

Date of Hearing: August 16, 2023

ASSEMBLY COMMITTEE ON APPROPRIATIONS  
Chris Holden, Chair  
SB 331 (Rubio) – As Amended July 12, 2023

Policy Committee: Judiciary

Vote: 11 - 0

Urgency: No

State Mandated Local Program: No

Reimbursable: No

**SUMMARY:**

This bill prohibits a court from ordering counseling programs or services to remediate the resistance of a child to connect with a parent seeking custody or visitation if the programs or services involve certain coercive or abusive circumstances, as specified. The bill also changes Judicial Council's family violence training obligations and adds an annual reporting requirement.

Specifically, among other provisions, this bill:

- 1) Provides that a witness is qualified to testify as an expert in a child custody proceeding pertaining to domestic violence or child abuse if the court finds that the witness possesses special knowledge, demonstrated expertise, or experience in working directly with victims of such abuse.
- 2) Prohibits a court from ordering counseling, programs, or services to remediate the resistance of a child to connect with the parent seeking custody or visitation, or to improve a deficient relationship with the parent seeking custody or visitation, if the counseling occurs under any of the following circumstances:
  - a) In a nonclinical setting or out-of-state facility. A nonclinical setting includes, but is not limited to, a parent's residence, a camp, an overnight hotel or motel, or a vacation home.
  - b) For any period that exceeds the generally accepted, age-appropriate length of time, according to professional consensus.
  - c) The child is transported to the premises where the counseling occurs against their will or by force, threat of force, or physical abduction.
  - d) The child is not given a reasonable opportunity to communicate with the other parent or a relative, as defined, except during a scheduled counseling session.
  - e) The counseling involves the use of threat, coercion, verbal abuse, intimidation, isolation from sources of support, or other acutely distressing circumstances to compel a child to participate against their will.
- 3) Repeals Judicial Council's existing domestic violence training obligation and requires Judicial Council to establish judicial training programs covering specified family violence topics for individuals who perform duties in family law matters, including, but not limited to,

judicial officers, referees, commissioners, guardians ad litem, custody evaluators, and mediators.

- 4) Requires a judicial officer assigned to specified family law matters to report to the court the number of hours spent in domestic violence continuing instruction program. Requires each court to submit the hours of completed training to the Judicial Council, which must report to the Legislature on or before January 1, 2025, and annually thereafter.

#### **FISCAL EFFECT:**

Costs (Trial Court Trust Fund, General Fund) to the courts of an unknown but significant amount, likely in the millions of dollars annually, to fulfill the training and reporting requirements in the bill. Judicial Council reports one-time costs of approximately \$1 million to create and implement the training program for court employees, with ongoing costs of \$850,000 annually to support the trainings, data collection, and annual report to the Legislature. Judicial Council reports significant additional ongoing costs of an unknown amount to provide the required training to child custody evaluators, guardians ad litem, child support commissioners, and other affected personnel, which are not typically court employees and are not included in Judicial Council's existing domestic violence trainings.

#### **COMMENTS:**

- 1) **Purpose.** According to the author:

SB 331 will strengthen protections for children by prioritizing child safety in family court, requiring critical training and reporting for judicial officers and others deemed appropriate in family law matters and would ban the practice of court-ordered reunification programs, which have demonstrated harmful impacts on children.

- 2) **Background.** This bill seeks to prevent courts from ordering a child in a custody dispute to participate in controversial reunification treatment, services, or counseling. There is significant disagreement between the bill's supporters and opponents about how to characterize these services and whether the court should require them for children. In general, reunification services, therapy, and counseling seek to remedy an alienated relationship between a child and their parent – typically a non-custodial parent – during a custody or visitation dispute. As summarized by the Assembly Committee on Judiciary in its analysis of this bill:

[Parental alienation] occurs when one parent has tried to turn the child against (or alienate the child from) the other parent through means of psychological manipulation or false accusations of abuse. The author and supporters contend that “reunification treatment” is based upon a false theory and uses questionable, coercive, and even dangerous methods to “reunify” the child with the supposedly “alienated” parent. The author and supporters presume, too, that the approach is based upon cutting off a child from the parent with whom the child has formed a positive and healthy attachment, in favor of forcing the child to spend time with the parent that the child is adamantly resisting. Not surprisingly, groups that either

practice or endorse reunification therapy oppose this bill...They contend that their approach is supported by academic studies and that divorcing and separating parents fighting over custody and visitation sometimes do, in fact, attempt to turn the child against the other parent during a heated custody battle.

This bill does not directly reference “reunification treatment,” but prohibits the court from ordering a child to participate in services or therapies that include certain abusive or coercive elements, as listed above. The bill also replaces Judicial Council’s existing obligations to conduct domestic violence trainings for people who work on domestic violence matters with detailed new training requirements for people who work on “family law matters,” including personnel that are not typically employed by the court and not currently subject to the court’s training programs. As noted in the fiscal estimate above, this significantly expands the Judicial Council’s ongoing training obligations and related costs.

The author believes enacting this bill will make the state eligible for federal funding under Kayden’s Law, which was included in the 2022 reauthorization of the Violence Against Women Act (VAWA). Kayden’s Law authorizes an increase in federal grant funding for states with certain child custody proceedings laws and standards. However, it is unclear whether states must implement the exact language of VAWA to be eligible for increased funding and it appears that a state may not receive a funding increase under Kayden’s Law for more than four years.

- 3) **Related Legislation.** AB 304 (Holden) shifts responsibility for oversight of batterer’s intervention programs from county probation departments to the Department of Justice and changes Judicial Council’s obligation to conduct domestic violence training programs. AB 304 is pending in the Senate Appropriations Committee.

AB 419 (Bauer-Kahan) requires Judicial Council to establish judicial training programs for judges on best practices for treatment of alleged sexual abuse and assault victims in courtroom cases. AB 419 was held on this committee’s suspense file.

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