

AMENDED IN ASSEMBLY MARCH 11, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 365**

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**Introduced by Assembly Member Cristina Garcia**

February 17, 2015

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An act to add Section 3012 to the Family Code, relating to family law.

LEGISLATIVE COUNSEL'S DIGEST

AB 365, as amended, Cristina Garcia. Child custody proceedings: testimony by electronic means.

Existing law authorizes the court in a child custody proceeding to permit testimony by telephone, audiovisual means, or other electronic means when a witness or party resides in another state. Existing law *also* requires a court to permit a party to present testimony and participate in court-ordered child custody mediation by electronic means when the party's military deployment has a material effect on his or her ability to appear in person, to the extent that this technology is reasonably available to the court and protects the due process rights of all parties.

This bill would require the court ~~in a child custody proceeding~~ to allow ~~any~~ a party *whose deportation or detention by the federal Department of Homeland Security materially effects his or her ability to appear in person at a child custody proceeding* to present testimony and evidence and participate in ~~court-ordered~~ *mandatory* child custody mediation by electronic means, including telephone, video teleconferencing, or ~~the Internet~~, ~~consistent with~~ *other means, to the extent that this technology is reasonably available to the court and protects* the due process rights of all parties.

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 3012 is added to the Family Code, to  
2 read:  
3     3012. (a) If a party’s deportation or detention by the United  
4 States Immigration and Customs Enforcement of the Department  
5 of Homeland Security will have a material effect on his or her  
6 ability, or anticipated ability, to appear in person at a child custody  
7 proceeding, the court shall, upon motion of the party, allow the  
8 party to present testimony and evidence and participate in  
9 mandatory child custody mediation by electronic means, including,  
10 but not limited to, telephone, video teleconferencing, or other  
11 electronic means that provide remote access to the hearing, to the  
12 extent that this technology is reasonably available to the court and  
13 protects the due process rights of all parties.  
14     (b) This section does not authorize the use of electronic  
15 recording for the purpose of taking the official record of these  
16 proceedings.  
17     ~~SECTION 1. Section 3012 is added to the Family Code, to~~  
18 ~~read:~~  
19     ~~3012. In a proceeding to determine the custody of a minor~~  
20 ~~child, the court shall, upon the request of a party, allow the party~~  
21 ~~to present testimony and evidence and participate in court-ordered~~  
22 ~~child custody mediation by electronic means, including, but not~~  
23 ~~limited to, telephone, video teleconferencing, or the Internet,~~  
24 ~~consistent with the due process rights of all parties.~~

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