

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2023-2024 Regular Session

SB 331 (Rubio)
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Fiscal: Yes
Urgency: No
AWM

SUBJECT

Child custody: child abuse and safety

DIGEST

This bill, as proposed to be amended, (1) clarifies the standard for testifying as an expert in a child custody or visitation case where a parent has been alleged to have committed domestic violence or child abuse, (2) prohibits a court from ordering family reunification treatments, as defined, and limits when a court may order counseling with a parent with whom the child has a damaged relationship, (3) requires judges involved in child custody proceedings to report to the Judicial Council, and the Judicial Council to report to the Legislature, on their trainings provided in the area of domestic violence; and (4) modifies the training programs that Judicial Council must establish and offer for judges and other individuals who perform duties in family law members.

EXECUTIVE SUMMARY

Children involved in contested custody and visitation matters in family court are often subject to abuse, including child abuse, child sexual abuse, and exposure to domestic violence. California has been diligent in establishing laws to protect children from these abuses, but children involved in family court disputes still experience harm that could potentially be prevented with protective custody and visitation orders that acknowledge the risk of an abusive parent. Research by the Centers for Disease Control on adverse childhood experiences confirms that children exposed to domestic violence in their households can suffer severe and lasting harm even if they are not the direct target of the abuse, further confirming the need to protect children from abuse and exposure to domestic violence.

This bill, as proposed to be amended, is intended to make several improvements to the family court system to prevent children from being placed in the custody of, or ordered to visitation with, abusive parents. First the bill clarifies the standard for testifying as an expert in a child custody or visitation case where a parent has been alleged to have

committed domestic violence or child abuse. Second, the bill prohibits a court from ordering family reunification treatments, as defined, and limits when a court may order counseling with a parent with whom the child has a damaged relationship; the bill further requires, when the court orders such counseling, the court to explain its reasoning on the record. Third, the bill requires judges involved in child custody proceedings to report to the Judicial Council, and the Judicial Council to report to the Legislature, on their trainings and continuing education completed on domestic violence topics. Fourth, this bill modifies the training programs that Judicial Council must establish and offer for judges and other individuals who perform duties in family law members. The mock-up of the amendments are set forth in Exhibit A of this analysis.

This bill is sponsored by the California Protective Parents Association, Crime Survivors, and Family Court Awareness Month, and is supported by many organizations dedicated to improving the courts' decisions in family law cases where there are allegations of abuse and domestic violence and approximately 260 individuals. This bill is opposed by PAS-Intervention MD Chapter, Stop Abuse for Everyone, and approximately 50 individuals.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) 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).)
- 2) 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.)

- 3) 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).)
- 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) 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.)
- 6) 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).)
- 7) Provides that a court, in determining whether a dispute under 6)(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).)
- 8) Provides that, if a court finds that the financial burden created by an order for counseling under 6) 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).)

- 9) Requires a court, when ordering counseling pursuant to 6), to set forth in its order the reasons for finding both of the following:
 - a) 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
 - b) The financial burden created by the court order for counseling does not otherwise jeopardize a party's other financial obligations. (Fam. Code, § 3190(d).)

- 10) Creates a rebuttable presumption against custody of a child to a parent who, the court finds, has perpetrated domestic violence against the other party, the child, the child's sibling, or certain other individuals, as provided, within the previous five years. In considering whether to overcome the presumption against custody, a court must consider, among other things, whether giving that parent custody is in the child's best interests; whether the perpetrator has completed a batterer's treatment program, substance abuse program or parenting classes; and whether there have been subsequent acts of domestic violence. (Fam. Court, § 3044.)

- 11) 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.)

- 12) 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.)

- 13) 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.)

- 14) 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, as proposed to be amended:

- 1) Establishes Piqui's Law, the Safe Child 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) Provides that a person is qualified to testify as an expert in a child custody proceeding in which a parent has been alleged to have committed domestic violence or child abuse, including child sexual abuse, if the person has 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.

