

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2025-2026 Regular Session

AB 1375 (Hoover)
Version: July 3, 2025
Hearing Date: July 15, 2025
Fiscal: No
Urgency: No
AWM

SUBJECT

Consideration when determining child custody: human trafficking

DIGEST

This bill requires a family court, when making a determination of the best interest of a child for purposes of a custody determination, to consider allegations that a parent has caused human trafficking of the child or other parent when evidence of specified circumstances occurring in the past 10 years is presented to the court.

EXECUTIVE SUMMARY

Under California law, the polestar of a court's determination in a parental custody or visitation case is the best interest of the child. What constitutes the best interest of the child is an intensely fact-specific determination that requires the court to look at the child's relationship with each parent, whether either parent abuses substances, and whether either parent has committed acts of abuse. The Legislature has, over the past few decades, added more specific factors for a court to consider when a parent has been accused of domestic violence or child abuse or is restrained pursuant to a restraining or protective order, to ensure that courts are giving proper weight to evidence that a parent may present a threat to the child's safety.

This bill requires a family court, when making a custody determination, to consider specified evidence that a parent has engaged in human trafficking, when the circumstances occurred in the prior ten years. To avoid inadvertently narrowing the evidence of trafficking that the court must consider, this analysis sets forth recommended amendments for the author.

This bill is sponsored by 3Strands Global Foundation. The Committee has not received timely opposition to this bill.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Establishes a civil cause of action for a victim of human trafficking, as defined in 5), that allows them to bring an action for actual damages, compensatory damages, punitive damages, injunctive relief, statutory damages, or any other appropriate relief; a prevailing plaintiff may also be awarded attorney's fees and costs. (Civ. Code, § 52.5.)
- 2) States that it is the public policy of this state to ensure that:
 - a) The health, safety, and welfare of children is the court's primary concern in determining the best interests of children when making any orders regarding the physical or legal custody or visitation of children;
 - b) Children have the right to be safe and free from abuse, and that the perpetration of child abuse or domestic violence in a household where a child resides is detrimental to the health, safety, and welfare of the child; and
 - c) Children have frequent and continuing contact with both parents after the parents have separated or dissolved their marriage, or ended their relationship, and to encourage parents to share the rights and responsibilities of child-rearing in order to effect this policy, except when the contact would not be in the best interests of the child, as provided. (Fam. Code, § 3020(a), (b).)
- 3) 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.)
- 4) 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.)
- 5) Provides that a person who deprives or violates the personal liberty of another with the intent to obtain forced labor or services is guilty of human trafficking and shall be punished by imprisonment in the state prison for 5, 8, or 12 years and a fine of not more than \$500,000; the penalty can be increased based on the presence of

certain factors, including the possibility of 15 years to life when the offense involves force, fear, fraud, deceit, coercion, violence, duress, menace, or threat of unlawful injury to the victim or to another person. (Pen. Code, § 236.1.)

This bill requires a court, when making a determination of the child for purposes of awarding custody, to consider allegations that a parent has caused human trafficking of the child or other parent when evidence of any of the following circumstances within the past 10 years is presented to the court:

- a) The child or other parent is or has been a participant in the address confidentiality program for an adult person, a parent or guardian acting on behalf of a minor, or a guardian acting on behalf of an incapacitated person, who is domiciled in California and a victim of human trafficking, or is a household member of a victim of human trafficking, as defined, based at least in part upon actions of the parent.
- b) The child or other parent is or has been protected by a protective order issued after hearing and the parent is subject to the order.
- c) The child or other parent has been a plaintiff in a civil action pursuant to Section 52.5 of the Civil Code in which the parent was a defendant and the court determined that the child or other parent was entitled to any of the remedies provided in that section.
- d) The Civil Rights Department (CRD) has investigated a complaint alleging that the child or other parent was a victim of human trafficking and found the complaint to be substantiated and the other parent was a party found responsible for the violation.
- e) The parent has been convicted of human trafficking in violation of Section 236.1 of the Penal Code and the child or other parent was a victim of the crime.

