

## WIC 300 Petitions - Descriptions and Documentation

(Revised 07/12/2019)

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### **Overview and types of documentation**

Section 300 of the Welfare and Institutions Code (WIC) describes the various circumstances under which petitions can be filed in Juvenile Court when CWS has sufficient evidence that a child has been, or is at risk of, abuse or neglect. This file briefly describes those types of petitions and the elements to be proven. The type of evidence to be gathered varies based on the type of allegation being investigated. While documenting the risk to the child is required in every circumstance, not every element listed below will apply in every situation:

- Risk to the child (ALWAYS required)
  - Photographs of injuries/conditions
  - Detailed descriptions of injuries/conditions (does not replace photographic evidence)
  - Each witness's (including the child's) version of what was happening before, during and after the child was injured/neglected
  - Explanations of the injuries by anyone who has that information
  - Reports/expert testimony of medical specialists that an injury was inflicted or accidental
  - Reason(s) that a parent's/caregiver's explanation of an injury being accidental is either not consistent with the evidence or puts the child at risk (neglect)
  - Expert testimony/opinions as to the potential danger or detriment to the child
  - Evidence of prior incidents of a similar nature by the parent or caregiver, regarding this child or another child
  - Statements of the child, parents/caregivers, and witnesses to the SW and to others
  - Police reports
  - Results of the evidentiary examination
  - Expert testimony of the person who did the evidentiary interview, including the recording of it
  - Testimony of law enforcement regarding statements made by suspects
  - Exculpatory evidence
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**Overview and types of documentation (cont.)**

Best practice is to screen all petitions, particularly those that are complex and/or high risk. However, in order to accommodate SWs, petitions may be screened electronically, but only when:

- **The SW or PSS is available by phone during the entire time the case is scheduled for screening.** The screening deputy will call the SW to advise of the allegations that are filed upon completion of the screening, or if the case is rejected, the reason(s) and what further investigation must take place in order for a petition to be filed.
- The Detention Hearing Report **provides facts** that indicate why the child comes within the description of Welfare and Institutions Code section 300 or 387, as well as the names, addresses, and phone numbers of potential witnesses.

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**WIC 300(a) - PHYSICAL ABUSE  
What to document**

When screening a petition under WIC 300(a), the SW must document that:

- the child has suffered or is at substantial risk of suffering serious physical harm inflicted non-accidentally by the parent or guardian.  
**NOTE:** "Serious physical harm" does not include reasonable and age-appropriate spanking to the buttocks if there is no evidence of serious physical injury.
- the child has suffered some type of physical abuse or damage at the hands of another, or why the child is at-risk of physical abuse,
- the parent or guardian subjected or exposed the child to this abuse or damage, or allowed it to occur,
- the injury suffered is actually or potentially dangerous to the health or welfare of the child, and
- the situation poses a substantial risk to the child.

The SW will:

- obtain the **exact** detailed statements of the parents and other witnesses regarding when, where, and how injury occurred, because proof is sometimes based on the fact that the statements are or are not consistent with how the injury occurred.
  - describe the observed condition, and back it up with measurements, photos, descriptions of surfaces, temperatures, etc. to prove/disprove the parents' explanation.
  - obtain medical reports describing the injuries to the child with specificity, indicating the time frame the injury occurred, and the mechanism of the injury, if known.
  - obtain the Coroner's report if sibling was homicide victim (if unavailable at screening, report must be provided prior to the first jurisdictional hearing).
  - obtain a letter from child abuse medical expert stating whether or not the injury is most likely non-accidental and the basis for the opinion.
  - obtain police reports if law enforcement involved (if not available at screening, reports must be provided prior to the first jurisdictional hearing).
  - obtain all prior reports of domestic violence, substance abuse, and history of mental illness.
  - if the child is injured while in the care of a third-party, screen a petition if it can be established that the parents should have known about the potential danger to the child.
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**WIC 300(a) -  
PHYSICAL ABUSE  
What to  
document (cont.)**

**NOTE:** If the child is injured while in the care of both parents, it is not necessary to establish **which** parent inflicted or exposed the child to the injury (except for 300[e] petitions when the SW is recommending that no reunification services be provided).

