



PRISON LAW OFFICE
General Delivery, San Quentin, CA 94964
Telephone (510) 280-2621 • Fax (510) 280-2704
www.prisonlaw.com

Your Responsibility When Using the Information Provided Below:

When putting this material together, we did our best to give useful and accurate information because we know that people in prison often have trouble getting legal information and we cannot give specific advice to all who ask for it. The laws change often and can be looked at in different ways. We do not always have the resources to make changes to this material every time the law changes. If you use this information, it is your responsibility to make sure that the law has not changed and applies to your situation. Most of the materials you need should be available in your facility's law library materials, including regulations and other resources that are on electronic tablets and kiosks.

CDCR FAMILY VISITING

revised May 2025

We are sending this information because you or someone else contacted our office asking for information or help regarding family visits in California Department of Corrections and Rehabilitation (CDCR) prisons. Unfortunately, our resources are limited and we cannot provide you with individual advice or assistance. We hope the information below, about CDCR's family visiting policies and what you can do if you feel you have unfairly been denied family visiting, will be helpful. Any documents you sent are being returned with this letter.

What is Family Visiting?

Each California prison has facilities for "family visits" with "immediate family members." These visits allow an incarcerated person to be with their family for approximately 30 to 40 hours in a private space, usually a small trailer on the prison grounds. Depending upon the prison, family visits may be offered on the weekend, during the week, or both. There is no cost to the person or visitors, but the visitors must pay for food for themselves and the incarcerated person.¹

For the purpose of family visiting eligibility, "immediate family members" are a person's legal spouse, registered domestic partner, natural parents, adoptive parents (if the adoption occurred prior to incarceration), stepparents or foster parents, grandparents, siblings, natural and adopted children, stepchildren, and grandchildren. A foster sibling may be allowed to participate in family visiting with prior approval from the warden.²

There are no age restrictions for family visitors, but minors generally must be escorted by an adult visitor. The warden may make exceptions to this rule if the minor visitor is the incarcerated person's spouse, child or stepchild, or sibling.³

¹ Information from CDCR website at <https://www.cdcr.ca.gov/visitors/types-of-visits/>, last checked 4/11/2025; see also Cal. Code Regs., tit. 15, § 3177.

² Cal. Code Regs., tit. 15, §§ 3000, 3177.

³ Cal. Code Regs., tit. 15, § 3177(c); see also CDCR website,

CDCR has information and resources regarding all types of visits, including current information on any visiting restrictions at individual facilities, on its website at <https://www.cdcr.ca.gov/visitors/>.

What Legal Rights Does an Incarcerated Person Have for Family Visiting?

The California Penal Code states that people in prison may be deprived of their rights only when the restriction is reasonably related to “legitimate penological interests.”⁴ The Penal Code also has two sections specifically about family visiting. One of those sections states that CDCR cannot prohibit family visits based solely on the incarcerated person being sentenced to life without parole (LWOP) or to life with the possibility of parole.⁵ The other section directs CDCR to give family visiting priority to an incarcerated person who is pregnant so that they can visit with their newborn child following delivery; however, CDCR can make an exception to this policy if staff decide that the parent would pose a threat of harm to the newborn child.⁶

The California Code of Regulations, title 15, contains CDCR’s rules about visiting generally and family visiting specifically. The main rule regarding family visiting is § 3177.⁷ Courts will uphold CDCR’s rules, including rules about family visiting, so long as they are “reasonable and consistent with legitimate state interests.”⁸ However, CDCR has a legal obligation to follow its own rules, and to apply the rules in a manner that has a “reasonable basis” and is not “arbitrary and capricious.”⁹

There may be circumstances in which a CDCR family visiting regulation, policy, or decision would violate rights protected by the federal (U.S) constitution, federal statutes like the Americans

<https://www.cdcr.ca.gov/visitors/types-of-visits/> (last checked 4/11/2025).

⁴ Penal Code § 2600(a).

⁵ Penal Code § 6404.

