Coroner
700 West 22nd Street
Merced, CA 95340
209-385-7444

MODOC COUNTY

Sheriff's Office
102 S Court Street
Alturas, CA 96101
530-233-4416

MONO COUNTY

Richard Scholl, Sheriff
PO Box 616, (100 Bryant St)
Bridgeport, CA 93517
760-932-7549

MONTEREY COUNTY

Mike Kanalakis, Sheriff
1414 Natividad Road
Salinas, CA 93906
831-755-3700

NAPA COUNTY

Gary Simpson, Sheriff
1535 Airport Blvd.
Napa, CA 94558
707-253-4440

NEVADA COUNTY

Keith Royal, Sheriff
950 Maidu Avenue
Nevada City, CA 95959
530-265-1471

ORANGE COUNTY

Sandra Hutchens, Sheriff
550 North Flower
Santa Ana, CA 92703
714-647-7000

PLACER COUNTY

Edward N. Bonner, Sheriff
2929 Richardson Dr
Auburn, CA 95603
530-889-7800

PLUMAS COUNTY

Sheriff's Office
1400 E Main Street
Quincy, CA 95971
530-283-6375

RIVERSIDE COUNTY

Stanley Sniff, Sheriff
4095 Lemon Street
Riverside, CA 92501
951-955-2400

SACRAMENTO COUNTY

John McGinness, Sheriff
711 "G" Street
Sacramento, CA 95814
916-874-5115

SAN BENITO COUNTY

Curtis J. Hill, Sheriff
PO Box 700
Hollister, CA 95024
831-636-4080

SAN BERNARDINO COUNTY

Rod Hoops, Sheriff
655 E Third St
San Bernardino, CA 92415
909-387-3545

SAN DIEGO COUNTY

William B. Kolender, Sheriff
PO Box 939062, (9621 Ridgehaven Court)
San Diego, CA 92142
858-974-2222

SAN FRANCISCO COUNTY

Michael Hennessey, Sheriff
1 Carlton B. Goodlett Pl., Room 456
San Francisco, CA 94102
415-554-7225

SAN JOAQUIN COUNTY

Steve Moore, Sheriff
7000 Michael Canlis Blvd.
French Camp, CA 95231
209-468-4400

SAN LUIS OBISPO COUNTY

Patrick Hedges, Sheriff
1585 Kansas Avenue
San Luis Obispo, CA 93401
805-781-4550

SAN MATEO COUNTY

Greg H. Munks, Sheriff
400 County Center
Redwood City, CA 94063
650-599-1664

SANTA BARBARA COUNTY

Bill Brown, Sheriff
4434 Calle Real
Santa Barbara, CA 93110
805-681-4100

SANTA CLARA COUNTY

Laurie Smith, Sheriff
55 W Younger Avenue
San Jose, CA 95110-1721
408-808-4900

SANTA CRUZ COUNTY

Steve Robbins, Sheriff
701 Ocean Street, Room 340
Santa Cruz, CA 95060
831-471-1121

SHASTA COUNTY

Tom Bosenko, Sheriff
1525 Court Street
Redding, CA 96001
530-245-6025

SIERRA COUNTY

Lee Adams, Sheriff
100 Courthouse Square
Downieville, CA 95936
530-289-3700

SISKIYOU COUNTY

Rick Riggins, Sheriff
311 Lane Street
Yreka, CA 96097
530-842-8300

SOLANO COUNTY

Gary R. Stanton, Sheriff
530 Union Avenue, Suite 100
Fairfield, CA 94533
707-421-7000

SONOMA COUNTY

William Cogbill, Sheriff
2796 Ventura Avenue
Santa Rosa, CA 95403
707-565-2511

STANISLAUS COUNTY

Sheriff's Office
250 E Hackett Road
Modesto, CA 95358
209-552-2468

SUTTER COUNTY

Jim Denney, Sheriff
1077 Civic Center Blvd.
Yuba City, CA 95993
530-822-7307

TEHAMA COUNTY

Clay Parker, Sheriff
502 Oak Street
Red Bluff, CA 96080
530-529-7950

TRINITY COUNTY

Lorrac Craig, Sheriff
101 Memorial Drive
Weaverville, CA 96093
530-623-2611

TULARE COUNTY

Bill Wittman, Sheriff
County Civic Center
2404 W Burrell Avenue
Visalia, CA 93291
559-733-6220

TUOLUMNE COUNTY

James Mele, Sheriff
28 N Lower Sunset Drive
Sonora, CA 95370
209-533-5855

VENTURA COUNTY

Sheriff's Office
800 S Victoria Avenue
Ventura, CA 93009
805-654-2311

YOLO COUNTY

Ed G. Prieto, Sheriff
41793 Gibson Road
Woodland, CA 95776
530-668-5280

YUBA COUNTY

Steven L. Durfor, Sheriff
215 Fifth Street, Suite 150
Marysville, CA 95901
530-749-7777