Refer also to the following:

- Physical Abuse Protocol
- Child Victim Witness Protocol

**WIC 300(b) –  
NEGLECT/  
ABANDONMENT/  
CSEC  
What to  
document**

When screening a petition under WIC 300(b), the SW must document:

300(b)(1) (one or more)	300(b)(2) (both)
<ul style="list-style-type: none"> <li>• That the child has suffered or is at substantial risk of suffering serious physical harm as a result of any of the following:               <ul style="list-style-type: none"> <li>○ Failure or inability of the parent to adequately supervise or protect the child</li> <li>○ Willful or negligent failure of the parent to adequately supervise or protect the child from the conduct of the custodian with whom the child was left;</li> <li>○ Willful or negligent failure of the parent to provide the child with adequate food, clothing, shelter or medical treatment;</li> <li>○ Inability of the parent to provide regular care due to the parent’s mental illness, developmental disability or substance abuse.</li> </ul> <p><b>NOTE:</b> Examples include (but are not limited to): exposure to drugs or other unsafe substances; damaged property such as holes in walls, , phone ripped out of wall or broken cell phone, destroyed furniture, etc.</p> </li> <li>• That the child is in a situation that a reasonable person would feel is potentially dangerous to the child, (e.g., a young child is left alone for several hours, a teen is left alone for several days)</li> </ul>	<ul style="list-style-type: none"> <li>• That the child is a commercially sexually exploited/trafficked child as described in Penal Code Section 236.1 or receives food and shelter or is paid to perform sexual acts as described in Section 236.1 or 11165.1, <b>and</b></li> <li>• That the parent or guardian failed, was unwilling, or was unable, to protect the child based on their past acts and current statements.</li> </ul>

<ul style="list-style-type: none"> <li>• That the child is not receiving adequate food, shelter, clothing or medical treatment.</li> <li>• That the parent or guardian knowingly or negligently exposed the child to the dangerous situation or should have been aware of its existence</li> <li>• That the parent was absent for a specified period of time under specified circumstances.</li> <li>• That there is an identified witness who will testify to each period of absence, and/or to the condition of neglect.</li> </ul>	<ul style="list-style-type: none"> <li>•</li> </ul>
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In the following situations, the SW will gather these types of evidence:

SITUATION	EVIDENCE NEEDED
<p><b>Substance Abuse/ Pos Tox/ Newborn Infants</b></p>	<ul style="list-style-type: none"> <li>• Type of drug used, when used, and available witnesses.</li> <li>• Toxicology tests (especially confirmatory tests), if available.</li> <li>• Specific risk to children in home (e.g., drugs are within access of child, inadequate or neglectful care while using, lack of supervision, etc.).</li> <li>• Police reports, if law enforcement involved (if not available at screening, reports must be provided prior to the first jurisdictional hearing).</li> <li>• Detailed witness statements regarding direct knowledge of drug use by parents.</li> <li>• History of drug use.</li> <li>• Parents' statement regarding drug use.</li> <li>• All prior reports of domestic violence, substance abuse, and history of mental illness.</li> </ul>
<p><b>Domestic Violence</b></p>	<ul style="list-style-type: none"> <li>• Police reports. if law enforcement involved (if not available at screening, reports must be provided prior to the first jurisdictional hearing).</li> <li>• Description of when each act of violence took place and where children were at the time (impact to the child).</li> <li>• Witness statements, including specific description of violence observed.</li> <li>• Documentation (e.g., medical reports, descriptions by witnesses) of injuries suffered by those involved in the domestic violence.</li> </ul>

<b>Mental Illness</b>	<ul style="list-style-type: none"> <li>• Recent psychological evaluation.</li> <li>• Recent conduct demonstrating mental illness with detailed witness statements describing parent’s behavior and a specific time frame in which the parent exhibited behavior.</li> <li>• Statements from any treating professionals as to the parent’s mental health and how this affects his/her ability to parent.</li> <li>• Specific dates/time frame that parent was unable to provide adequate care due to mental illness.</li> <li>• All prior reports of domestic violence, substance abuse, and history of mental illness.</li> </ul>
<b>Highly Vulnerable Children</b>	<ul style="list-style-type: none"> <li>• Evidence of current risk.</li> <li>• Complete history of prior abuse (including dates, allegations, and dispositions of referrals).</li> <li>• Summary of parents’ attempts to reunify with siblings.</li> <li>• Permanent plan for siblings.</li> </ul>
<b>Permission to Treat/ Medical Neglect</b> (See Hotline - Permission to Treat for more information.)	<ul style="list-style-type: none"> <li>• Type of medical treatment</li> <li>• Why the parent(s) object to treatment</li> <li>• Date treatment authorized</li> <li>• Name of authorizing Judge.</li> </ul>

Refer also to the following protocols:

- Commercial Sexual Exploitation of Children (CSEC) Advocate Resources
- Domestic Violence Protocol
- Drug Endangered Children and Law Enforcement Liaison Protocol
- Highly Vulnerable Children Protocol
- Neglect Protocol
- Substance Use Disorder Protocol .