⁶ Penal Code § 6404.5. For more information on pregnancy in prison and parental visiting rights, write back to us to request manuals on those topics prepared by Legal Services for Prisoners with Children (LSPC). LSPC’s manuals are also available on the Resources page of their website at <https://prisonerswithchildren.org/>.

⁷ Note that CDCR’s Department Operations Manual (DOM) §§ 54020.33-54020.33.20 also discusses family visiting, but those DOM sections have not been updated in over a decade and some of the information is no longer accurate.

⁸ *In re Cummings* (1982) 30 Cal.3d 870 [180 Cal.Rptr. 826] (rule excluding common-law spouse and spouse’s child [who was not the incarcerated person’s natural or adopted child] from family visiting was not arbitrary and did not violate California statutes); see also *Thor v Superior Court* (1993) 5 Cal.4th 725 [21 Cal.Rptr.2d 357] (prison officials had no legitimate penological reason to deny incarcerated person the right to refuse life-sustaining medical treatment).

⁹ See, e.g., *In re Reina* (1985) 171 Cal.App.3d 638 [217 Cal.Rptr. 535]; *In re French* (1980) 106 Cal.App.3d 74 [164 Cal.Rptr. 800]; *In re Scott* (2003) 113 Cal.App.4th 38 [5 Cal.Rptr.3d 887]; *In re Lusero* (1992) 4 Cal.App.4th 572 [5 Cal.Rptr.2d 729]; *In re Carter* (1988) 199 Cal.App.3d 271 [244 Cal.Rptr. 648]; *In re Cabrera* (2013) 55 Cal.4th 683 [148 Cal.Rptr.3d 500].

with Disabilities Act (ADA), or California state laws. However, incarcerated people can be deprived of their U.S. constitutional right to freedom of association so long as a prison visiting rule has a “valid, rational connection” to a “legitimate penological interest.”¹⁰ Further, the U.S. constitution’s due process clause does not provide a right to “unfettered” visitation, and state regulations create a due process right to visitation only if they (a) place substantive limits on prison officials’ discretion and (b) the visiting denial or restriction imposes “an atypical and significant hardship on the inmate in relation to the ordinary incidents of prison life.”¹¹ Because of these standards, courts have in a variety of situations held that CDCR family visiting policies do not violate constitutional rights.¹²

Who is Eligible to Receive Family Visits?

Under state laws and CDCR rules, an incarcerated person is eligible to participate in family visiting *unless* they fall into one or more of the following categories:

- ◆ sentenced to death
- ◆ in a reception center
- ◆ assigned to a Restricted Housing Unit (RHU);
- ◆ classified as Close Custody
- ◆ classified as “C status”
- ◆ found guilty of a Division A or B prison rule violation within the last 12 months
- ◆ found guilty of a prison rule violation for distribution of a controlled substance in prison, as well as some other types of misconduct, though in most cases the bar on family visits will be lifted after the person serves a certain period of time without further rules violations for such conduct (See the following section for more details.)

¹⁰ *Overton v. Bazetta* (2003) 539 U.S. 126 [123 S.Ct. 2162; 156 L.Ed.2d 162]; *In re Cummings* (1982) 30 Cal.3d 870 [180 Cal.Rptr. 826] (opining that it would not violate incarcerated persons’ rights to association if CDCR chose to entirely ban family visits).

¹¹ *Kentucky Dept. of Corrections v. Thompson* (1989) 490 U.S. 454 [109 S.Ct. 1904; 104 L.Ed.2d 506] (holding that prison regulations setting forth categories of visitors who might be excluded from visitation did not give incarcerated people a due process liberty interest in receiving visitors).

¹² See *In re Cummings* (1982) 30 Cal.3d 870 [180 Cal.Rptr. 826] (exclusion of common-law spouse and spouse’s child [who was not the incarcerated person’s natural or adopted child] from family visiting did not violate privacy rights or rights to association); *Pro-Family Advocates v. Gomez* (1996) 46 Cal.App.4th 1674 [54 Cal.Rptr.2d 600] (rejecting ex post facto and equal protection challenges to new regulations making some incarcerated people ineligible for family visits); *Cooper v. Garcia* (S.D. Cal. 1999) 55 F.Supp.2d 1090, 1098-1100 (rule barring family visits for incarcerated people with “R” suffixes did not violate due process, even when applied to a person who was never convicted of a sex offense).

