

Date of Hearing: April 21, 2026

ASSEMBLY COMMITTEE ON JUDICIARY
Ash Kalra, Chair
AB 2789 (Committee on Judiciary) – As Introduced March 16, 2026

PROPOSED CONSENT

SUBJECT: MEDIATION: CHILD CUSTODY AND VISITATION

KEY ISSUE: SHOULD COURTS BE AUTHORIZED TO ISSUE NOTICE OF MEDIATION OF CHILD CUSTODY AND VISITATION PROCEEDINGS IN SPECIFIED WAYS OTHER THAN BY MAIL, IF CONSENTED TO BY ALL PARTIES?

SYNOPSIS

Existing law requires notice of mediation in custody and visitation proceedings to be sent to the parties via certified mail, return receipt requested. This bill would grant courts the latitude to provide service in a number of new ways, including via electronic service if the parties agree. Considering the vast majority of parties are likely to check their emails more often than their mailboxes, and that notice via email or in-person at a courthouse is likely to arrive much more quickly than via certified mail, this straightforward measure seems a reasonable way to promote efficiency in custody and visitation proceedings. This bill is sponsored by the Judicial Council of California and has no known opposition.

SUMMARY: Expands the ways in which a court may issue notice of mediation in child custody and visitation proceedings. Specifically, **this bill:**

- 1) Authorizes a court to provide notice of mediation in writing to all parties by one of the following methods:
 - a) By court staff when all parties are present for a court hearing;
 - b) By court staff when a party is present at the courthouse;
 - c) As part of a notice of hearing or court order filed by the court clerk, provided to a party, and served on the other party;
 - d) By mail, express mail, overnight delivery, or facsimile transmission;
 - e) By electronic service on parties who are represented by counsel and by the consent of parties who are self-represented.
- 2) Requires each court to develop a notice of mediation that includes both of the following:
 - a) All communications involving the mediator shall be kept confidential between the mediator and the disputing parties, as specified;
 - b) Where there has been a history of domestic violence between the parties, including allegations or a finding of domestic violence, or where a protective order, as defined, is in

effect, the party alleging domestic violence may request that the appointed mediator meet with the parties separately and at separate times, as specified.

EXISTING LAW:

- 1) Requires notice of mediation and of any hearing held regarding child custody and mediation to be given to the following persons:
 - a) Where mediation is required to settle a contested issue of custody or visitation, to each party and to each party's counsel of record;
 - b) Where a stepparent or grandparent seeks visitation rights, to the stepparent or grandparent seeking visitation rights, to each parent of the child, and to each parent's counsel of record. (Family Code Section 3176 (a).)
- 2) Requires notice to be given by certified mail, return receipt requested, postage prepaid, to the last known address. (Family Code Section 3176 (b).)
- 3) Requires notice of mediation pursuant to Family Code Section 3188 to state that all communications involving the mediator are to be kept confidential between the mediator and the disputing parties. (Family Code Section 3176 (c).)
- 4) Authorizes any court selected by the Judicial Council to voluntarily adopt a confidential mediation program as specified. (Family Code Section 3188.)
- 5) Authorizes a document to be served electronically in an action filed with the court as specified. (Code of Civil Procedure Section 1010.6.)
- 6) Provides direction on electronic service by express consent, electronic service required by local rule or court order, maintenance of electronic service lists by the courts, service by the parties and other persons, change of electronic service address, and electronic service by or on a court. (California Rule of Court 2.251.)

FISCAL EFFECT: As currently in print this bill is keyed fiscal.

COMMENTS: Currently, Family Code Section 3176 requires courts to provide parties to a custody and visitation dispute notice of a mediation proceeding via certified mail, return receipt requested, postage prepaid, to the parties' last known address. This process is required even when the parties appear in court in person for a hearing or other proceeding in the matter. Section 3176 has not been modified in over 20 years.

This bill seeks to modernize the Family Code to allow courts to choose the method of service for notice of mediation in custody and visitation proceedings. According to the author:

Existing law requires that notice of child custody mediation be provided by certified mail, return receipt requested, postage prepaid, to the parties' last known address. However, in many circumstances there may be more effective and less costly ways to provide parties to a custody proceeding the required notice of mediation. This straightforward measure seeks to modernize procedures for providing notice of child custody mediation by more cost-effective methods, including electronic delivery.

The bill would remove the requirement that the service be provided via certified mail, return receipt requested, and allow the court to choose from the following options:

- By court staff when all parties are present for a hearing;
- By court staff when a party is present at the courthouse;
- As part of a notice of hearing or court order filed by the court clerk, provided to a party, and served on the other party;
- By mail, express mail, overnight delivery, or fax;
- By electronic service on parties who are represented by counsel, and by the consent of parties who are self-represented, as allowable under Code of Civil Procedure Section 1010.6 and Rule 2.251 of the California Rules of Court.

The bill also requires the notice to be accompanied by a notice of mediation that includes information relating to confidentiality requirements for proceedings conducted under a confidential mediation program, and the option for a party who is also a survivor of domestic abuse to request a separate mediation without the other abusive party.

Requiring service to be completed by only one method via certified mail return receipt requested seems unnecessarily strict and cumbersome. Service to both parties who appear for a hearing or one party who is in the courthouse, both conducted by court staff, seems a reasonable and efficient alternative. Considering nearly everyone now carries their email in their pocket, allowing for service to be completed via email seems not only reasonable but highly effective. Importantly, parties must consent to notice via email if they are self-represented, acknowledging that some pro per litigants may not be aware service can occur in that manner or have regular access to email. Where the court feels it is still the most appropriate, this bill maintains the ability to provide service via mail. Considering the costs implicated by requiring every notice of mediation to be sent via certified mail, return receipt requested, this measure seems a common sense effort to not only ensure timely notice of mediation proceedings but also decrease the courts' operating costs.

ARGUMENTS IN SUPPORT: This bill is sponsored by the Judicial Council of California. They submit:

Family Code section 3176 currently requires that notice of mediation must be given by certified mail, return receipt requested, postage prepaid, to the last known address. This reliance on certified mail as the sole option is outdated and creates additional costs for courts by placing restrictions on a court's ability to use technology to provide notice and potentially inhibits prompt access to court services by increasing waiting times before parties receive notice.

This proposal amends subdivision (b) in Family Code section 1376 to allow courts the ability to choose from one of five methods to provide notice of mediation. The proposed amendments increase delivery efficiency and reduce reliance on paper. These amendments also increase access to court services and will assist victims of domestic violence to understand their right to meet with a mediator separately in cases involving domestic violence.

For these reasons, the Judicial Council is pleased to sponsor Assembly Bill 2789.

REGISTERED SUPPORT / OPPOSITION:

Support

Judicial Council of California

Opposition

None on file

Analysis Prepared by: Manuela Boucher-de la Cadena / JUD. / (916) 319-2334