

AMENDED IN ASSEMBLY APRIL 7, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2960**

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**Introduced by Assembly Member La Malfa**

February 22, 2008

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An act to amend Section 3064 of the Family Code, relating to child custody.

LEGISLATIVE COUNSEL'S DIGEST

AB 2960, as amended, La Malfa. Custody orders: evidence of sexual abuse.

Existing law provides that a court shall refrain from making an order granting or modifying a custody order on an ex parte basis, unless there has been a showing of immediate risk that the child will be removed from the State of California, or a showing of immediate harm to the child. "Immediate harm to the child" is defined to include having a parent who has committed acts of domestic violence, as specified.

*This bill would ~~include~~ instead provide that the court shall deny a request for a change in a child custody agreement on an ex parte basis if there is evidence of sexual abuse of the child, where the court determines that the acts of sexual abuse are of recent origin or are a part of a demonstrated and continuing pattern of acts of sexual abuse, within the definition of "immediate harm to the child," a showing of which authorizes a court to make an order granting or modifying a custody order on an ex parte basis, and there is an allegation that the request for a change in the child custody agreement is made by the alleged sexual abuser of the child in order to obtain greater access to the child. The bill would furthermore provide that any request for a change in a child custody agreement, where there is an allegation that the request*

*is made by an alleged sexual abuser of the child in order to obtain greater access to the child, shall be heard and decided in an open court hearing, rather than by an ex parte order.*

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 3064 of the Family Code is amended to  
2 read:

3 3064. (a) ~~The court shall refrain from making an order granting~~  
4 ~~or modifying a custody order~~ *deny a request for a change in a*  
5 *child custody agreement on an ex parte basis unless there has been*  
6 ~~a showing of immediate harm to the child or immediate risk that~~  
7 ~~the child will be removed from the State of California.~~

8 (b) ~~“Immediate harm to the child” includes the following:~~

9 (1) ~~Having a parent who has committed acts of domestic~~  
10 ~~violence, where the court determines that the acts of domestic~~  
11 ~~violence are of recent origin or are a part of a demonstrated and~~  
12 ~~continuing pattern of acts of domestic violence.~~

13 (2) ~~Evidence if there is evidence of sexual abuse of the child,~~  
14 ~~where the court determines that the acts of sexual abuse are of~~  
15 ~~recent origin or are a part of a demonstrated and continuing pattern~~  
16 ~~of acts of sexual abuse. abuse, and there is an allegation that the~~  
17 ~~request for a change in the child custody agreement is made by~~  
18 ~~the alleged sexual abuser of the child in order to obtain greater~~  
19 ~~access to the child.~~

20 (b) *Any request for a change in a child custody agreement,*  
21 *where there is an allegation that the request is made by an alleged*  
22 *sexual abuser of the child in order to obtain greater access to the*  
23 *child, shall be heard and decided in an open court hearing, rather*  
24 *than by an ex parte order. quest for a change in a child custody*  
25 *agreement, where there is an allegation that the request is made*  
26 *by an alleged sexual abuser of the child in order to obtain greater*  
27 *access to the child, shall be heard and decided in an open court*  
28 *hearing, rather than by an ex parte order.*

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