- ◆ convicted of any sex offense; also, a person *may* be prohibited from having family visits when there is “substantial documented evidence or information” that they committed a sex offense, even without a criminal conviction
- ◆ convicted of a violent offense in which the victim was a minor (under age 18) or a family member; also, a person *may* be prohibited from family visits when there is “substantial documented evidence or information” that they committed a violent offense against a minor or a family member, even without a criminal conviction. However, a classification committee may use its discretion to allow family visiting for an incarcerated person with a violent offense against a minor or family member if: (a) the incarcerated person was a minor (under age 18) when they committed the offense and they have demonstrated “sustained, positive behavior” for the past 5 years or (b) the incarcerated person was an adult (age 18 or older) when they committed the offense and they have demonstrated “sustained, positive behavior” for the past 10 years.¹³

Can Family Visits be Limited or Taken Away Due to Rule Violations or Other Reasons?

CDCR has other rules about how often an incarcerated person can have family visits, what types of rule violations can lead to temporary or permanent denial of family visiting, who can be denied permission to visit, and suspension or cancellation of family visiting for safety and security reasons. Some of these rules overlap with the general ineligibility criteria discussed in the section above, and others are in addition to those criteria. Here are some of the main factors:

Privilege Group:

For incarcerated people who are otherwise eligible for family visiting, access to family visiting depends on their assigned privilege group:

- ◆ Privilege Group A: full access to family visits, limited only by availability of resources
- ◆ Privilege Group B: one family visit each six months
- ◆ Privilege Groups C, D and AS: no family visits.¹⁴

Rule Violations:

There are some specific rules regarding how long an incarcerated person *will* be barred from access to family visiting after some types of rule violations. The length of time during which the person will not be allowed to have family visits depends on the type and number of rule violations:

- ◆ all Division A and Division B rule violations: no family visits for 12 months

¹³ Cal. Code Regs., tit. 15, § 3177(b)(1)-(2); see also Cal. Code Regs., tit. 15, § 3173.1 (specific rules regarding restrictions on all types of visits with minors).

¹⁴ Cal. Code Regs., tit. 15, § 3044(d)-(i).

- ◆ distribution of a controlled substance (violation of rule § 3016(d)): loss of all visits for one year, followed by only non-contact visits for two years, followed by loss of family visiting for 3 years (first offense), 7 years (second offense), or permanently (third offense)
- ◆ use of a controlled substance, alcohol, or unauthorized medication (violation of rule § 3016(a)); or possession, manufacture, or control of any controlled substance or unauthorized medication, *not* including alcohol (violation of rule § 3016(b)); or refusing to provide a urine sample for drug or alcohol testing (violation of rule § 3290(d)):
 - first violation: loss of all visits for 90 days, followed by only non-contact visits for 90 days, followed by loss of family visits for one year
 - second violation: loss of all visits for 90 days, followed by only non-contact visits for 180 days, followed by loss of family visits for five years
 - third violation: loss of all visits for 180 days, followed by only non-contact visits for 180 days, followed by loss of family visits for one year
- ◆ sexual activity in visiting room involving physical contact with a minor (violation of rule § 3323(d)(8)): loss of all visits for 180 days, followed by only non-contact visits permanently [effectively barring family visiting].
- ◆ sexual activity in a visiting room with an adult (violation of rule § 3323(f)(5)):
 - first offense: loss of all visits for 90 days, followed by only non-contact visits for 90 days
 - second offense: loss of all visits for 90 days, followed by only non-contact visits for 180 days
 - third offense: loss of all visits for 180 days, followed by only non-contact visits permanently [effectively barring family visiting]
- ◆ possession of dangerous contraband property (violation of rule § 3006(a)) or possession of any unauthorized wireless communication device or component (violation of rule 3006(c)(20)): loss of family visiting for 1 year (first offense), 3 years (second offense), or five years (third offense).¹⁵

