



Family Preparedness: a guide for immigrant families

Under the new administration of President Donald Trump, our community faces the possibility of our families being separated. We advise you to make a family emergency plan in preparation for this worst-case scenario. Hopefully, you will not have to go to these measures, but if you do not have legal status, or you are not a citizen and have minor children in the United States, it is important to keep the following in mind.

❖ Talk to your children and family:

In case you are detained, talk to your children about who will care for them while you are not available. Have the contact information of the person you assign as the caregiver of your children so that you can take care of your children.

❖ Prepare important documents:

Keep the following important documents and information in a folder:

- Your children's birth certificates;
- Your children's social security cards;
- Your children's passports;
- Name and telephone number of your children's school and teachers;
- Your children's vaccination cards;
- Copies of your children's health insurance cards;
- Names and numbers of your children's doctors;
- List of medicines your children are taking, if they are under medical treatment;
- Other important information about your children;
- Emergency numbers and important contact information;
- Restraining/Protective order involving your children;
- **Caregiver Affidavit**
- **GC-211 form - Conditional Nomination with the MC-025 attachment**

❖ Decide who will take care of your children:

Talk to your family and friends about the best plan for your family if you become detained and deported. Identify an adult who is willing to take responsibility for your children and talk to them about that responsibility.

Name this person as an emergency contact in your child's schools. You should memorize this person's phone number and help your children to do so as well. The adult you designate to care for your children can take on the role as a formal caregiver or an informal caregiver.



Informal Family Caregivers have *physical* custody of a minor, but they have limited rights to make decisions about a child in their care because they do not have *legal* custody.

We **do not recommend** that you obtain a power of attorney as a means of transferring custody of your children to the caregiver because this document is not valid; a power of attorney is not an effective means of transferring legal custody of your children. Legal custody can only be transferred from a parent to a caregiver by a judge.

Legal Guardians are **formal caregivers** whose petitions to be appointed legal guardians have been approved by the Probate Court (Superior Court of Los Angeles). Once they have been appointed as legal guardians, they have full legal and physical custody of the minor.

The legal guardian has the capacity to act on behalf of the child and to make decisions about the child just as a parent of the child normally would. The legal guardian has physical and legal custody. Establishing a guardianship does not terminate parental rights; rather parental rights are suspended for the duration of the guardianship. If a parent wishes to regain their rights and custody of their child, they may file a petition to terminate the guardianship; otherwise, the legal guardianship ends automatically upon the earliest of the following: when the minor turns 18, the minor marries, the minor emancipates, the minor enlists in the armed services, or death of either the minor or the guardian.

❖ Considerations:

The person you want to be your child's guardian needs to be of legal age. They can be a relative or a nonrelative. If you have adult children, they can be the caretaker of your minor children. They do not need to have legal status, but must be willing to be investigated by the court (if relative) or the Department of Children and Family Services (DCFS) (if nonrelative) for the court to ensure that they has no serious criminal history, drug or alcohol problems, or allegations of child abuse/neglect against them.

What are the benefits of being a Probate Court Legal Guardian?

Permanent Resident Children and United States Citizens living with a legal guardian may qualify for:

- CalWORKS monthly cash assistance
 - o The guardian's income should not be used to determine if the child qualifies for any of the programs
- Medical insurance through Medi-Cal
- SSI (in cases of a child with an eligible disability)
- Survivorship benefits



What is Probate Court legal guardianship? A legal process in which an informal caregiver files a petition with the Probate Court to request legal custody of the child. Legal guardianship does not terminate the rights of the child's parents, but rather suspends the rights of the parents temporarily.

Can parents consent to legal guardianship? Yes, a parent may nominate and/or consent to the appointment of a guardian and the Court usually respects those wishes. When the guardianship is not opposed by parents or other relatives, the process is quite simple. The whole process usually takes between one and three months.

Can someone still apply for guardianship if the parents do not give their consent or are not in communication with the caregiver? Yes, a person may file a petition requesting legal guardianship of the child even when a parent has not given consent or cannot be located. However, the law requires that the parents of the child, siblings, half-siblings, and grandparents be advised that this process is being conducted, to give them an opportunity to oppose the request if they so wish.

How do you obtain legal guardianship?

1. Bet Tzedek can help the caregiver who lives in Southern California file the petition for legal guardianship if the caregiver is low income and qualifies for our services. Please contact Liz Gonzalez at (323)549-5825 for a consultation. Also, the Los Angeles Superior Court (111 N. Hill Street, Los Angeles, CA) has a self-help clinic that assists with filing petitions without the representation of a lawyer.
2. The caregiver may file a petition with the court asking for legal guardianship of their children. The court requires that fees be paid to file the guardianship papers. However, the court may be asked to waive fees by completing and filing a Fee Waiver form.
3. The caregiver and the minor shall be required to attend an investigation by the Court or DCFS. There will then be a probate court hearing where a judge will determine whether to approve the petition for legal guardianship.

What if the Department of Children and Family Services (DCFS) takes the children? In general, a relative receives a call from DCFS after the child has been taken out of the home of their parents. It is important that your children know who to call in case DCFS asks them whom they want to go to live with. DCFS may ask this family member to obtain legal guardianship to the Probate Court. The person you appoint to care for your children can call the DCFS helpline (1-800-540-4000) and say that they want to take care of the child and that they need the name and number of the emergency social worker. They should be ready to give the child's name, address, and age, and the parents' name.



What documents you can have ready now:

Caregiver Affidavit: This statement does not affect the rights of the child's parent with regard to the care, custody, and control of the child and does not mean that the caregiver has the legal guardianship of the child. This form allows the caregiver to register the child at school and consent to medical and dental treatment, including immunizations. The powers and limitations of the affidavit are listed on the back of the form.

