

ASSEMBLY BILL

No. 2587

Introduced by Assembly Member Ruskin

February 22, 2008

An act to amend Sections 3110 and 3110.5 of, and to add Section 3110.6 to, the Family Code, relating to child custody.

LEGISLATIVE COUNSEL'S DIGEST

AB 2587, as introduced, Ruskin. Child custody: child custody evaluators.

Existing law authorizes the court, in a contested proceeding involving child custody or visitation rights, to appoint a child custody evaluator to conduct a child custody evaluation in cases in which the court determines it is in the best interests of the child. Existing law requires court-connected and private child custody evaluators to complete a described domestic violence and child abuse training program and to comply with other requirements. Existing law requires the Judicial Council to formulate a statewide rule of court by January 1, 2002, that establishes education, experience, and training requirements for all court-appointed child custody evaluators, and requires child custody evaluators to declare under penalty of perjury that they meet all of the education, experience, and training requirements of the rule and, if applicable, possess a license in good standing.

This bill would revise these provisions by conforming references to "child custody evaluators" to include court-connected, court-appointed, and private child custody evaluators. The bill would provide that a child custody evaluator's written report and testimony are considered admissible evidence only when they are compliant with provisions specifying the admissibility if the opinions of experts, are based upon

sufficient facts or data, and are the product of principles and methods that are consistent with the standards generally accepted by the medical, psychiatric, legal, and psychological communities.

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 3110 of the Family Code is amended to
 2 read:

- 3 3110. As used in this chapter, ~~“court-appointed:~~
 4 (a) *“Court-appointed investigator”* means a probation officer,
 5 domestic relations investigator, or court-appointed evaluator
 6 directed by the court to conduct an investigation pursuant to this
 7 chapter.
 8 (b) *“Court-connected or court-appointed child custody*
 9 *evaluator”* means a court-appointed investigator.
 10 (c) *“Private child custody evaluator”* means a child custody
 11 evaluator who is not appointed by the court.

12 SEC. 2. Section 3110.5 of the Family Code is amended to read:

13 3110.5. (a) No person may be a court-connected,
 14 *court-appointed*, or private child custody evaluator under this
 15 chapter unless the person has completed the domestic violence
 16 and child abuse training program described in Section 1816 and
 17 has complied with Rules 5.220 and 5.230 of the California Rules
 18 of Court.

19 (b) (1) On or before January 1, 2002, the Judicial Council shall
 20 formulate a statewide rule of court that establishes education,
 21 experience, and training requirements for all *court-connected*,
 22 *court-appointed*, and *private* child custody evaluators appointed
 23 pursuant to this chapter, Section 730 of the Evidence Code, or
 24 Chapter 15 (commencing with Section 2032.010) of Title 4 of Part
 25 4 of the Code of Civil Procedure.

26 (A) The rule shall require a child custody evaluator to declare
 27 under penalty of perjury that he or she meets all of the education,
 28 experience, and training requirements specified in the rule and, if
 29 applicable, possesses a license in good standing. The Judicial
 30 Council shall establish forms to implement this section. The rule
 31 shall permit court-connected, *court-appointed*, and *private child*
 32 *custody* evaluators to conduct evaluations if they meet all of the

1 qualifications established by the Judicial Council. The education,
2 experience, and training requirements to be specified for
3 court-connected, *court-appointed*, and *private child custody*
4 evaluators shall include, but not be limited to, knowledge of the
5 psychological and developmental needs of children and
6 parent-child relationships.

7 (B) The rule shall require all evaluators to utilize comparable
8 interview, assessment, and testing procedures for all parties that
9 are consistent with generally accepted clinical, forensic, scientific,
10 diagnostic, or medical standards. The rule shall also require
11 evaluators to inform each adult party of the purpose, nature, and
12 method of the evaluation.

13 (C) The rule may allow courts to permit the parties to stipulate
14 to an evaluator of their choosing with the approval of the court
15 under the circumstances set forth in subdivision (d). The rule may
16 require courts to provide general information about how parties
17 can contact qualified child custody evaluators in their county.

