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Your Responsibility When Using the Information Provided Below:

When we wrote this informational material, we did our best to give you useful and accurate information because we know that people in prison often have difficulty obtaining legal information and we cannot provide specific advice to all who request it. The laws change frequently 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 want legal advice backed by a guarantee, try to hire a lawyer to address your specific problem. If you use this information, it is your responsibility to make sure that the law has not changed and is applicable to your situation. Most of the materials you need should be available in a law library.

**FAMILY TIES AND CDCR PRISON PLACEMENTS**  
(revised November 2023)

We received your request for information, advice, or assistance regarding placement in a California Department of Corrections and Rehabilitation (CDCR) facility near your family and/or friends. It is understandable that you want to be housed where your loved ones can visit you more easily. Unfortunately, our resources are limited and we cannot provide you with individual advice or assistance. We hope that this letter—which includes information about the new “Keep Families Close” law—will help answer your questions about the law regarding such placements and what you can do to try to be placed closer to your family and/or friends.

The state of California has for a long time recognized that incarcerated people who keep good ties with people on the outside are more likely to program well in prison and to succeed when they return to the community.<sup>1</sup> But the law that directed CDCR to house people in the appropriate institution nearest the person’s home also allowed CDCR to make exceptions whenever such a placement was “unreasonable” due to “other classification factors,” including “the availability of institutional programs and housing.”<sup>2</sup> Thus, people were and still are often housed far from their homes in prisons that are spread across the state. In 2019, CDCR reported that only 25 percent of incarcerated people in were in institutions less than 100 miles from home and that more than half of incarcerated mothers did not receive any visits from their children.<sup>3</sup>

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<sup>1</sup> Penal Code § 6350(a); Penal Code § 5068.

<sup>2</sup> Former Penal Code § 5068 See, e.g.; *In re Rhodes* (1998) 61 Cal.App.4th 101, 106-107 [70 Cal.Rptr.2d 912] [overcrowding and administrative needs were valid reasons to transfer person away from family].

<sup>3</sup> See Assemblyman Matt Haney, *Press Release: New Bill Will Require State to House Incarcerated Parents Close to Their Children*, March 30, 2023.

A new version of Penal Code § 5068 (as amended by Assembly Bill No. 1226, the “Keep Families Close” bill) goes into effect on January 1, 2024. The new law may give you somewhat stronger rights to be housed near your family, especially if you have any children under 18 years old. The new law provides that:

- One of the factors CDCR is supposed to consider as part of your classification is “the existence of any strong community and family ties, the maintenance of which may aid in the person’s rehabilitation.”
- When “reasonable” CDCR “shall” assign or reassign you to “the institution of the appropriate security level and gender population nearest the incarcerated person’s home, unless other classification factors make that placement unreasonable.” “‘Reasonable’ includes consideration of the safety of the incarcerated person and the institution.”
- If you are a parent of a child under age 18 and you have a parental relationship with that child, or if you are guardian or caretaker of a child under age 18, then CDCR “shall” place you “in the correctional institution or facility that is located nearest to the primary place of residence of the person’s child, provided that the placement is suitable and appropriate, would facilitate increased contact between the person and their child, and the incarcerated parent gives their consent to the placement.” If you have more than one child under 18 years old, CDCR “shall make a separate determinate for each individual child.” You also can request reevaluation of your housing if there is a change in where your child is living.
- Be aware that if you have court orders prohibiting you from having visits with your children or other family members, the new law does not override those orders. However, if the orders expire or are changed, you can ask to have your housing placement reevaluated. Your classification counselor should be able to tell you if you have any of these types of orders and if they have expiration dates.

As a practical matter, a lot of factors affect where you can be housed. The classification process is supposed to take into consideration your needs, interests, and behavior, along with each facility’s program and security missions and public safety. In deciding where you can be housed, your classification security score, custody level, and administrative factors are evaluated by a “classification committee,” which is a team of CDCR staff who make decisions about your housing and programs. In addition, a Classification Staff Representative (CSR) must “endorse” (approve) any decision to assign you to a particular prison. Part of the CSR’s role is to check to see which prison facilities and programs actually have space for more people.<sup>4</sup>

If you want to be placed in or transferred to a prison closer to your family or friends, you should tell that to reception center staff or tell your counselor and classification committee at your assigned prison. CDCR rules allow classification staff to put a “FAM” administrative code on your

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<sup>4</sup> CDCR’s classification rules are in 15 CCR §§ 3375-3379.

classification documents to indicate that you have “strong family ties to a particular area where other placement would cause and unusual hardship.”<sup>5</sup> Even if you do not get a FAM code, CDCR staff still should at least consider your interest in being near your family or friends. If you are sent to a prison far from home, or threatened with transfer to a remote prison, you can renew your request to be near your family or friends at your next classification hearing.

You may be able to improve your chances of being housed near your family or friends if you can show the classification committee evidence that you have close family or community ties or support. The probation officer’s report from your criminal case might have information verifying your family relationships. You can keep track of how many phone calls you have and how many letters or emails you receive. If you do get some visits, you can say who is visiting you and how far they have to travel. If your family members are unable to travel because they are elderly, ill, or don’t have enough money, you should try to get letters from them and/or from their doctors explaining that they want to visit you but that it is difficult or impossible for them to do so.

If the classification staff do not house you near your family or friends, you could try filing a 602-1 administrative grievance and 602-2 appeal. If your administrative grievance and appeal are not successful, you could consider filing a state court petition for writ of habeas corpus. Courts allow CDCR a lot of discretion when deciding where to house someone, but in some circumstances a court might find that CDCR is violating Penal Code § 5068 by not housing you closer to your family, especially if you have children under age 18.

There is more information about classification policies and processes, administrative grievances, and state habeas corpus petitions in *The California Prison and Parole Law Handbook* published by Prison Law Office, which is in the Lexis-Nexis legal database on the CDCR electronic tablets and kiosks. The *Handbook* and other information are also available on Prison Law Office’s website at [www.prisonlaw.com](http://www.prisonlaw.com). You can also write to us to ask for free copies of our administrative grievance and/or state habeas corpus manuals.

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<sup>5</sup> 15 CCR § 3375.2.