Conditional Nomination with Attachment MC-025 (GC-211): A parent can prepare a GC-211 form in which they nominate a specific person to be the guardian of their children. The nomination may be conditioned upon a potential future event, for example, if you are detained and/or deported.

Important Children's Information

Keep this information so those you designate to care for your children in your absence have all of the information they need.

Child's Name	
Date of Birth	
Child's Cell Phone Number (if applicable)	
School	
School Address	
School Phone Number	
Teacher's Name	
Classroom Number	
Afterschool Program	
Afterschool Program Phone Number	
Other Camp/Sports/Program	
Other Camp/Sports/Program Phone Number	
Allergies	
Medical conditions	
Medications	
Doctor's Phone Number	
Doctor's Address	
Health Insurance	

Emergency Numbers and Important Contact Information

Keep this information in one place so that you and your family can access it easily.

Emergency Numbers	
Immediate Emergency	911
Police Department	
Fire Department	
Poison Control	
Family Contacts	
Mother/Parent/Guardian	
Home Phone	
Cell Phone	
Work Address	
Work Phone	
Father/Parent/Guardian	
Home Phone	
Cell Phone	

Work Address	
Work Phone	
Other Emergency Contact and Relationship	
Cell Phone	
Other Emergency Contact and Relationship	
Cell Phone	
Other Emergency Contacts and Relationship	
Cell Phone	

Miscellaneous Contacts	
Doctor	
Phone Number	
Health Insurance Company	
Policy Number	
Pediatrician	
Phone Number	
Health Insurance Company	
Policy Number	
Dentist	
Phone Number	
Dental Insurance Company	
Policy Number	
Car Make/Model	
License Plate Number	
Car Insurance Company	
Insurance Policy Number	
Phone Number	
Consulate	
Address	
Phone Number	
Attorney/Nonprofit Legal Services Provider	
Address	
Phone Number	

File of Important Documents

Keep a file of all of these documents or a copy of these documents in a safe place. Tell your children, family members and emergency caregiver where to find this file in an emergency.

- Passports
- Birth Certificates
- Marriage License (if applicable)
- Caregiver's Authorization Affidavit
- Any Restraining Orders you may have against anyone (if applicable)
- A-Number and any immigration documents (work permit, green card, visa, etc.)
- Driver's License and/or Other Identification Cards
- Social Security Card or ITIN number
- Registry of birth (for U.S. born children registered in parent's home country)(if applicable)
- Important Children's Information
- Emergency Numbers and Important Contact Information
- Children(s)' Medical Information, including health insurance, medication list, and doctor's contact information
- Any other documents you would want to be able to quickly find

Caregiver's Authorization Affidavit

Use of this affidavit is authorized by Part 1.5 (commencing with Section 6550) of Division 11 of the California Family Code.

Instructions: Completion of items 1-4 and the signing of the affidavit is sufficient to authorize enrollment of a minor in school and authorize school-related medical care. Completion of items 5-8 is additionally required to authorize any other medical care. Print clearly.

The minor named below lives in my home and I am 18 of age or older.

1. Name of minor: _____
2. Minor's birth date: _____
3. My name (adult giving authorization): _____
4. My home address: _____

5. I am a grandparent, aunt, uncle, or other qualified relative of the minor (see back of this form for a definition of "qualified relative").
6. Check one or both (for example, if one parent was advised and the other cannot be located):
 - I have advised the parent(s) or other person(s) having legal custody of the minor of my intent to authorize medical care and have received no objection.
 - I am unable to contact the parent(s) or other person(s) having legal custody of the minor at this time to notify them of my intended authorization.
7. My date of birth: _____
8. My California driver's license or identification card number: _____

Warning: Do not sign this form if any of the statements above are incorrect, or you will be committing a crime punishable by a fine, imprisonment, or both.

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

Dated: _____

Signed: _____

Notices:

1. This declaration does not affect the rights of the minor's parents or legal guardian regarding the care, custody, and control of the minor and does not mean that the caregiver has legal custody of the minor.
2. A person who relies on this affidavit has no obligation to make any further inquiry or investigation.
3. This affidavit is not valid for more than one year after the date on which it is executed.

Additional Information:*To Caregivers:*

1. "Qualified relative," for purposes of item 5, means a spouse, parent, stepparent, brother, sister, stepbrother, stepsister, half-brother, half-sister, uncle, aunt, niece, nephew, first cousin, or any person denoted by the prefix "grand" or "great," or the spouse of any of the persons specified in this definition, even after the marriage has been terminated by death or dissolution.
2. The law may require you, if you are not a relative or currently licensed foster parent, to obtain a foster home license in order to care for a minor. If you have any questions, please contact your local department of social services.
3. If the minor stops living with you, you are required to notify any school, health care provider, or health care service plan to which you have given this affidavit.
4. If you do not have the information requested in item 8 (California driver's license or I.D.), provide another form of identification such as your social security number or Medi-Cal number.

To School Officials:

1. Section 48204 of the Education Code provides that this affidavit constitutes a sufficient basis for determination of residency of the minor, without the requirement of a guardianship or other custody order, unless the school district determines from actual facts that the minor is not living with the caregiver.
2. The school district may require additional reasonable evidence that the caregiver lives at the address provided in item 4.

To Health Care Providers and Health Care Service Plans:

1. No person who acts in good faith reliance upon a caregiver's authorization affidavit to provide medical or dental care, without actual knowledge of facts contrary to those stated on the affidavit, is subject to criminal liability or to civil liability to any person, or is subject to professional disciplinary action, for such reliance if the applicable portions of the form are completed.
2. This affidavit does not confer dependency for health care coverage purposes.