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THIRD READING

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Bill No: SB 331  
Author: Rubio (D)  
Amended: 4/27/23  
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

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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 (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 in the area of domestic violence; and (4) modifies the training programs that Judicial Council must establish for individuals who perform duties in family law members.

**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, 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.

- 4) Prohibits a court in a custody or visitation dispute from ordering family reunification treatment. “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 judges in family law matters to 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; and 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 judges across all counties.

- 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, as specified, 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 specified topics.

## 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 Senate Appropriations Committee, the Judicial Council of California reports one-time costs of approximately \$1 million to create and implement the training program for individuals, including judges and judges pro tem, and annual, ongoing costs of approximately of \$850,000 to support the trainings, for courts to collect the data, and for the Judicial Council to compile and prepare the data to submit annually to the legislature (General Fund).

**SUPPORT:** (Verified 5/19/23)

California Protective Parents Association (co-source)  
 Crime Survivors Resource Center (co-source)  
 Family Court Awareness Month (co-source)  
 Advocates for Child Empowerment & Safety  
 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 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:** (Verified 5/19/23)

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 PAS-Intervention MD Chapter:

This bill creates a strawman argument against reunification therapy and consequently attempts to prohibit the therapy based upon this fabrication. No reunification program is predicated on cutting off a child from a parent with whom the child is bonded or to whom the child is attached. Severe cases of PA are a form of psychological child abuse. Likewise, what appears to be “bonding” is sometimes actually a pathological enmeshment. The purpose of reunification therapy is to restore a healthy balance to the family unit and protect the child from further abuse. To do so, it is sometimes necessary to issue a temporary no-contact order just as it is done in cases of physical abuse.

This bill also ignores the peer-reviewed research studies that confirm the safety and effectiveness of these programs. There are no scientific

studies to support the conjectures of this bill; rather, it is based upon anecdotal reports and opinions of advocates in the DV movement.

Prepared by: Allison Whitt Meredith / JUD. / (916) 651-4113  
5/20/23 12:44:32

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