
CONSENT

Bill No: AB 2789
Author: Committee on Judiciary
Amended: 6/11/26 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 12-0, 6/9/26

AYES: Umberg, Niello, Allen, Ashby, Caballero, Durazo, Laird, Reyes,
Valladares, Wahab, Weber Pierson, Wiener

NO VOTE RECORDED: Stern

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 77-0, 5/14/26 (Consent) - See last page for vote

SUBJECT: Mediation: child custody and visitation

SOURCE: Judicial Council of California

DIGEST: This bill authorizes a court to serve a notice of mediation in a child custody matter through specified means and requires the notice of mediation to state that, where there is a history of domestic violence, the party alleging domestic violence may request that the mediator meet with the parties separately, as specified.

ANALYSIS:

Existing law:

- 1) Establishes the procedures and requirements for custody disputes and the court's award of physical and/or legal custody and visitation of a minor. (Family (Fam.) Code, div. 8, §§ 3000 et seq.)
- 2) Provides that, if it appears on the face of a petition, application, or other proceeding to obtain or modify a temporary or permanent custody or visitation

order that custody and/or visitation are contested, the court shall set the contested issues for mediation. (Fam. Code, § 3170(a).)

- 3) Requires the Judicial Council of California to adopt a separate written protocol for mediations under 2) in domestic violence cases, as specified. (Fam. Code, § 3170(b).)
- 4) Requires notice of mediation and any hearing to be held pursuant to the 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. (Fam. Code, § 3176(a).)
- 5) Requires notice of mediation under 4) to be given by certified mail, return receipt requested, to the last known address. (Fam. Code, § 3176(b).)
- 6) Requires a notice of a confidential mediation, established under 8), below, to state that all communications involving the mediator shall be kept confidential between the mediator and the disputing parties. (Fam. Code, § 3176(c).)
- 7) Provides that, when a court orders a mediation in a custody or visitation dispute and there has been a history of domestic violence between the parties or a protective order is in effect, the mediator shall, at the request of the party alleging domestic violence, meet with the parties separately and at separate times.
 - a) A protective order is defined as a protective order issued under the Domestic Violence Prevention Act (DVPA) (Fam. Code, div. 10, §§ 6200 et seq.), including an ex parte restraining order or a protective order issued after a hearing.
 - b) The requesting party must allege that the domestic violence occurred in a written declaration under penalty of perjury or establish that they are protected by a protective order. (Fam. Code, § 3181.)
- 8) Permits a court, when authorized by the Judicial Council of California, to establish a confidential mediation program through which the mediator makes confidential custody or visitation recommendations only to the disputing parties, except as provided. (Fam. Code, § 3188.)

This bill:

- 1) Permits notice of mediation of a custody or visitation dispute to be given through any of the following means:
 - 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, overnight delivery, or facsimile transmission.
 - e) By electronic service on parties who are represented by counsel or who are self-represented and have consented to electronic service.
- 2) Modifies the requirements for the notice of mediation, as follows:
 - a) Each court must develop a notice of mediation that includes the information in (b) and (c).
 - b) The notice must state that, if the mediation is being conducted pursuant to a confidential mediation program, all communications involving the mediator and the parties shall remain confidential, as provided by statute.
 - c) The notice must state that, where there is a history of domestic violence between the parties, including a finding or allegation of domestic violence, or where a protective order under the DVPA is in effect, the party alleging domestic violence may request that the appointed mediator meet with the parties separately and at separate times, as provided by statute and the California Rules of Court.

Comments

When parents or guardians cannot agree on how to share custody of, or visitation rights to, their minor child, the parties must turn to the courts to work it out. When a petition for custody or visitation is filed, the family court will refer the case to mediation to see if the parties can reach an agreement with the mediator; mediated agreements can reduce the acrimony between the parties and result in less contentious proceedings, which is ultimately better for the parties and the child.

Current law requires a notice of mediation to be served on the parties via certified mail, and requires the notice to state that, if the mediation is a confidential

mediation, all communications involving the mediator and the parties will be kept confidential. This bill permits the court to serve a notice of mediation through additional means, including in person when the party is already at the courthouse and electronically, if the party is represented by counsel or has consented to electronic service. This bill also clarifies the confidentiality portion of the notice of mediation and requires the notice to also provide information relating to the right of a victim of domestic violence to request that the mediator meet with parties separately and at separate times. The author has agreed to a minor amendment to correct a cross-reference.

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

SUPPORT: (Verified 6/22/26)

Judicial Council of California (source)

OPPOSITION: (Verified 6/22/26)

None received

ARGUMENTS IN SUPPORT: According to the Judicial Council of California:

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, including via electronic service if the parties agree. 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.

ASSEMBLY FLOOR: 77-0, 5/14/26

AYES: Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Castillo, Chen, Connolly, Davies, DeMaio, Dixon, Elhawary, Ellis, Fong, Gabriel, Gallagher, Garcia, Gipson, Jeff Gonzalez, Mark González, Hadwick, Haney, Harabedian, Hart, Hoover, Irwin, Jackson, Johnson, Kalra, Krell,

Lackey, Lee, Lowenthal, Macedo, McKinnor, Muratsuchi, Nguyen, Ortega,
Pacheco, Papan, Patel, Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos,
Ransom, Michelle Rodriguez, Rogers, Blanca Rubio, Sanchez, Schiavo, Schultz,
Sharp-Collins, Solache, Soria, Stefani, Ta, Tangipa, Valencia, Wallis, Ward,
Wicks, Wilson, Zbur, Rivas

NO VOTE RECORDED: Arambula, Flora, Celeste Rodriguez

Prepared by: Allison Whitt Meredith / JUD. / (916) 651-4113
6/24/26 16:39:44

**** **END** ****