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UNFINISHED BUSINESS

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Bill No: SB 331  
Author: Rubio (D), et al.  
Amended: 9/8/23  
Vote: 21

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SENATE JUDICIARY COMMITTEE: 11-0, 4/25/23  
AYES: Umberg, Wilk, Allen, Ashby, Caballero, Durazo, Laird, Min, Niello,  
Stern, Wiener

SENATE APPROPRIATIONS COMMITTEE: 6-0, 5/18/23  
AYES: Portantino, Ashby, Bradford, Seyarto, Wahab, Wiener  
NO VOTE RECORDED: Jones

SENATE FLOOR: 38-0, 5/24/23  
AYES: 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  
NO VOTE RECORDED: Jones, Limón

ASSEMBLY FLOOR: 80-0, 9/13/23 - See last page for vote

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**SUBJECT:** Child custody: child abuse and safety

**SOURCE:** California Protective Parents Association  
Crime Survivors Resource Center  
Family Court Awareness Month

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**DIGEST:** This bill 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.

*Assembly Amendments* rename the bill and modify the findings and declarations; delete the provision relating to the admissibility of expert testimony in family law matters; delete the earlier provisions modifying when a family court may order counseling and add a provision preventing a court from ordering family reunification treatments that require, or result in, specific circumstances; and add a requirement that the Judicial Council report to the Legislature on January 1, 2025, and annually thereafter, the titles of training courses offered by Judicial Council and the number of judicial officers that participated in each training for judicial officers who perform duties in domestic violence and child custody matters.

### **ANALYSIS:**

Existing law:

- 1) Requires that custody of a child be granted according to a set order of preference, based on the best interests of the child, but that the order of preference establishes neither a preference, nor a presumption, for or against joint legal custody, joint physical custody, or sole custody, but allows the court and the family the widest discretion to choose a parenting plan that is in the best interest of the child. (Fam. Code, § 3040.)
- 2) Requires, when the policies set forth above are in conflict, a court's order regarding physical or legal custody or visitation to be made in a manner that ensures the health, safety, and welfare of the child and the safety of all family members. (Fam. Code, § 3020(c).)
- 3) Provides that when determining the best interests of a child, a court may consider any relevant factors and must consider: the health, safety, and welfare of the child; any history of abuse by any party seeking custody, any family members of any party seeking custody, or the intimate partner or cohabitant of any party seeking custody; the nature and amount of contact with the parents; and substance abuse by a parent. The court may not consider the sex, gender identity, gender expression, or sexual orientation of a parent, legal guardian, or relative in determining the best interests of the child. (Fam. Code, § 3011.)
- 4) Requires a court to grant reasonable visitation to a parent when it is shown that visitation is in the child's best interests. (Fam. Code, § 3100.)
- 5) Permits a court to require parents or any other party involved in a custody or visitation dispute, and the minor child, to participate in outpatient counseling with licensed mental health professional, or through other community programs and services that provide appropriate counseling, including, but not

limited to, mental health or substance abuse services, for not more than one year, provided that the program selected has counseling available for the designated period of time, if the court finds the following:

- a) The dispute between the parents, between the parent or parents and the child, between the parent or parents and another party seeking custody or visitation rights with the child, or between a party seeking custody or visitation rights and the child, poses a substantial danger to the best interest of the child; and
  - b) The counseling is in the best interest of the child. (Fam. Code, § 3190(a).)
- 6) Provides that a court, in determining whether a dispute under 5) a) poses a substantial danger to the best interest of the child, shall consider, in addition to any other factors the court determines relevant, any history of domestic violence within the past five years between the parents, between the parent or parents and the child, between the parent or parents and another party seeking custody or visitation rights with the child, or between a party seeking custody or visitation rights and the child. (Fam. Code, § 3190(b).)
  - 7) Provides that, if a court finds that the financial burden created by an order for counseling under 5) does not otherwise jeopardize a party's financial obligations, the court shall fix the cost and order the entire cost of the services to be borne by the parties in the proportions that the court deems reasonable. (Fam. Code, § 3190(c).)
  - 8) Requires a court, when ordering counseling pursuant to 5), to set forth in its order its reasons for finding that the dispute poses a substantial danger to the best interest of the child and the counseling is in the best interest of the child and that the financial burden created by the court order for counseling does not otherwise jeopardize a party's other financial obligations. (Fam. Code, § 3190(d).)
  - 9) Requires the Judicial Council to establish judicial training programs for judges, referees, commissioners, mediators, and others as deemed appropriate by the Judicial Council who perform duties in family law matters.
    - a) The training program must include a family law session in any orientation session conducted for newly appointed or elected judges and an annual training session in family law.
    - b) The training in 7) a) must include instruction in all aspects of family law, including effects of gender, gender identity, and sexual orientation on

