

SENATE THIRD READING
SB 331 (Rubio)
As Amended September 8, 2023
Majority vote

SUMMARY

Prohibits a court from ordering certain methods of outpatient counseling in child custody and visitation proceedings and modifies training and reporting requirements for judicial personnel on issues of domestic violence and child abuse.

Major Provisions

- 1) Prohibits a family court from ordering reunification treatments, programs, or services, including, but not limited to, camps, workshops, therapeutic vacations, or educational programs that, as a condition of enrollment, require or result in any of the following:
 - a) A no-contact order.
 - b) An overnight stay, out-of-state, or multiday stay.
 - c) A transfer of physical or legal custody of the child.
 - d) The use of private youth transporters or private transportation agents engaged in the use of force, threat of force, physical obstruction, acutely distressing circumstances, or circumstances that place the safety of the child at risk.
 - e) The use of threats of physical force, undue coercion, verbal abuse, intimidation, isolation from a child's family, community, or other sources of support, or other acutely distressing circumstances.
- 2) Specifies that an existing judicial training and education program for judicial officers and other family court personnel shall be ongoing and designed to improve the ability of courts to recognize and respond to child physical abuse, child sexual abuse, domestic violence, and trauma in family victims, particularly children, and to make appropriate custody decisions that prioritize child safety and well-being and that are culturally sensitive and appropriate for diverse communities.
- 3) Requires the training program described in 4), above, to include a domestic violence session in any orientation session conducted for newly appointed or elected judges, an annual training session in domestic violence, and periodic updates in all aspects of domestic violence, including, but not limited to:
 - a) Child sexual abuse.
 - b) Physical abuse.
 - c) Emotional abuse.
 - d) Coercive control.
 - e) Implicit and explicit bias related to parties involved in domestic violence cases.

- f) Trauma.
 - g) Long- and short-term impacts of domestic violence and child abuse on children.
 - h) The detriment to children of residing with a person who perpetrates domestic violence.
 - i) That domestic violence can occur without a party seeking or obtaining a restraining order, without a substantiated child protective services finding, and without other documented evidence of abuse.
 - j) Victim and perpetrator behavioral patterns and relationship dynamics within the cycle of violence.
- 4) Requires the Judicial Council to report to the Legislature and the relevant policy committees, on or before January 1, 2025, and each January thereafter, on the trainings for judicial officers provided pursuant 4) and 5), above. The report shall include both of the following:
- a) The titles of the training courses being offered by Judicial Council.
 - b) The number of judicial officers that participated in each training.

COMMENTS

This bill, which if enacted will be entitled Piqui's Law, is named for just one of 851 children nationwide who have been murdered by a divorcing or separating parent since 2008, according to statistics collected by the Center for Judicial Excellence. Aramazd Andressian, Jr. – also known as Piqui – was smothered to death by his father in 2017 during a court-approved visitation. Eight days earlier, Piqui's mother, Ana Estevez, had reportedly sought sole custody of the child, with only *supervised* visitation rights for the father. Her requests were denied, notwithstanding the child reporting that the father had been physically and emotionally abusive toward him. In March of 2020, a father shot and killed his three daughters and the supervising chaperone during a supervised visitation in a church in Citrus Heights, California. As in Piqui's case, the mother had warned authorities about the father's violent tendencies and, indeed, had obtained a temporary restraining order against the father that was in effect at the time of the murder. (*Sacramento Bee*, March 1, 2020.)

This bill seeks to reduce the kinds of tragedies described above by making several changes in two general areas: 1) judicial training and reporting and 2) court-ordered counseling in custody and visitation disputes. The analysis discusses each of these below.

Judicial training. First, the bill provides specific direction as to the topics covered by the existing judicial training and education programs and establishes new reporting requirements to ensure compliance with those programs. Existing law requires the Judicial Council to establish judicial training programs for judges and other court personnel whose work involves domestic violence. Existing law also requires the training programs to cover general topics. This bill provides a somewhat more specific list of topics that must be covered within these general categories. The bill also requires the Judicial Council to annually report specified information on this training to the Legislature and relevant policy committees.