- 4) Prohibits a court in a custody or visitation dispute from ordering family reunification treatment.
 - a) "Family reunification treatment" is defined as any counseling, treatment, program, or service, including reunification or reconnection therapy, workshops, classes, and camps, intended to reunite, reestablish, or repair a relationship between a child and the parent seeking custody or visitation that

is predicated on cutting the child off from, or restricting the contact with, the primary custodial parent, provided that the primary custodial parent is not physically or sexually abusive or neglectful of the child to a degree that places the child at substantial risk of serious harm. Neglect does not include circumstances due solely to the parent's indigence or other financial difficulty.

- 5) Provides that, if a court orders counseling to remediate the resistance of a child to connect with the parent seeking custody or visitation, or to improve a deficient relationship with the parent seeking custody or visitation, the counseling must primarily address the behavior of that parent or that parent's contribution to the resistance of the child before ordering the primary custodial parent to take steps to potentially improve the child's relationship with the parent seeking custody or visitation. The court may not order counseling unless there is generally accepted and scientifically valid proof of the safety, effectiveness, and therapeutic value of the counseling.
- 6) Requires a court to state all of its reasons for ordering counseling, and the evidence relied on, in a written order or on the record, including all of the following:
 - a) The dispute poses a substantial danger to the best interest of the child and the counseling is in the best interest of the child.
 - b) The financial burden created by the court order for counseling does not otherwise jeopardize a party's other financial obligations.
 - c) If the court is ordering counseling to remediate the resistance of the child to connect with the parent seeking custody or visitation, or to improve a deficient relationship with the parent seeking custody or visitation, the basis for determining that remediation is in the best interest of the child and that the parent seeking custody or visitation has shown that they are willing to meaningfully participate in the counseling.
- 7) Requires reporting on judicial training for judges in family law matters as follows:
 - a) A judge assigned to family law matters involving child custody proceedings shall report to the Judicial Council the number of hours in a program of continuing instruction in domestic violence, including, but not limited to, coercive control and child sexual abuse, and the hours of completed training.
 - b) The Judicial Council shall report to the Legislature and the relevant policy committees, on or before January 1, 2025, and each January thereafter, on the trainings for judges across all counties.
 - c) The Judicial Council's report to the Legislature shall be submitted in accordance with existing requirements for reports by government entities.
- 8) Eliminates the existing statute requiring the Judicial Council to establish trainings for judges and other decisionmakers in family law matters, and replaces it with the requirements in 9).

- 9) Requires the Judicial Council to establish judicial training programs for individuals who perform duties in family law matters, including, but not limited to, judges, judges pro tem, referees, commissioners, mediators, and others who are deemed appropriate by the Judicial Council. The program shall be an ongoing training and education program 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 are culturally sensitive and appropriate for diverse communities. The training shall include instruction on the following topics:
- a) Child sexual abuse.
 - b) Physical abuse.
 - c) Emotional abuse.
 - d) Coercive control.
 - e) Implicit and explicit bias, including biases related to parents with disabilities.
 - f) Trauma.
 - g) Long- and short-term impacts of domestic violence and child abuse on children.
 - h) Victim and perpetrator behavioral patterns and relationship dynamics within the cycle of violence.

COMMENTS

1. Author's comment

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.

2. California's ongoing effort to protect children from domestic violence and child abuse

The Adverse Childhood Experiences (ACE) study, a collaboration between the Centers for Disease Control (CDC) and Kaiser Permanente, studied the effect of child abuse and related childhood adversarial experiences on health consequences through surveys and health exams of over 17,000 members of the Kaiser HMO beginning in 1995.¹ That study found that adverse childhood experiences, including exposure to abuse and household dysfunction, can cause immediate and long-term adverse impacts to children, including increased risk of alcoholism, heart disease, depression, illicit drug use, poor academic achievement, poor work performance, risk of domestic violence and suicide, and early death. The study has been replicated in other states, reaching the same conclusions.²

California law already recognizes the harms caused to children by abuse and domestic violence, in a number of ways. When determining the best interests of a child – the key determination of a custody or visitation decision – the court must consider, among other factors, the health, safety, and welfare of the child, and any history of abuse or domestic violence by the parent seeking custody of the child against a child, the other parent, or other person with whom that parent has an intimate relationship. There are also legislative declarations of public policy for child custody which declare that the health, safety, and welfare of children is the court's primary concern in determining the best interest of children when making any orders regarding the physical or legal custody of, or visitation with, children and the perpetration of child abuse or domestic violence in a household where a child resides is detrimental to the child.³ There is also a rebuttable presumption against custody to a batterer⁴ and a ban on "family reunification services" in a custody or visitation case under the Family Code. Earlier this year, this Committee passed SB 599 (Caballero, 2023), which requires a court to make additional findings and consider additional factors when considering whether to award custody or visitation to a parent who has been accused of abuse or is the subject of a domestic violence restraining order.