COMMENTS

1. Author's comment

According to the author:

California consistently falls short in the protection of victims of crime and victims of human trafficking are no different. Oftentimes, traffickers turn to family courts to further abuse and coerce their victims, sometimes years after their escape. California has protections in place for victims of domestic violence, but there are no provisions regarding human trafficking in child custody cases. AB 1375 would require courts to consider human trafficking when determining these child custody cases, providing protections for victims and allowing them to move forward in healing.

2. Custody and visitation determinations

“Under California’s statutory scheme governing child custody and visitation determinations, the overarching concern is the best interest of the child.”¹ That scheme “allows the court and the family the widest discretion to choose a parenting plan that is in the best interest of the child.”² When determining the best interest of a child, a court may consider any relevant factors, and must consider the following: the health, safety, and welfare of the child; any history of abuse or neglect by the party seeking custody; the nature and amount of contact with the parents; and substance abuse by a parent.³ The analysis is always informed by the fact that the right to participate in the raising of one’s child is a protected constitutional right that cannot be cast aside without good cause.⁴

In the past several years, several measures enacted by the Legislature have been focused on ensuring that the courts adequately protect children from parents who pose a danger to them, including “requir[ing] family courts to give due weight to the issue of domestic violence.”⁵ The goal of these measures is to escape the status quo wherein “ ‘it has been too easy for courts to ignore evidence of domestic abuse or assume that it will not happen again.’ ”⁶ Accordingly, while California law still establishes joint custody as the preferred custodial framework,⁷ statutes also make clear that this preference is wholly subject to the best interest of the child,⁸ and, where a parent has been accused of or found to have committed domestic violence or abuse, courts must take extra precautions in order to ensure that the child’s safety and welfare are paramount.⁹ The definition of “domestic violence” is broad and includes a range of abusive conduct.¹⁰

3. This bill requires a family court, as part of a custody determination, to consider specified evidence that a parent has engaged in human trafficking

This bill requires a family court, when determining the best interest of a child for purposes of a custody determination, to consider allegations that a parent has caused human trafficking of the child, or the other parent, if evidence is presented that any of the following occurred within the last 10 years:

- The child or other parent is or has been a participant in the address confidentiality program for an adult person, a parent or guardian acting on behalf of a minor, or a guardian acting on behalf of an incapacitated person, who

¹ *Montenegro v. Diaz* (2001) 26 Cal.4th 249, 255; see §§ 3011, 3020, 3040 & 3041.

² Fam. Code, § 3040.

³ *Id.*, §§ 3011, 3020.

⁴ *E.g., Troxel v. Granville* (2000) 530 U.S. 57, 65-66.

⁵ *Jaime G. v. H.L.* (2018) 25 Cal.App.5th 794, 806.

⁶ *Ibid.*

⁷ Fam. Code, § 3040.

⁸ *Id.*, §§ 3011, 3020, 3044.

⁹ *Id.*, §§ 3044, 3100.

¹⁰ *Id.*, §§ 3044, 6203, 6211, 6320.

is domiciled in California and the victim of human trafficking, or is a household member of a victim of human trafficking, as defined, based at least in part upon the actions of the parent.

- The child or other parent is or has been protected by a protective order issued after hearing and the parent is subject to the order.
- The child or other parent has been a plaintiff in a civil action for damages for victims of human trafficking in which the parent was the defendant and the court determined that the child or other parent was entitled to any of the remedies provided by law.
- The CRD has investigated a complaint alleging that the child or other parent was a victim of human trafficking and found the complaint to be substantiated and the other parent was a party found responsible for the violation.
- The parent has been convicted of the crime of human trafficking and the child or other parent was a victim of the crime.

The sponsor of the bill, 3Strands Global Foundation, writes about the problem of human trafficking survivors being retraumatized when their traffickers, with whom they share children, can maintain contact and cause them harm through the litigation process—specifically, by filing repeated and excessive motions for custody. This phenomenon, known as “litigation abuse,” is a serious problem, and one which this Committee, and the Legislature, has attempted to combat through legislation.¹¹

This bill, however, does not address litigation abuse. This bill would not, in fact, do anything to prevent a parent-trafficker from filing repeated custody motions, forcing the victim to spend time, resources, and emotional energy to face their trafficker in court again and again. Instead, the bill specifies that a family court must consider allegations that a parent has caused human trafficking of the child or other parent when there is evidence that specific events occurred, including that the parent was convicted of the crime of human trafficking, that the parent is the subject of a protective order, or the child or other parent prevailed in a civil action for damages from human trafficking against the parent. These specific requirements raise concerns.