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**WIC 300(c) –  
EMOTIONAL  
ABUSE  
What to  
document**

When screening a petition under WIC 300(c), the SW must document that the child is suffering or is at substantial risk of suffering serious emotional damage, as evidenced by severe anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others **as a result of the conduct of the parent** or the child has no parent capable of providing appropriate care.

Evidence generally includes:

- the most current psychological evaluation of the child that is available and/or a current therapist' letter describing the need for juvenile dependency court intervention
- a description of the child's conduct, including the names of witnesses who would support the child's need for mental health treatment and the inability of the child's parent to provide that treatment
- dates/time frames
- any prior reports of domestic violence, substance abuse, and history of mental illness.

Refer also to the following protocols:

- Child Victim Witness Protocol
  - Domestic Violence Protocol
  - Substance Use Disorder Protocol
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**WIC 300(d) -  
SEXUAL ABUSE  
What to  
document**

When screening a petition under WIC 300(d), the SW must document:

- that the child has been sexually abused or is at substantial risk of being sexually abused by his or her parent/guardian or by a member of his or her household or;
  - that the parent/guardian has failed to adequately protect the child from sexual abuse when the parent/guardian knew or should have known that the child was in danger of sexual abuse.
  - that the acts of abuse/molest may continue (e.g., the perpetrator is still in the home and/or has access to the child and/or the non-offending parent does not believe the molest occurred).
  - specific dates or time frame molest occurred.
  - a summary of the evidentiary interview, if available.
  - medical reports, if any, describing the reason(s) medical experts believe there is physical evidence of sexual abuse.
  - a specific description of actions constituting the molest.
  - a summary of the interview of victim describing circumstances of molest, including facts that give credibility to the child's statement and factors supporting the reliability of the interview.
  - the detailed statement of parents, including admissions or denials.
  - the factors that support the allegations, such as the child sexually acting out, discloses to others, eyewitness statements, etc.
  - police reports, if law enforcement involved (if not available at screening, reports must be provided prior to the first jurisdictional hearing).
  - all prior reports of domestic violence, substance abuse, and history of mental illness.
  - applicability of San Diego County Child Victim Witness Protocol .
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**WIC 300(d) -  
SEXUAL ABUSE  
What to  
document (cont.)**

Refer also to the following protocols:

- Child Victim Witness Protocol
  - Sexual Abuse Protocol
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**Convicted Sex  
Offenders**

When a petition is filed, the court can make a prima facie finding of risk if a child is residing with a parent or guardian (or any other person) who has been convicted of sexual abuse. The court can also make a prima facie finding if a person who has custody of the child has been convicted of sexual abuse.

For the court to make that finding, there must be sufficient documentation in the court report that the person has been convicted of sexual abuse, has been found in a prior dependency hearing to have committed an act of sexual abuse, or is required to register as a sex offender.

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**WIC 300(e) –  
SEVERE PHYSICAL  
ABUSE  
What to  
document**

When screening a petition under WIC 300(e), the SW must document that the child is **under the age of 5** and the child has suffered severe physical abuse by a parent or by a person known by the parent if the parent knew or reasonably should have known that the person was physically abusing the child.

Severe physical abuse means:

- any single act of abuse which causes physical trauma, if left untreated, would cause severe disfigurement, permanent physical disability or death
- any single act of sexual abuse which causes significant bleeding, deep bruising, significant external or internal swelling
- more than one act of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture or unconsciousness
- willful prolonged failure to provide adequate food.

The SW will provide:

- medical reports describing the injuries to the child with specificity, indicating the time frame the injury occurred, and the mechanism of the injury, if known.
- a letter from child abuse medical expert stating whether or not the injury is most likely non-accidental and the basis for the opinion.
- police reports, if law enforcement involved (if not available at screening, reports must be provided prior to the first jurisdictional hearing).
- detailed statements of parents and other witnesses regarding when, where, and how injury occurred.
- specific date(s) that abuse occurred.
- all prior reports of domestic violence, substance abuse, and history of mental illness.

**NOTE:** The SW will discuss with the screening attorney whether or not to write separate reports for the jurisdiction and disposition hearings.

Refer also to the following protocols:

- Child Victim Witness Protocol
  - Domestic Violence Protocol
  - Highly Vulnerable Children Protocol
  - Physical Abuse Protocol
  - Sexual Abuse Protocol
  - Substance Use Disorder Protocol .
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**WIC 300(f) –  
PARENT CAUSED  
DEATH OF  
ANOTHER CHILD  
What to  
document**

When screening a petition under WIC 300(f), the SW must document that the child’s parent has caused the death of another child through abuse or neglect.

