

ASSEMBLY BILL

No. 297

Introduced by Assembly Member Lackey

February 12, 2015

An act to amend Section 3042 of the Family Code, relating to child custody.

LEGISLATIVE COUNSEL'S DIGEST

AB 297, as introduced, Lackey. Child custody: preferences of child.

Existing law requires the court to consider and give due weight to the wishes of a child in making an order granting or modifying custody or visitation, if the child is of sufficient age and capacity to form an intelligent preference as to custody or visitation. Existing law also requires the court to permit a child who is 14 years of age or older to address the court regarding custody or visitation, unless the court determines that doing so is not in the child's best interests.

This bill would make technical, nonsubstantive changes to those provisions.

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 3042 of the Family Code is amended to
- 2 read:
- 3 3042. (a) If a child is of sufficient age and capacity to reason
- 4 so as to form an intelligent preference as to custody or visitation,
- 5 the court shall consider, and give due weight to, the wishes of the

1 child in making an order granting or modifying custody or
2 visitation.

3 (b) In addition to the requirements of subdivision (b) of Section
4 765 of the Evidence Code, the court shall control the examination
5 of a child witness so as to protect the best interests of the child.

6 (c) If the child is 14 years of age or older and wishes to address
7 the court regarding custody or visitation, the child shall be
8 permitted to do so, unless the court determines that doing so is not
9 in the child's best interests. In that case, the court shall state its
10 reasons for that finding on the record.

11 (d) ~~Nothing in this~~ This section shall *not* be interpreted to
12 prevent a child who is less than 14 years of age from addressing
13 the court regarding custody or visitation, if the court determines
14 that is appropriate pursuant to the child's best interests.

15 (e) If the court precludes the calling of ~~any~~ a child as a witness,
16 the court shall provide alternative means of obtaining input from
17 the child and other information regarding the child's preferences.

18 (f) To assist the court in determining whether the child wishes
19 to express his or her preference or to provide other input regarding
20 custody or visitation to the court, a minor's counsel, an evaluator,
21 an investigator, or a mediator who provides recommendations to
22 the judge pursuant to Section 3183 shall indicate to the judge that
23 the child wishes to address the court, or the judge may make that
24 inquiry in the absence of that request. A party or a party's attorney
25 may also indicate to the judge that the child wishes to address the
26 court or judge.

27 (g) ~~Nothing in this~~ This section shall *not* be construed to require
28 the child to express to the court his or her preference or to provide
29 other input regarding custody or visitation.

30 (h) The Judicial Council shall, no later than January 1, 2012,
31 promulgate a rule of court establishing procedures for the
32 examination of a child witness, and include guidelines on methods
33 other than direct testimony for obtaining information or other input
34 from the child regarding custody or visitation.

35 (i) ~~The changes made to subdivisions (a) to (g), inclusive, by~~
36 ~~the act adding this subdivision shall become operative on January~~
37 ~~1, 2012.~~