Limitations on court-ordered counseling. Second, the bill imposes limitations on the court's authority to order outpatient counseling in certain child custody and visitation disputes. Under existing law, the court may order outpatient counseling for the parents and the minor child with a licensed mental health professional, for up to one year. Before ordering such counseling, the court must find that the dispute between the parents poses a "substantial danger" to the best interest of the child and that the ordered counseling will be in the best interest of the child. The court must document its reasons for believing that the dispute poses a "substantial danger" and that the counseling would serve the best interest of the child. (Family Code Section 3190(a)(1) to (2).)

This bill substantially modifies this section of existing law by imposing much more specific limitations on when counseling can be ordered and the conditions under which the counseling may occur. Specifically, the bill prohibits a family court from ordering reunification treatments, programs, or services, including, but not limited to, camps, workshops, therapeutic vacations, or educational programs that, as a condition of enrollment, require or result in a no-contact order, a transfer of physical or legal custody of the child, or otherwise involve the use of force, coercion, threats, or other distressing circumstances.

According to the Author

According to the author, "protecting children and survivors should always be a top priority, but unfortunately, family courts continue to fail." The author references statistics showing that, since 2008, abusive parents or custodians have murdered nearly 900 children nationwide. The author believes that "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."

Arguments in Support

Advocates for Child Empowerment and Safety (ACES), a coalition seeking to improve the human and civil rights of abused children, supports this bill because it will "increase safety for children who are currently being forced to reunify with parents, even when the children identified those parents as dangerous, violent or sexually abusive." ACES claims that some "children are also being cut off from contact with their safe parents and forcibly ordered to reeducation camps, programs or workshops contrary to their wishes and best interests." ACES believes that SB 331 will help address this situation, in part, by requiring experts "to have appropriate expertise and experience in the areas of domestic violence and child abuse. [The bill will also] provide that court personnel have expanded training in domestic violence and child abuse to be better able to address abuse cases."

Arguments in Opposition

The Parental Alienation Support Intervention Group (PASI) strongly opposes this bill, writing that "in our zeal to improve flaws in the system it is negligent to enact legislation that is founded upon misrepresentations and distortions of science and facts." To begin with, PASI rejects the characterization of "reunification therapy" and "parental alienation (PA)" theory put forth by the author and sponsors of the bill. PASI argues that "such reunification therapy is based on well-established therapeutic systems and its effectiveness and safety have been researched and reported upon in peer reviewed journals." PASI contends that SB 331 "crafts a strawman argument against reunification therapy and consequently attempts to prohibit the therapy based upon this fabrication." In sum, PASI argues that this bill will prevent the court from ordering a

legitimate therapeutic approach that addresses a real phenomenon and serves the best interest of the child.

FISCAL COMMENTS

According to the Assembly Appropriations Committee, costs (Trial Court Trust Fund, General Fund) to the courts of an unknown but significant amount, likely in the millions of dollars annually, to create and implement training programs for court employees, conduct data collection, and provide the annual report to the Legislature. Although courts are not funded on the basis of workload, increased pressure on the Trial Court Trust Fund may create a need for increased funding for courts from the General Fund. The 2023-24 budget includes \$105 million from the General Fund to backfill declining revenue to the Trial Court Trust Fund.

VOTES

SENATE FLOOR: 38-0-2

YES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hurtado, Laird, McGuire, Menjivar, Min, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk

ABS, ABST OR NV: Jones, Limón

ASM JUDICIARY: 11-0-0

YES: Maienschein, Essayli, Connolly, Dixon, Haney, Kalra, Pacheco, Papan, Reyes, Sanchez, McKinnor

ASM APPROPRIATIONS: 15-0-1

YES: Holden, Megan Dahle, Bryan, Calderon, Wendy Carrillo, Dixon, Mike Fong, Hart, Lowenthal, Mathis, Papan, Pellerin, Sanchez, Weber, Wilson

ABS, ABST OR NV: Soria

UPDATED

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CONSULTANT: Tom Clark and Alison Merrilees / JUD. / (916) 319-2334

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