18 (2) On or before January 1, 2004, the Judicial Council shall
19 include in the statewide rule of court created pursuant to this
20 section a requirement that all court-connected, *court-appointed*,
21 and private child custody evaluators receive training in the nature
22 of child sexual abuse. The Judicial Council shall develop standards
23 for this training that shall include, but not be limited to, the
24 following:

25 (A) Children's patterns of hiding and disclosing sexual abuse
26 occurring in a family setting.

27 (B) The effects of sexual abuse on children.

28 (C) The nature and extent of child sexual abuse.

29 (D) The social and family dynamics of child sexual abuse.

30 (E) Techniques for identifying and assisting families affected
31 by child sexual abuse.

32 (F) Legal rights, protections, and remedies available to victims
33 of child sexual abuse.

34 (c) In addition to the education, experience, and training
35 requirements established by the Judicial Council pursuant to
36 subdivision (b), on or after January 1, 2005, no person may be a
37 child custody evaluator under this chapter, Section 730 of the
38 Evidence Code, or Chapter 15 (commencing with Section
39 2032.010) of Title 4 of Part 4 of the Code of Civil Procedure unless
40 the person meets one of the following criteria:

1 (1) He or she is licensed as a physician under Chapter 5
2 (commencing with Section 2000) of Division 2 of the Business
3 and Professions Code and either is a board certified psychiatrist
4 or has completed a residency in psychiatry.

5 (2) He or she is licensed as a psychologist under Chapter 6.6
6 (commencing with Section 2900) of Division 2 of the Business
7 and Professions Code.

8 (3) He or she is licensed as a marriage and family therapist under
9 Chapter 13 (commencing with Section 4980) of Division 2 of the
10 Business and Professions Code.

11 (4) He or she is licensed as a clinical social worker under Article
12 4 (commencing with Section 4996) of Chapter 14 of Division 2
13 of the Business and Professions Code.

14 (5) He or she is a court-connected, *court-appointed*, or *private*
15 *child custody* evaluator who has been certified by the court as
16 meeting all of the qualifications for court-connected,
17 *court-appointed*, or *private* evaluators as specified by the Judicial
18 Council pursuant to subdivision (b).

19 (d) Subdivision (c) does not apply in any case where the court
20 determines that there are no evaluators who meet the criteria of
21 subdivision (c) who are willing and available, within a reasonable
22 period of time, to perform child custody evaluations. In those cases,
23 the parties may stipulate to an individual who does not meet the
24 criteria of subdivision (c), subject to approval by the court.

25 (e) A child custody evaluator who is licensed by the Medical
26 Board of California, the Board of Psychology, or the Board of
27 Behavioral Sciences shall be subject to disciplinary action by that
28 board for unprofessional conduct, as defined in the licensing law
29 applicable to that licensee.

30 (f) On or after January 1, 2005, a court-connected,
31 *court-appointed*, or private child custody evaluator may not
32 evaluate, investigate, or mediate an issue of child custody in a
33 proceeding pursuant to this division unless that person has
34 completed child sexual abuse training as required by this section.

35 SEC. 3. Section 3110.6 is added to the Family Code, to read:

36 3110.6. (a) A child custody evaluator's written report and
37 testimony are considered admissible evidence only if the report
38 and testimony are described by all of the following:

39 (1) They are compliant with Section 801 of the Evidence Code
40 and based upon sufficient facts or data.

1 (2) They are the product of principles and methods that are
2 consistent with the standards generally accepted by the medical,
3 psychiatric, legal, and psychological communities.

4 (b) Nothing in this section precludes a child custody evaluator
5 from freely interviewing parents and children, observing
6 parent-child interaction, speaking to collateral sources, consulting
7 over or using psychological data, or using his or her professional
8 expertise to integrate data, assess and evaluate psychological issues,
9 or communicate the results of those analyses to the court consistent
10 with ethical and professional standards.

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