Despite California's existing framework, there are still far too many tragic incidents where a court awards custody or visitation rights to a known abuser, resulting in the

¹ Felitti *et al.*, *Relationship of Childhood Abuse and Household Dysfunction to Many of the Leading Causes of Death in Adults: The Adverse Childhood Experiences (ACE) Study*, *American Journal of Preventative Medicine* (May 1998) Vol. 14, Issue 4, pp. 245-258.

² CDC, *Adverse Childhood Experiences Reported by Adults --- Five States, 2009*, *Morbidity and Mortality Weekly Report* (Dec. 17, 2010).

³ Fam. Code, § 3020.

⁴ *Id.*, § 3044.

further abuse, and sometimes death, of the child. This bill is named after Piqui, a five-year-old boy whose father killed him after the court refused to halt visitation.

3. This bill, as proposed to be amended, seeks to improve California's protections in child custody and visitation proceedings

This bill makes several changes to further clarify and strengthen California's child custody laws so as to prevent child abuse. The mock-up of the bill with the amendments is set forth as Appendix A to this analysis.

First, the bill clarifies that, in a custody child custody proceeding in which a parent has been alleged to have committed domestic violence or child abuse, including child sexual abuse, a person is qualified to testify as an expert 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. The bill also clarifies that the opposing party may challenge the supposed expertise before the proffered expert may give their opinions.

Second, the bill prohibits a court from ordering family reunification treatment.⁵ Family reunification is a controversial form of "counseling," of unclear merit and questionable clinical foundation, that is generally predicated on removing a child from the custody of a parent with whom the child has a positive relationship and forcing them into contact with a parent with whom the child has a high level of conflict. In some cases, family reunification has been ordered to force a child to spend time with a parent who has been alleged to be abusive. This bill eliminates that practice in the state. The bill also places guardrails around when a court may order counseling to repair a deficient relationship between a child and a parent seeking custody or visitation, requiring the counseling to be generally accepted as scientifically valid and to be focused on the parent's contribution to the deterioration of the relationship. The bill additionally requires, where the court orders such counseling, the court to state its reasoning and the evidence relied on in a written order or on the record.

Third, this bill requires judges in family court matters to report to Judicial Council the number of hours they spend in continuing education and training on domestic violence topics, including coercive control and child sexual abuse. Judicial Council is then required to submit to the Legislature and relevant policy committees a report on the trainings for judges across all counties, beginning January 1, 2025. This provision will

⁵ Family Code section 3026 prohibits ordering "family reunification services," which refers to the services provided by the court to parents in dependency proceedings to avoid a child being placed into foster care or termination of parental rights. (*E.g., In re Guardianship of Kaylee J.* (1997) 55 Cal.App.4th 1425, 1432.) There has been some confusion as to whether Family Code section 3026 already prohibits the family reunification treatment prohibited by this bill; by addressing family reunification treatment in Family Code section 3190, this bill should eliminate that confusion.

give the Legislature additional insight into where there may be deficiencies in judicial training in domestic violence topics.

Finally, the bill repeals the existing statute requiring the Judicial Council to establish training programs for judges and other court personnel involved with child custody and domestic violence cases and replaces it with a newly formulated training requirement. The new statute requires the training to be available to judges, judges pro tem, referees, commissioners, mediators, and others who are deemed appropriate by the Judicial Council. The training must include instruction in the following topics:

- Child sexual abuse;
- Physical abuse;
- Emotional abuse;
- Coercive control;
- Implicit and explicit bias, including biases relating to parents with disabilities;
- Trauma;
- Long- and short-term impacts of domestic violence and child abuse on children; and
- Victim and perpetrator behavior patterns and relationship dynamics within the cycle of violence.