In addition, at the discretion of a correctional lieutenant, senior hearing officer, or classification committee, visiting *may* be suspended or restricted (effectively prohibiting family visiting) in the following situations:

¹⁵ Cal. Code Regs., tit. 15, § 3177(b)(2) (all Div. A and B rule violations); Cal. Code Regs., tit. 15, § 3315(g); Cal. Code Regs., tit. 15, § 3176.4(c) (requiring hearing officer to impose the visiting suspensions or restrictions set forth in § 3315(g)); see also Cal. Code Regs., tit. 15, § 3177(d) (incarcerated persons shall not be eligible for family visiting while any action that restricts, suspends, or denies contact with visitors during regular visiting is in effect).

- ◆ during time in which there is a pending serious rule violation charge for distribution and/or possession of a controlled substance, possession of money, or other dangerous contraband, or for other violations related to visiting
- ◆ for an administrative rule violation related to visiting misconduct: loss or restriction of visits for up to 30 days
- ◆ for a serious rule violation for possession of \$5.00 or more without authorization, visiting-related violations presenting a threat, or serious or repeated violations of visiting regulations or procedures: loss or restriction of visits for up to 90 days
- ◆ multiple visiting rule violations for possession of \$5.00 or more without authorization, visiting-related violations presenting a threat, or serious or repeated violations of visiting regulations or procedures:
 - second offense within 2 years after first offense: loss of all visits for up to 90 days, followed by only non-contact visits for up to 180 days
 - third offense within 2 years after first offense: loss of all visits for up to 180 days, followed by only non-contact visits for up to 180 days
- ◆ escape or attempted escape, at the direction of the classification: loss of all visits for 180 days.¹⁶

Behavior by the Visitor or Behavior During Family Visiting:

Immediate family members who want to participate in family visiting are subject to the same rules as regular visitors regarding the process for being approved as a visitor and the criteria under which visits may be disapproved, denied, restricted, suspended, terminated, revoked or reinstated.¹⁷

Family visits may be suspended or prohibited if the incarcerated person or their visitors willfully cause damage to the family visiting facilities or fail to maintain cleanliness of the family visiting facility.¹⁸

A visit may be cancelled, and the incarcerated person's family visiting access may be suspended for 6 months, if visitors do not report to the visitor processing area by 11:00 a.m. on the

¹⁶ Cal. Code Regs., tit. 15, § 3176.4(a)-(e); see also Cal. Code Regs., tit. 15, § 3177(d) (incarcerated persons shall not be eligible for family visiting while any action that restricts, suspends, or denies contact with visitors during regular visiting is in effect).

¹⁷ See the general visiting rules in Cal. Code. Regs., tit. 15, §§ 3172-3172.1, 3173-3173.2, 3176-3176.3. See also information about all types of visits and the visitor approval process on CDCR's website at <https://www.cdcr.ca.gov/visitors/>.

¹⁸ Cal. Code Regs., tit. 15, § 3177(e).

day of their scheduled visit, unless they give notice to and get approval for late arrival from the Family Visiting Coordinator.¹⁹

Safety and Security Needs:

Prison officials can restrict, suspend, or cancel family visiting when necessary for prison operations or to maintain order, safety, or security.²⁰ Thus, for example, family visits might be canceled while a prison is on lock-down or a modified program or during an emergency.

How Does an Incarcerated Person Apply to Have a Family Visit?

To ask for a family visit, an incarcerated person must send a request to schedule a Family Visit to the prison's Family Visiting Coordinator. The Family Visiting Coordinator should provide the necessary paperwork for the incarcerated person to complete, as well as documents for them to send to their visitors to complete. Each prison has its own waitlist for family visit requests, and availability of visits, and turnaround time between approval and a visit, varies with each prison. Once all paperwork is complete and a visit is scheduled, the Family Visiting Coordinator will assist in arranging meals and other details.²¹

CDCR is supposed to provide reasonable accommodations to allow visitors and incarcerated persons with disabilities to participate in family visiting.²² Visitors who have disabilities must give the Family Visiting Coordinator at least 72 hours' notice of any request for an accommodation necessary for the family visit.²³

What Can an Incarcerated Person or Their Visitors Do If They Believe They Have Wrongly Been Denied Family Visits or There is a Problem With Their Family Visits?

