

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 the court to make the final decision as to the manner in which supervision is provided and any terms or conditions of that supervision, and would authorize the court to consider recommendations from various individuals, including, among others, the parties and their attorneys, and providers of supervised visitation.~~ *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 ~~of~~ *in which the court has determined there is domestic violence and* or child sexual abuse, 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.

~~The bill would require the Department of Consumer Affairs to work with the California Association of Supervised Visitation Service Providers to develop a certification process for professional and therapeutic providers of supervised visitation. The bill would further authorize the Department of Consumer Affairs to charge a one-time provider certification fee, not to exceed \$200, to cover the actual costs of administering and enforcing those provisions.~~

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) The court shall make the final decision as to the manner in~~
9 ~~which supervision is provided and any terms or conditions of that~~
10 ~~supervision; however, the court may consider recommendations~~
11 ~~by the attorney for the child, the parties and their attorneys, Family~~
12 ~~Court Services staff, evaluators, therapists, and providers of~~
13 ~~supervised visitation. The manner in which supervision is provided~~
14 ~~and who provides that supervision may depend on, among other~~
15 ~~factors, local resources, the financial situation of the parties, and~~
16 ~~the degree of risk presented in each case.~~

17 (e)
18 (b) A nonprofessional provider shall not be used in cases ~~of if~~
19 ~~the court has determined there is domestic violence and or child~~
20 ~~sexual abuse unless the judge makes a determination that using a~~
21 ~~nonprofessional provider would be in the best interest of the child.~~

22 (d)

1 (c) For the purposes of this section, the following definitions
2 apply:

3 (1) “Nonprofessional provider” means any person who is not
4 paid for providing supervised visitation services. Unless otherwise
5 ordered by the court or stipulated by the parties, the
6 nonprofessional provider shall:

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

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

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

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

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

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

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

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

19 (I) Have no conflict of interest under ~~subparagraph (G)~~
20 *subdivision (f)*.

21 (J) Agree to adhere to and enforce the court order regarding
22 supervised visitation.

23 (2) “Professional provider” means any person paid for providing
24 supervised visitation services, or an independent contractor,
25 employee, intern, or volunteer operating independently or through
26 a supervised visitation center or agency. The professional provider
27 shall:

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

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

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

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

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

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

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

1 (H) Be able to speak the language of the party being supervised
2 and of the child, or the provider must provide a neutral interpreter
3 over the age of 18 who is able to do so.

4 (I) Have no conflict of interest under ~~subparagraph (G)~~
5 *subdivision (f)*.

6 (J) Agree to adhere to and enforce the court order regarding
7 supervised visitation.

8 (K) ~~Be certified as having completed~~ *Meet* the training
9 requirements set forth in ~~subdivision (e)~~ *(d)*.

10 (3) "Therapeutic provider" means a licensed mental health
11 professional paid for providing supervised visitation services,
12 including a psychiatrist, a psychologist, a clinical social worker,
13 a marriage and family counselor, or an intern working under direct
14 supervision of a qualified licensed mental health professional. A
15 therapeutic provider shall meet the qualifications set forth in
16 paragraph (2) and the training requirements set forth in ~~subdivision~~
17 ~~(e)~~ *(d)*.

18 ~~(e)~~
19 *(d)* (1) Professional providers and therapeutic providers shall
20 ~~be certified as having~~ *have* received 24 hours of training that
21 includes training in the following subjects:

- 22 (A) The role of a certified professional and therapeutic provider.
- 23 (B) Child abuse reporting laws.
- 24 (C) Recordkeeping procedures.
- 25 (D) Screening, monitoring, and termination of visitation.
- 26 (E) Developmental needs of children.
- 27 (F) Legal responsibilities and obligations of a provider.
- 28 (G) Cultural sensitivity.
- 29 (H) Conflicts of interest.
- 30 (I) Confidentiality.
- 31 (J) Issues relating to substance abuse, child abuse, sexual abuse,
32 and domestic violence.

33 (K) Basic knowledge of family and juvenile law.

34 ~~(2) Professional providers shall also complete 24 hours of~~
35 ~~additional training on issues related to substance abuse, child abuse,~~
36 ~~and domestic violence.~~

37 ~~(3)~~
38 (2) Professional *and therapeutic* providers shall sign a
39 declaration or any Judicial Council form that they meet the training
40 and qualifications of a provider.

1 ~~(f)~~

2 (e) The ratio of children to a professional *or therapeutic* provider
3 shall be contingent on:

4 (1) The degree of risk factors present in each case.

5 (2) The nature of supervision required in each case.

6 (3) The number and ages of the children to be supervised during
7 a visit.

8 (4) The number of people visiting the child during the visit.

9 (5) The duration and location of the visit.

10 (6) The experience of the provider.

11 ~~(g)~~

12 (f) Each provider shall maintain neutrality by refusing to discuss
13 the merits of the case or to agree with or support one party over
14 another. Any discussion between a *professional or therapeutic*
15 provider and the parties shall be for the purposes of arranging
16 visitation and providing for the safety of the children. In order to
17 avoid a conflict of interest, the provider shall not:

18 (1) Be financially dependent on the person being supervised.

19 (2) Be an employee of the person being supervised.

20 (3) Be an employee of or affiliated with any superior court in
21 the county in which the supervision is ordered unless specified in
22 the employment contract.

23 (4) Be in an intimate relationship with the person being
24 supervised.

25 ~~(h)~~

26 (g) All providers of supervised visitation shall:

27 (1) Advise the parties before commencement of supervised
28 visitation that no confidential privilege exists.

29 (2) Report suspected child abuse to the appropriate agency, as
30 provided by law, and inform the parties of the provider's obligation
31 to make ~~such~~ *those* reports.

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

33 ~~(i) In addition to the legal responsibilities and obligations~~
34 ~~required in subdivision (h), professional~~

35 (h) *Professional* and therapeutic providers shall:

36 (1) Prepare a written contract to be signed by the parties before
37 commencement of the supervised visitation. The contract should
38 inform each party of the terms and conditions of supervised
39 visitation.

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

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

5 (A) *A written record of each contact and visit.*

6 (B) *Who attended the visit.*

7 (C) *Any failure to comply with the terms and conditions of the*
8 *visitation.*

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

10 (j)

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

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

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

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

21 (k)

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

26 ~~(l) The Department of Consumer Affairs shall work with the~~
27 ~~California Association of Supervised Visitation Service Providers~~
28 ~~to develop a certification process for professional and therapeutic~~
29 ~~providers of supervised visitation. When developing a certification~~
30 ~~process, the following factors shall be considered:~~

31 ~~(1) Financial resources.~~

32 ~~(2) Local community resources.~~

33 ~~(3) Funding.~~

34 ~~(4) Technical assistance.~~

35 ~~(m) The Department of Consumer Affairs may charge a one-time~~
36 ~~provider certification fee in an amount not to exceed two hundred~~
37 ~~dollars (\$200) for each provider operating pursuant to this section.~~
38 ~~The fee charged shall not exceed the amount reasonably necessary~~
39 ~~to cover the actual costs of administering and enforcing this section.~~

1 ~~(n) This section does not preclude the Administrative Office of~~
2 ~~the Courts from having additional standards.~~

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