The SW will provide:

- medical reports describing the injuries to the deceased child with specificity, indicating the time frame the injury occurred, the mechanism of the injury, if known.
- the Coroner report (if not available at screening, reports must be provided prior to the first jurisdictional hearing).
- a letter from child abuse medical expert stating whether or not the injury is most likely non-accidental and the basis for the opinion.
- police reports, if law enforcement involved (if not available at screening, reports must be provided prior to the first jurisdictional hearing).
- detailed statements of parents and other witnesses regarding when, where, and how injury occurred.
- specific date(s) the abuse occurred.
- all prior reports of domestic violence, substance abuse, and history of mental illness.

Refer also to the following protocols:

- Child Fatality and Near Fatality Protocol
- Child Victim Witness Protocol
- Domestic Violence Protocol
- Highly Vulnerable Children Protocol
- Physical Abuse Protocol .

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**WIC 300(g) – NO  
PARENT OR  
GUARDIAN (NPG)  
What to  
document**

When screening a petition under WIC 300(g), the SW must document that the child was left without any provisions for support in that the:

- child has been voluntarily surrendered pursuant to Section 1255.7 of the Health and Safety Code and has not be reclaimed within the 14-day period.
- parent(s) are incarcerated or institutionalized and cannot arrange for the child’s care. If the parent suggested a caretaker at the time of their arrest or when the SW met with the parent while the parent was in jail, the SW will document that.
- relative or adult custodian with whom the child resides is no longer willing/able to care for the child (provide specific reasons no relative caregivers are available).
- parents’ whereabouts are unknown and reasonable efforts to locate the parent have been unsuccessful.
- Parents are otherwise unavailable (provide specific explanation)

Refer also to the Neglect Protocol .

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**WIC 300(h) –  
CHILD FREED FOR  
ADOPTION FOR  
12+ MONTHS  
What to  
document**

When screening a petition under WIC 300(h), the SW must document that the child has been freed for adoption by one or both parents for 12 months by either relinquishment or termination of parental rights or an adoption petition has not been granted. The SW will provide:

- copy of order terminating parental rights or relinquishment
  - report specifying issues that have precluded adoption (reason[s] for delay).
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**WIC 300(i) –  
CRUELTY  
What to  
document**

When screening a petition under WIC 300(i), the SW must document that the child has been subjected to an act or acts of cruelty by the parent or by a member of the child’s household the parent has failed to adequately protect the child from an act or acts of cruelty when the parent knew or reasonably should have known that the child was in danger of being subjected to such cruelty.

The SW will provide:

- medical reports describing the injuries with specificity, indicating the time frame the injury occurred, and the mechanism of the injury, if known.
- a letter from child abuse medical expert stating whether or not the injury is most likely non-accidental and the basis for the opinion.
- police reports, if law enforcement involved (if not available at screening, reports must be provided prior to the first jurisdictional hearing).
- detailed statements of parents and other witnesses regarding when, where, and how injury occurred.
- specific date(s) that abuse occurred.
- all prior reports of domestic violence, substance abuse, and history of mental illness.

Refer also to the following protocols:

- Child Victim Witness Protocol
  - Domestic Violence Protocol
  - Highly Vulnerable Children Protocol
  - Physical Abuse Protocol
  - Sexual Abuse Protocol
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**WIC 300(j) –  
SIBLING PETITION  
What to  
document**

When screening a petition under WIC 300(j), the SW must document that the child’s sibling has been abused or neglected as defined in WIC 300(a), (b), (d), (e), and/or (i); and this child is at substantial risk of being abused or neglected. If a sibling is alleged to have been abused, the SW will document all that apply:

- the specific description of the nexus of the sexual abuse to **each** of the siblings
  - proximity in age
  - gender differences
  - how the opposite gender is at risk of sexual abuse
  - whether or not the sibling who was not molested was present during the molest or was aware of the molest
  - whether or not the perpetrator of the sexual abuse has a history of other sexual offenses
  - whether the sexual offender “groomed” the victim prior to the sexual abuse.
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**Alignment with SET**

This policy supports the following SET Values:

- [Value 4: Shared Responsibility with Community Partners](#) by working with medical, law enforcement, school, and other professionals to gather evidence to ensure accurate assessments of risk.
  - [Value 5: A Strong Working Relationship with the Legal System](#) by collaborating with legal partners to ensure that the gathered evidence supports the legal definition of abuse or neglect, which preserves the family’s legal rights and assists CWS in advocating for the least restrictive placement level (including in-home), visitation, and case planning.
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