

AMENDED IN SENATE MAY 7, 2002

SENATE BILL

No. 1406

Introduced by Senator Kuehl

February 13, 2002

An act to amend Sections 3176 and 3183 of, and to repeal Section 3184 of, 3183, and 3184 of the Family Code, relating to mediation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1406, as amended, Kuehl. Mediation proceedings.

Existing law governs mediation proceedings for child custody and visitation issues, including the notice of mediation. These provisions also authorize a mediator to make specified recommendations to a court regarding custody investigations and protective orders if the parties have not reached agreement as a result of the mediation proceedings. Existing law also authorizes a mediator to submit a recommendation to the court regarding the custody of or visitation with the child. Existing law provides that these provisions do not prohibit a mediator from recommending to the court that counsel be appointed to represent a minor child.

This bill would require the notice of mediation to state that all proceedings involving the mediator and the disputing parties shall be kept confidential between the mediator and the disputing parties and that the mediator ~~shall~~ *may* not make a recommendation ~~except to~~ *to anyone other than the disputing parties, except as specified.* ~~The bill would also prohibit a mediator from making any recommendation to the court if the parties have not reached agreement as a result of the mediation proceedings.~~ The bill would delete ~~provisions~~ *the provision* authorizing a mediator to make recommendations to the court regarding custody or visitation ~~or~~ *and revise the provision authorizing a mediator*

to recommend the appointment of counsel to represent a minor child. The bill would also authorize a mediator to report to the court whether total or partial agreement is reached in mediation.

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

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

1 SECTION 1. Section 3176 of the Family Code is amended to
2 read:

3 3176. (a) Notice of mediation and of any hearing to be held
4 pursuant to this chapter shall be given to the following persons:

5 (1) If mediation is required to settle a contested issue of custody
6 or visitation, to each party and to each party’s counsel of record.

7 (2) If a stepparent or grandparent seeks visitation rights, to the
8 stepparent or grandparent seeking visitation rights, to each parent
9 of the child, and to each parent’s counsel of record.

10 (b) The notice of mediation shall state that all proceedings
11 involving the mediator and the disputing parties shall be kept
12 confidential between the mediator and the disputing parties, and
13 that the mediator shall may not make a recommendation except to
14 to anyone other than the disputing parties, except as provided in
15 Section 3183 or 3184.

16 (c) Notice shall be given by certified mail, return receipt
17 requested, postage prepaid, to the last known address.

18 ~~SEC. 2. Section 3183 of the Family Code is amended to read:~~

19 ~~3183. If the parties have not reached agreement as a result of
20 the mediation proceedings, the mediator shall not submit any
21 recommendation to the court.~~

22 ~~SEC. 3. Section 3184 of the Family Code is repealed.~~

23 ~~SEC. 2. Section 3183 of the Family Code is amended to read:~~

24 ~~3183. (a) The mediator may, consistent with local court rules,
25 submit a recommendation to the court as to the custody of or
26 visitation with the child.~~

27 ~~(b) Where If total or partial agreement is reached in mediation,
28 the mediator may report this fact to the court.~~

29 (b) If the parties have not reached agreement as a result of the
30 mediation proceedings, the mediator may recommend to the court
31 that an investigation be conducted pursuant to Chapter 6
32 (commencing with Section 3110) or that other services be offered



1 to assist the parties to effect a resolution of the controversy before
2 a hearing on the issues.

3 (c) In appropriate cases, the mediator may recommend that
4 restraining orders be issued, pending determination of the
5 controversy, to protect the well-being of the child involved in the
6 controversy.

7 *SEC. 3. Section 3184 of the Family Code is amended to read:*

8 3184. Nothing in this chapter prohibits the mediator from
9 recommending to the court that counsel be appointed, pursuant to
10 Chapter 10 (commencing with Section 3150), to represent the
11 minor child. ~~In making this recommendation, the mediator shall
12 inform the court of the reasons why it would be in the best interest
13 of the minor child to have counsel appointed.~~

