

AB 1674 (Ma) – Child Custody: Visitation

Introduced February 14, 2012, Amended May 10, 2012

This bill, sponsored by the California Association of Supervised Visitation Service Providers, seeks, for the most part, to codify existing Judicial Council guidelines for providers of supervised visitation. According to the author: "The purpose of the bill is to ensure that supervised visitation providers are complying with 5.20 Standards to ensure providers are properly trained . . . in cases of domestic violence, child abuse, and sexual abuse."

When making custody and visitation orders, a court may sometimes order that the child only have contact with a parent when a neutral third-party is present. This may be necessary to protect the child and the parents in situations involving, for example, domestic violence, child abuse, substance abuse, or mental illness. These arrangements are known as supervised visitation. Often supervised visitation providers are family or friends. Other times professional supervisors working at visitation centers are used and the parents must pay for the services. Sometimes parents use supervised visitation centers just to facilitate safe custody exchanges.

As directed by the Legislature, the Judicial Council has developed standards of practice for supervised visitation providers. These standards, which were developed in consultation with the various stakeholders, are thoughtful and detailed. This bill seeks to codify many of those standards.

Specifically, this bill, among other things:

- 1) Requires any standards adopted by the Judicial Council for supervised visitation providers to conform to the provisions of this bill.
- 2) Defines the requirements to be a "nonprofessional" and "professional" provider of supervised visitation services. Requires that a nonprofessional provider may not be used in cases where the court has determined that there is domestic violence or child abuse or neglect, unless the court makes a determination that using a nonprofessional provider would be in the child's best interest.
- 3) Requires that professional providers have received 24 hours of training in specified subjects, including confidentiality, needs of children, child abuse laws, substance abuse, sexual abuse and domestic violence, and requires these providers to sign a declaration stating that they meet the training and qualification requirements.
- 4) Requires each provider to maintain neutrality and to avoid conflicts of interest, as specified.
- 5) Requires all providers to report suspected child abuse to the appropriate agency. Requires all providers to provide a safe visit for the child and the parent, and to terminate the visit if the rules of the visit have been violated, the child becomes acutely distressed or the safety of the child or the provider is at risk. Requires professional providers to provide written notice of a temporary suspension or termination of the supervised visit to both parties, their attorneys, the attorney for the child and the court.
- 6) Requires professional providers to keep specified written records of each visit.

AMENDED IN ASSEMBLY MAY 10, 2012
AMENDED IN ASSEMBLY APRIL 30, 2012
AMENDED IN ASSEMBLY APRIL 18, 2012
AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1674

Introduced by Assembly Member Ma

February 14, 2012

An act to add Section 3200.5 to the Family Code, relating to visitation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1674, as amended, Ma. Child custody: visitation.

Existing child custody law requires the Judicial Council to develop standards for supervised visitation providers in accordance with specified guidelines.

This bill would require any standards for supervised visitation providers adopted by the Judicial Council to conform to the provisions of the bill. The bill would require supervised visitation providers to be professional providers, ~~therapeutic providers~~, or nonprofessional providers, as specified. The bill would prohibit a nonprofessional provider, as defined, from being used in cases in which the court has determined there is domestic violence or child ~~sexual~~ abuse *or neglect*, except as specified.

The bill would also require professional providers ~~and therapeutic providers~~ to receive 24 hours of training in certain subjects. The bill would require each provider to maintain neutrality by refusing to discuss

the merits of the case or to agree with or support one party over another. The bill would require providers of supervised visitation to advise the parties of certain legal rights, report suspected child abuse to the appropriate agency, and to suspend or terminate visitation in certain cases in accordance with specified procedures.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. Section 3200.5 is added to the Family Code, to
2 read:

3 3200.5. (a) Any standards for supervised visitation providers
4 adopted by the Judicial Council pursuant to Section 3200 shall
5 conform to this section. A provider, as described in Section 3200,
6 shall be a professional provider, ~~therapeutic provider~~, or
7 nonprofessional provider.

8 (b) A nonprofessional provider shall not be used in cases if the
9 court has determined there is domestic violence or child ~~sexual~~
10 ~~abuse, or neglect, as defined in Section 11165.6 of the Penal Code,~~
11 unless the court makes a determination that using a nonprofessional
12 provider would be in the best interest of the child.

13 (c) For the purposes of this section, the following definitions
14 apply:

15 (1) "Nonprofessional provider" means any person who is not
16 paid for providing supervised visitation services. Unless otherwise
17 ordered by the court or stipulated by the parties, the
18 nonprofessional provider shall:

19 (A) Be at least 21 years of age.

20 (B) Have no record of a conviction for driving under the
21 influence (DUI) within the last five years.

22 (C) Not have been on probation or parole for the last 10 years.

23 (D) Have no record of a conviction for child molestation, child
24 abuse, or other crimes against a person.

25 (E) Have proof of automobile insurance if transporting the child.

26 (F) Have no civil, criminal, or juvenile restraining orders within
27 the last 10 years.

28 (G) Have no current or past court order in which the provider
29 is the person being supervised.

30 (H) Not be financially dependent on the person being supervised.

1 (I) Have no conflict of interest under subdivision (f).

2 (J) Agree to adhere to and enforce the court order regarding
3 supervised visitation.