For starters, there should be no question that the “best interest of the child” standard already requires a court to consider *all* evidence that a parent engaged in human trafficking when determining the child’s best interest.¹² The author and sponsor have not presented evidence that family courts are ignoring evidence of human trafficking, so it is unclear what problem this bill is solving.

Second, the bill enumerates specific types of evidence that must lead the court to consider whether a parent engaged in human trafficking; what is the benefit of limiting the court in this way? As noted above, the “best interest of the child” is a holistic, fact-

¹¹ See, e.g., SB 741 (Min, Ch. 503, Stats. 2023); AB 2391 (Cunningham, Ch. 84, Stats. 2021).

¹² See Fam. Code, § 3011.

specific examination of all the evidence surrounding the child's circumstances and their parents; why would some types of evidence of human trafficking by the court be given more weight than others? What is the significance of the 10-year timeframe – why would a court not consider the same evidence if it's evidence 11 years old?

Finally, to the extent that this bill requires a court to consider evidence of human trafficking when a protective order has been entered against the parent, this seems partially duplicative of the existing, extensive, instructions that the statutes give the courts on how to consider a custody request when a protective order has been entered against a parent within the past five years.¹³ Given that there is already a presumption against awarding a parent who is the subject of such an order – and, again, that the courts are already required to consider all relevant evidence relating to the child's best interest – it is unclear what this provision would add.

4. Proposed amendments

As noted above, the bill as currently in print may inadvertently suggest to the courts that they need not consider all evidence that a parent in a custody dispute has engaged in human trafficking of the child or the other parent. Accordingly, the author may wish to amend the bill to read as follows:

“When making a determination of the best interests of a child pursuant to Section 3011, the court shall all admissible evidence that a parent has caused human trafficking of the child or other parent.”

5. Arguments in support

According to the 3Strands Global Foundation:

As an organization dedicated to fighting human trafficking and supporting survivors, we recognize that traffickers often use children as a means of control, intimidation, and coercion. Many survivors of trafficking, particularly women and mothers, face ongoing legal battles where their traffickers seek custody of their children as a way to further exert power over them. Without clear legal protections, family courts may fail to recognize the trauma and danger that trafficking survivors and their children face when forced to share custody with an abusive parent...

By passing AB 1375, California would take an essential step in preventing further victimization of trafficking survivors and their children within the family court system. This legislation prioritizes the safety and well-being of vulnerable

¹³ *Id.*, § 3044.

individuals and ensures that courts have a clear framework for addressing trafficking in custody cases.

SUPPORT

3Strands Global Foundation (sponsor)

OPPOSITION

None received¹⁴

RELATED LEGISLATION

Pending legislation: None known.

Prior legislation:

SB 599 (Caballero, Ch. 493, Stats. 2023) among other things, modified the procedure by which the court determines the best interest of the child for purposes of awarding custody and the type of visitation the court may order when a parent is the subject of a protective order.

SB 654 (Min, Ch. 768, Stats. 2021) required a court that grants unsupervised visitation to parents with histories of abuse, neglect, or substance abuse to state its reasons for doing so in writing or on the record, and provides that if a child addresses a court regarding custody or visitation, they generally must be permitted to do so without the parties being present.

SB 2044 (Stone, Ch. 941, Stats. 2018) updated child custody and visitation statutes in an effort to further protect children from parents who have perpetrated domestic violence or child abuse and further ensure that the health, safety, and welfare of children are paramount in the determination of what custody or visitation orders are in the best interest of children.

PRIOR VOTES:

Assembly Floor (Ayes 79, Noes 0)
Assembly Appropriations Committee (Ayes 11, Noes 0)
Assembly Judiciary Committee (Ayes 11, Noes 0)

¹⁴ The Judicial Council was opposed to a prior version of this bill, but removed their opposition after the May 23, 2025 amendments.