Incarcerated people can challenge family visiting policies or decisions, or raise family visiting issues, by filling out and submitting a CDCR Form 602-1/1824 administrative grievance. If the grievance response is not satisfactory, they can submit a 602-2 administrative appeal. They should attach to the grievance any documents related to the issue and any information supporting their position.²⁴ Completing CDCR's administrative grievance and appeal process may resolve the problem or at least clarify the reasons for the policy or decision. Furthermore, an incarcerated person will almost always be required to complete the CDCR administrative grievance and appeal process before a court will allow them to proceed with a legal action about their family visiting issue.

¹⁹ Cal. Code Regs., tit. 15, § 3177(f).

²⁰ Cal. Code Regs., tit. 15, § 3177(b)(1)(D).

²¹ Information from CDCR's website, <https://www.cdcr.ca.gov/visitors/types-of-visits/> (last checked 4/11/2025).

²² Cal. Code Regs., tit. 15, § 3170(f).

²³ Cal. Code Regs., tit. 15, § 3177(g).

²⁴ See Cal. Code Regs., tit. 15, §§ 3481-3485.

Visitors or people who want to visit can also submit complaint letters related to family visiting issues. A complaint letter should describe the problem and state that it is an appeal of a visiting issue pursuant to CDCR rules, with any relevant documents attached. If the issue is about a decision by prison staff or a local prison procedure, the visitor should send their complaint addressed to the prison warden, who is supposed to provide a written response within 15 business days after receiving the complaint. If the visitor is not satisfied with the warden's response, or if the issue is about a CDCR visiting policy, they can send their complaint to the CDCR Director of Adult Institutions, P. O. Box 942883, Room 351-N, Sacramento, California, 94283-0001. The Director has 20 working days after receiving the complaint to provide a written response.²⁵

If the incarcerated person is not satisfied with the responses they receive to their 602-1/1824 administrative grievance and 602-2 appeal, they can consider filing a court action. A state court petition for writ of habeas corpus is the simplest and speediest type of legal action for raising a legal claim related to visiting. State habeas corpus petitions can be used for claims that CDCR has violated federal constitutional rights, federal statutes like the Americans with Disabilities Act, California constitutional or statutory rights, and/or CDCR regulations. Also, when an incarcerated person who does not have money to hire an attorney files a state habeas corpus petition on their own, the court will be required to appoint an attorney at state expense so long as the case has enough potential merit to convince the court to issue an "order to show cause." However, despite the advantages of state habeas corpus, there may be some situations in which a person might instead consider filing a federal civil rights lawsuit or a state civil lawsuit; however, those types of lawsuits can be difficult to litigate from inside prison and courts will not necessarily appoint an attorney to represent an incarcerated person.

Prison Law Office has detailed information packets on administrative grievances/appeals, state habeas corpus petitions, and civil rights lawsuits against prison officials, which are available for free by sending a request to Prison Law Office, General Delivery, San Quentin, CA 94964 or by visiting the Resources page at www.prisonlaw.com.

In addition, information on the legal rights of incarcerated people and legal actions for enforcing those rights can be found in *The California Prison and Parole Law Handbook*. The Handbook is available for free on CDCR electronic tablets and kiosks in PDF format and in the Lexis-Nexis law library. People on the outside can view, download, and print the *Handbook* for free on our website at www.prisonlaw.com. The last full edition of the *Handbook* was published in 2019, and we are currently working on updating the *Handbook* a few chapters at a time. As we finish the updated chapters, we will post them on the PLO website and send them to Lexis-Nexis, and they should then appear on the Tablet. We will also post the updated chapters on our website at www.prisonlaw.com. Any updated chapter will show the date on which it was revised.

²⁵ Cal. Code Regs., tit. 15, § 3179.