4 (2) "Professional provider" means any person paid for providing
5 supervised visitation services, or an independent contractor,
6 employee, intern, or volunteer operating independently or through
7 a supervised visitation center or agency. The professional provider
8 shall:

9 (A) Be at least 21 years of age.

10 (B) Have no record of a conviction for driving under the
11 influence (DUI) within the last five years.

12 (C) Not have been on probation or parole for the last 10 years.

13 (D) Have no record of a conviction for child molestation, child
14 abuse, or other crimes against a person.

15 (E) Have proof of automobile insurance if transporting the child.

16 (F) Have no civil, criminal, or juvenile restraining orders within
17 the last 10 years.

18 (G) Have no current or past court order in which the provider
19 is the person being supervised.

20 (H) Be able to speak the language of the party being supervised
21 and of the child, or the provider must provide a neutral interpreter
22 over the age of 18 *18 years of age* who is able to do so.

23 (I) Have no conflict of interest under subdivision (f).

24 (J) Agree to adhere to and enforce the court order regarding
25 supervised visitation.

26 (K) Meet the training requirements set forth in subdivision (d).

27 ~~(3) "Therapeutic provider" means a licensed mental health~~
28 ~~professional paid for providing supervised visitation services,~~
29 ~~including a psychiatrist, a psychologist, a clinical social worker,~~
30 ~~a marriage and family counselor, or an intern working under direct~~
31 ~~supervision of a qualified licensed mental health professional. A~~
32 ~~therapeutic provider shall meet the qualifications set forth in~~
33 ~~paragraph (2) and the training requirements set forth in subdivision~~
34 ~~(d).~~

35 (d) (1) ~~Professional providers and therapeutic providers~~ shall
36 have received 24 hours of training that includes training in the
37 following subjects:

38 (A) The role of a professional ~~and therapeutic~~ provider.

39 (B) Child abuse reporting laws.

40 (C) Recordkeeping procedures.

- 1 (D) Screening, monitoring, and termination of visitation.
- 2 (E) Developmental needs of children.
- 3 (F) Legal responsibilities and obligations of a provider.
- 4 (G) Cultural sensitivity.
- 5 (H) Conflicts of interest.
- 6 (I) Confidentiality.
- 7 (J) Issues relating to substance abuse, child abuse, sexual abuse,
- 8 and domestic violence.
- 9 (K) Basic knowledge of family and juvenile law.
- 10 (2) Professional—~~and therapeutic~~ providers shall sign a
- 11 declaration or any Judicial Council form that they meet the training
- 12 and qualifications of a provider.
- 13 (e) The ratio of children to a professional—~~or therapeutic~~ provider
- 14 shall be contingent on:
- 15 (1) The degree of risk factors present in each case.
- 16 (2) The nature of supervision required in each case.
- 17 (3) The number and ages of the children to be supervised during
- 18 a visit.
- 19 (4) The number of people visiting the child during the visit.
- 20 (5) The duration and location of the visit.
- 21 (6) The experience of the provider.
- 22 (f) Each provider shall maintain neutrality by refusing to discuss
- 23 the merits of the case or to agree with or support one party over
- 24 another. Any discussion between a professional—~~or therapeutic~~
- 25 provider and the parties shall be for the purposes of arranging
- 26 visitation and providing for the safety of the children. In order to
- 27 avoid a conflict of interest, the provider shall not:
- 28 (1) Be financially dependent on the person being supervised.
- 29 (2) Be an employee of the person being supervised.
- 30 (3) Be an employee of or affiliated with any superior court in
- 31 the county in which the supervision is ordered unless specified in
- 32 the employment contract.
- 33 (4) Be in an intimate relationship with the person being
- 34 supervised.
- 35 (g) All providers of supervised visitation shall:
- 36 (1) Advise the parties before commencement of supervised
- 37 visitation that no confidential privilege exists.
- 38 (2) Report suspected child abuse to the appropriate agency, as
- 39 provided by law, and inform the parties of the provider's obligation
- 40 to make those reports.

1 (3) Suspend or terminate visitation under subdivision (i).

2 (h) Professional~~and therapeutic~~ providers shall:

3 (1) Prepare a written contract to be signed by the parties before
4 commencement of the supervised visitation. The contract should
5 inform each party of the terms and conditions of supervised
6 visitation.

7 (2) Review custody and visitation orders relevant to the
8 supervised visitation.

9 (3) Keep a record for each case, including, at least, all of the
10 following:

11 (A) A written record of each contact and visit.

12 (B) Who attended the visit.

13 (C) Any failure to comply with the terms and conditions of the
14 visitation.

15 (D) Any incidence of abuse, as required by law.

16 (i) (1) Each provider shall make every reasonable effort to
17 provide a safe visit for the child and the noncustodial party.

18 (2) If a provider determines that the rules of the visit have been
19 violated, the child has become acutely distressed, or the safety of
20 the child or the provider is at risk, the visit may be temporarily
21 interrupted, rescheduled at a later date, or terminated.

22 (3) All interruptions or terminations of visits shall be recorded
23 in the case file.

24 (4) All providers shall advise both parties of the reasons for the
25 interruption or termination of a visit.

26 (j) A professional provider~~and a therapeutic provider~~ shall state
27 the reasons for temporary suspension or termination of supervised
28 visitation in writing and shall provide the written statement to both
29 parties, their attorneys, the attorney for the child, and the court.