family law proceedings, the economic effects of dissolution on the involved parties, and the effects of allegations of child abuse or neglect made during family law proceedings. (Gov. Code, § 68553; Cal. Rules of Court, Rule 10.463.)

- 10) Requires the Judicial Council to establish judicial training programs for individuals who perform duties in domestic violence matters, including, but not limited to, judges, referees, commissioners, mediators, and others as deemed appropriate by the Judicial Council.
  - a) The training programs must include a domestic violence session in any orientation session conducted for newly appointed or elected judges and an annual training session in domestic violence.
  - b) The domestic violence training programs must include instruction in all aspects of domestic violence, including, but not be limited to, training on the detriment to children of residing with a person who perpetrates domestic violence and the fact 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. (Gov. Code, § 68555; Cal. Rules of Court, Rule 10.464.)
- 11) Provides that a person is qualified to testify as an expert witness if they have special knowledge, skill, experience, training, or education sufficient to qualify them as an expert on the subject to which their testimony relates.
  - a) Against the objection of a party, such special knowledge, skill, experience, training, or education must be shown before the witness may testify as an expert.
  - b) A witnesses' special knowledge, skill, experience, training, or education may be shown by otherwise-admissible evidence, including their own testimony. (Evid. Code, § 720.)
- 12) Permits a witness testifying as an expert to provide opinion testimony, provided that the testimony relates to a subject that is sufficiently beyond common experience that the opinion of an expert would assist the trier of fact and is based on matter that reasonably may be relied on by an expert in forming an opinion on the subject to which the testimony relates, as specified, unless otherwise precluded by law. (Evid. Code, § 801.)

This bill:

- 1) Establishes Piqui's Law: Keeping Children Safe from Family Violence Act.
- 2) Makes findings and declarations regarding the prevalence of domestic violence and child abuse perpetrated by parents, the risk of exposing a child to an abuser, and the intent of the legislature to provide additional protections to children who are at risk of abuse and better-developed trainings to judges and other decisionmakers in family law matters.
- 3) 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.
- 4) Provides that 1) does not affect the applicability of Welfare and Institutions Code 16507, which authorizes a county welfare department to provide family reunification services for a child who falls under the jurisdiction of the juvenile court and has been removed from the custody of their parents or guardians, as specified.
- 5) 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.

- 6) Requires the training program described in 5), 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.
- 7) 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 and training courses being offered by Judicial Council; and
  - b) The number of judicial officers that participated in each training.

### **Comments**

According to the author, “Protecting children and survivors should always be a top priority, but unfortunately, family courts continue to fail. Since 2008, statistics

show an abusive parent or custodian have murdered over 900 children nationwide. 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 may have harmful impacts on children. SB 331, also known as Piqui's Law, is named after a 5-year-old boy tragically murdered in 2017 by his father during an unsupervised court ordered visitation. This is unacceptable, especially in circumstances where the protective parent, like Ana Estevez, pleaded with the court to request full custody and supervised visitation, knowing her child was in danger. This is just one of over 900 cases that demonstrate the need to strengthen the universal understanding of domestic violence and child abuse within our family courts. We must prevent families from suffering the pain of a murdered child to ensure child safety is a priority by providing relevant and appropriate judicial training and reporting, banning reunification programs and having qualified experts testify in court. Furthering education and training for judges and all individuals relevant in family law matters will ensure courts are able to make the best decision possible, providing equal and fair justice under the law.”

**FISCAL EFFECT:** Appropriation: No Fiscal Com.: Yes Local: No

According to the Assembly Appropriations Committee, this bill presents 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.