The provision in this bill, as proposed to be amended, could help California secure additional funding under the newly reauthorized Violence Against Women Act (VAWA).⁶

The Judicial of California has submitted a letter of concern about the bill; most of the concerns relate to matters that are being amended out of the bill. To the extent the Judicial Council remains concerned following the amendments, it has committed to work with the author as the bill moves forward.

4. Arguments in support

According to the California Protective Parents Association, one of the bill's sponsors:

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.

⁶ See S. 3623, 117th Congress (2021-2022), signed as part of the omnibus appropriations package.

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.

SUPPORT

California Protective Parents Association (co-sponsor)
Crime Survivors Resource Center (co-sponsor)
Family Court Awareness Month (co-sponsor)
Advocates for Child Empowerment & Safety
Community Legal Aid SoCal
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 Against Child Abuse
Mothers of Lost Children
One Mom's Battle
Public Counsel
RCS Consultants
San Gabriel Valley Council of Governments
Supervised Child Visits
University of California, Irvine School of Law Domestic Violence Clinic
Approximately 260 individuals

OPPOSITION

PAS-Intervention MD Chapter
Stop Abuse for Everyone
Approximately 50 individuals

RELATED LEGISLATION

Pending Legislation: SB 599 (Caballero, 2023) clarifies and strengthens provisions requiring a family court to take into account a parent's acts of domestic violence or child abuse or the issuance of a protective order against a parent when making orders for custody or visitation, as well as provisions requiring the court to take into account the fact that a party is staying in a domestic violence shelter or other confidential location when issuing orders for the time, day, place, and manner of visitation or transfer of a child. SB 599 is pending before the Senate Appropriations Committee.

AB 304 (Holden, 2023) among other things, requires the Judicial Council to establish the same types of training programs relating to domestic violence, with the same hourly requirements, as those established by this bill. AB 304 is pending before the Assembly Appropriations Committee.

Prior Legislation:

SB 1265 (Rubio, 2022) would have created a procedure whereby, if a person who is the subject of a restraining order and also has court-ordered custody or visitation with children is arrested for or charged with a crime involving assaultive conduct or use of a weapon on another person, the protected party may file for an ex parte modification to the visitation or custody order. SB 1265 died in the Assembly Judiciary Committee.

SB 616 (Rubio, 2022) was substantially similar to this bill, except it omitted the provisions relating to the qualifications for an expert witness in a Family Law case. SB 616 died on the Senate Floor.

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.

AB 2044 (Stone, Ch. 941, Stats. 2018) strengthened the presumption against custody for perpetrators of domestic violence by extending the presumption to individuals whom a court found to have perpetrated domestic violence within the previous five years against specified individuals.

Appendix A

Proposed amendments are below, subject to any nonsubstantive changes the Office of Legislative Counsel may make. Additions are in underline and deletions are in strikethrough.

The people of the State of California do enact as follows:

SECTION 1. This act shall be known, and may be cited, as Piqui's Law, the Safe Child Act.

SEC. 2. (a) The Legislature finds and declares all of the following:

(1) Approximately 1 in 15 children in the United States is exposed to domestic violence each year.

(2) Most child abuse in America is perpetrated in the family and by a parent, and intimate partner violence and child abuse overlap in the same families at rates between 30 and 60 percent. A child's risk of abuse increases after a perpetrator of intimate partner violence separates from a domestic partner, even when the perpetrator has not previously directly abused the child. Children in the United States who have witnessed intimate partner violence are approximately four times more likely to experience direct child maltreatment than children who have not witnessed intimate partner violence.

(3) More than 75 percent of child sexual abuse in America is perpetrated by a family member or a person known to the child. Data from the United States Department of Justice shows that family members are 49 percent, or almost one-half, of the perpetrators of crimes against child sex assault victims younger than six years of age.

(4) Federal scientific research suggests that a child's exposure to an abuser is among the strongest indicators of risk of incest victimization. One national study found that female children with fathers who are abusers of their mothers were six and one-half times more likely to experience father-daughter incest than female children who do not have abusive fathers.

(5) Child abuse is a major public health issue in the United States. Total lifetime financial costs associated with just one year of confirmed cases of child maltreatment, including child physical abuse, sexual abuse, psychological abuse, and neglect, result in \$124 billion in annual costs to the economy of the United States, or approximately 1 percent of the gross domestic product of the United States.

(b) It is the intent of the Legislature to do all of the following:

(1) Increase the priority given to child safety in any state court divorce, separation, visitation, paternity, child support, civil protection order, or family custody court proceeding affecting the custody and care of children, excluding child protective, abuse, or neglect proceedings and juvenile justice proceedings.

(2) Ensure that professional personnel involved in cases containing domestic violence or child abuse allegations receive trauma-informed and culturally appropriate training on the dynamics, signs, and impact of domestic violence and child abuse, including child sexual abuse.

(3) Ensure trainings are designed to improve the ability of judges, judges pro tem, referees, commissioners, mediators, child custody recommending counselors, minors counsel, evaluators, and others who are deemed appropriate and who perform duties in family law matters to recognize and respond to child abuse, domestic violence, and trauma in family victims.

(4) Ensure trainings are designed to improve the ability of judges, judges pro tem, referees, commissioners, mediators, child custody recommending counselors, minors counsel, evaluators, and others who are deemed appropriate and who perform duties in family law matters to prioritize children and to make appropriate custody decisions in the best interest of child safety and well-being that are culturally responsive and appropriate for diverse communities.

(5) Make California eligible for additional grant funding through the United States Department of Justice's STOP Violence Against Women Formula Grant Program, as appropriated for states that meet the requirements of the federal Violence Against Women Act Reauthorization Act of 2022 (Division W of Public Law 117-103).

SEC. 3. ~~Section 3020 of the Family Code is amended to read:~~

~~**3020.** (a) The Legislature finds and declares that it is the public policy of this state to ensure that the health, safety, and welfare of children shall be 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. The Legislature further finds and declares that 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.~~

~~(b) The Legislature finds and declares that it is the public policy of this state to ensure that 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 in subdivisions (a) and (c) of this section and Section 3011.~~

~~(c) When the policies set forth in subdivisions (a) and (b) of this section are in conflict, a court's order regarding physical or legal custody or visitation shall be made in a manner that prioritizes the health, safety, and welfare of the child and the safety of all family members.~~

~~(d) The Legislature finds and declares that it is the public policy of this state to ensure that the sex, gender identity, gender expression, or sexual orientation of a parent, legal guardian, or relative is not considered in determining the best interests of the child.~~

~~SEC. 4. Section 3026 of the Family Code is amended to read:~~

~~**3026.** (a) Family reunification services, including, but not limited to, reunification or reconnection therapy, treatments, programs, workshops, classes, or camps that are predicated on cutting off a child from a parent with whom the child is bonded or to whom the child is attached, shall not be ordered as a part of a child custody or visitation rights proceeding.~~

~~(b) Notwithstanding any other law, a custody or visitation order issued under this section or Section 3190 or 3191 shall not contain either of the following:~~

~~(1) An order for a child to attend or participate in a program described in subdivision (a).~~

~~(2) An order for a parent to not have visitation with or custody of the child for a program described in subdivision (a).~~

~~(c) This section does not affect the applicability of Section 16507 of the Welfare and Institutions Code.~~

~~(d) This section does not provide for either of the following:~~

~~(1) A presumption for joint custody.~~

~~(2) A presumption that every child needs to be raised by both parents.~~

SEC. 53. Section 3033 is added to the Family Code, to read:

3033. (a) (1) A person is qualified to testify as an expert in a child custody proceeding in which a parent has been alleged to have committed domestic violence or child abuse, including child sexual abuse, if the person has special knowledge, skill, experience, training, or education sufficient to qualify them as an expert on the subject to which their testimony relates.

(2) Against the objection of a party, the special knowledge, skill, experience, training, or education shall be shown before the witness may testify as an expert.

(b) A witness' special knowledge, skill, experience, training, or education may be shown by otherwise admissible evidence, including their own testimony.

SEC. 4. Section 3190 of the Family Code is amended to read:

(a) (1) The court may require parents or any other party involved in a custody or visitation dispute, and the minor child, to participate in outpatient counseling with a 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 both of the following:

(1A) 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.

(2B) The counseling is in the best interest of the child.