**SUPPORT:** (Verified 9/13/23)

California Protective Parents Association (co-source)  
Crime Survivors Resource Center (co-source)  
Family Court Awareness Month (co-source)  
Advocates for Child Empowerment & Safety  
Center for Judicial Excellence

Community Legal Aid SoCal  
Family Violence Appellate Project  
Incest Survivors' Speakers Bureau of California  
Inner Circle Children's Advocacy Center  
Joyfully Managed Family  
LCSW Co-Parenting  
Legal Aid Foundation of Los Angeles  
Legislative Coalition to Prevent Child Abuse  
Mothers of Lost Children  
One Mom's Battle  
Public Counsel  
RCS Consultants  
San Gabriel Valley Council of Governments  
Senator Dianne Feinstein  
Supervised Child Visits  
University of California, Irvine School of Law Domestic Violence Clinic  
Approximately 260 individuals

**OPPOSITION:** (Verified 9/13/23)

Association of Family Conciliation Courts  
Judicial Council of California  
Mothers Against Child Abuse  
Parental Alienation Legislative Group  
Parental Alienation Support Intervention Group  
PAS-Intervention MD Chapter  
Stop Abuse for Everyone  
Approximately 50 individuals

**ARGUMENTS IN SUPPORT:** According to the California Protective Parents Association:

In March of 2022, President Joe Biden signed the reauthorization of VAWA, which included new groundbreaking provisions to improve child safety laws within family courts, otherwise known as "Kayden's Law." Under this federal legislation, states may receive federal funding if they adopt child custody and domestic violence statutes to further prioritize child safety. If SB 331, "Piqui's Law," is enacted, California will be eligible to receive millions in federal funding over the next several years.

Piqui's Law was named after a 5-year-old boy who was killed by his father in April 2017. Piqui's mother, Ana Estevez, fought hard in a California



family court to protect her child from her abusive ex-husband and father of Piqui. Despite her efforts, the court refused to stop visitation, leading to her son's tragic murder. We believe that Piqui's death was preventable, and that many other California children would not have been killed if our bench officials were better trained to intercede in dangerous cases.

Also, SB 331, will also stop the madness of the reunification FOR PROFIT programs that are literally ripping children from their safe, preferred, parents. These children, not only lose their preferred parent, but additionally lose their friends, schools, and communities to be reunited with alleged abusive parents.

**ARGUMENTS IN OPPOSITION:** According to the Judicial Council of California:

Government Code section 68555 currently requires that the council establish training programs for judges and other court personnel whose work involves domestic violence to provide them with information about the specific issues that arise when domestic violence is involved in a case before the court. That provision has been in the law since 1996 and was amended to include some clarifying language in 2018. SB 331 would amend that section to include a more prescriptive set of requirements that require that the council provide training on an extensive list of specific topics. This expansion of the Legislature's efforts to regulate judicial training represents an unnecessary intrusion into the operations of the judicial branch, especially as it has long demonstrated a commitment to robust training in these areas. The Legislature can use its authority as the policy making branch of government to limit the kinds of orders that courts can make based on its analysis of what best serves litigants in family law matters as SB 331 proposes to do, but the principle of separation of powers requires that the Legislature defer to the judicial branch on training judicial officers to ensure that they can implement the legislative changes enacted by the legislative branch.

The Judicial Council has been a leader in ensuring that domestic violence is an issue that is centered in judicial training and education, and there are multiple rules of court requiring domestic violence training for judicial officers, and for family court services personnel who perform duties in child custody disputes.<sup>1</sup> These rules demonstrate that the council shares your interest in ensuring that this issue is given prominent consideration among the many other legal topics on which judges receive initial and ongoing training. The concerns regarding SB 331 arise as a result of the overly

prescriptive required topic areas included in the current version of the legislation which undermine the ability of the branch to exercise its independence in developing and providing appropriate and necessary training. SB 331 could have been amended to add the proposed list of topics to section 68555 as items for the council to consider when developing the training required pursuant to that section. This approach would signal the Legislature's strong preference for training to cover these topics, while deferring the final decisions to the judicial branch consistent with its co-equal status.

ASSEMBLY FLOOR: 80-0, 9/13/23

AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Chen, Connolly, Megan Dahle, Davies, Dixon, Essayli, Flora, Mike Fong, Vince Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, Mathis, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Rendon, Reyes, Luz Rivas, Rodriguez, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas

Prepared by: Allison Whitt Meredith / JUD. / (916) 651-4113  
9/14/23 9:41:29

\*\*\*\* END \*\*\*\*