(2) A court shall not order family reunification treatment. Family reunification treatment is any counseling, treatment, program, or service, including reunification or reconnection therapy, workshops, classes, and camps, intended to reunite, reestablish, or repair a relationship between a child and the parent seeking custody or visitation that is predicated on cutting the child off from, or restricting the contact with, the primary custodial parent, provided that the primary custodial parent is not physically or sexually abusive or neglectful of the child to a degree that places the child at substantial risk of serious harm. Neglect does not include circumstances due solely to the parent's indigence or other financial difficulty.

(3) (A) If a court orders counseling to remediate the resistance of a child to connect with the parent seeking custody or visitation, or to improve a deficient relationship with the parent seeking custody or visitation, the counseling must primarily address the behavior of that parent or that parent's contribution to the resistance of the child before ordering the primary custodial parent to take steps to potentially improve the child's relationship with the parent seeking custody or visitation.

(B) A court shall not order counseling under this paragraph unless there is generally accepted and scientifically valid proof of the safety, effectiveness, and therapeutic value of the counseling.

(b) In determining whether a dispute, as described in paragraph (1) of subdivision (a), poses a substantial danger to the best interest of the child, the court shall consider, in addition to any other factors the court determines relevant, any history of domestic violence, as defined in Section 6211, 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.

(c) Subject to Section 3192, if the court finds that the financial burden created by the order for counseling does not otherwise jeopardize a party's other financial obligations, the court shall fix the cost and shall order the entire cost of the services to be borne by the parties in the proportions the court deems reasonable.

(d) The court ~~shall state all of its reasons for ordering counseling, and the evidence relied on, in a written order or on the record, including all in its finding, shall set forth the reasons why it has found both~~ of the following:

(1) The dispute poses a substantial danger to the best interest of the child and the counseling is in the best interest of the child.

(2) The financial burden created by the court order for counseling does not otherwise jeopardize a party's other financial obligations.

(3) If the court is ordering counseling to remediate the resistance of the child to connect with the parent seeking custody or visitation, or to improve a deficient relationship with the parent seeking custody or visitation, the basis for determining that remediation is in the best interest of the child and that the parent seeking custody or visitation has shown that they are willing to meaningfully participate in the counseling.

(e) The court shall not order the parties to return to court upon the completion of counseling. Any party may file a new order to show cause or motion after counseling has been completed, and the court may again order counseling consistent with this chapter.

SEC. 65. Section 3040.5 is added to the Family Code, to read:

3040.5. (a) A judge assigned to family law matters involving child custody proceedings shall report to the Judicial Council the number of hours in a program of continuing instruction in domestic violence, including, but not limited to, coercive control and child sexual abuse.

(b) Each individual court shall submit the hours of completed training to the Judicial Council.

(c) (1) The Judicial Council shall report to the Legislature and the relevant policy committees, on or before January 1, 2025, and each January thereafter, on the trainings for judges across all counties.

(2) The report submitted to the Legislature pursuant to paragraph (1) shall be submitted in accordance with Section 9795 of the Government Code.

SEC. ~~76~~. Section 68555 of the Government Code is repealed.

SEC. ~~87~~. Section 68555 is added to the Government Code, to read:

68555. (a) The Judicial Council shall establish ~~mandatory~~ judicial training programs for individuals who perform duties in family law matters, including, but not limited to, judges, judges pro tem, referees, commissioners, mediators, and others who are deemed appropriate by the Judicial Council.

(b) (1) The training program described in this section shall be an ongoing training and education program 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 are culturally sensitive and appropriate for diverse communities.

(2) The training program shall include instruction in the following topics:

(A) Child sexual abuse.

(B) Physical abuse.

(C) Emotional abuse.

(D) Coercive control.

(E) Implicit and explicit bias, including biases relating to parents with disabilities.

(F) Trauma.

(G) Long- and short-term impacts of domestic violence and child abuse on children.

(H) Victim and perpetrator behavioral patterns and relationship dynamics within the cycle of violence.

~~(c) (1) The training program described in this section shall include both of the following:~~

~~(A) An orientation session that is a minimum of 25 hours in duration.~~

~~(B) A minimum of 20 hours of ongoing training to be completed every three years thereafter to align with current training timelines described in subdivision (d) of Rule 10.462 of the California Rules of Court.~~

~~(2) These hourly requirements may be satisfied by completing other approved training curriculum on a topic listed in paragraph (2) of subdivision (b).~~