

AMENDED IN ASSEMBLY JUNE 11, 2015

AMENDED IN SENATE MAY 13, 2015

AMENDED IN SENATE APRIL 27, 2015

AMENDED IN SENATE APRIL 13, 2015

**SENATE BILL**

**No. 594**

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**Introduced by Senator Wieckowski**

February 27, 2015

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An act to amend Section 3111 of the Family Code, relating to child custody.

LEGISLATIVE COUNSEL'S DIGEST

SB 594, as amended, Wieckowski. Child custody.

Existing law allows a court, in any contested hearing involving child custody or visitation rights, to appoint a child custody evaluator, as specified. Existing law requires the Judicial Council to adopt standards for the child custody evaluation.

This bill would specify that a child custody evaluation, investigation, or assessment, and any ~~report conducted pursuant to that determination, resulting report,~~ *assessment, and any resulting report,* may only be considered by the court if the evaluation, investigation, or ~~assessment~~ *assessment, and any resulting report,* is conducted in accordance with the minimum requirements.

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 3111 of the Family Code is amended to  
2 read:

1 3111. (a) ~~(1)~~—In any contested proceeding involving child  
2 custody or visitation rights, the court may appoint a child custody  
3 evaluator to conduct a child custody evaluation in cases where the  
4 court determines it is in the best interests of the child. The child  
5 custody evaluation shall be conducted in accordance with the  
6 standards adopted by the Judicial Council pursuant to Section  
7 3117, and all other standards adopted by the Judicial Council  
8 regarding child custody evaluations. If directed by the court, the  
9 court-appointed child custody evaluator shall file a written  
10 confidential report on his or her evaluation. At least 10 days before  
11 any hearing regarding custody of the child, the report shall be filed  
12 with the clerk of the court in which the custody hearing will be  
13 conducted and served on the parties or their attorneys, and any  
14 other counsel appointed for the child pursuant to Section 3150. A  
15 child custody evaluation, investigation, or assessment, and any  
16 resulting ~~report~~ *report*, may be considered by the court only if it  
17 is conducted in accordance with the ~~minimum~~ requirements set  
18 forth in the standards adopted by the Judicial Council pursuant to  
19 Section ~~3117~~. *3117; however, this does not preclude the*  
20 *consideration of a child custody evaluation report that contains*  
21 *nonsubstantive or inconsequential errors or both.*

22 ~~(2) This subdivision does not preclude the consideration of a~~  
23 ~~child custody evaluation report that contains harmless procedural~~  
24 ~~errors, technical errors, or both.~~

25 (b) The report shall not be made available other than as provided  
26 in subdivision (a) or Section 3025.5, or as described in Section  
27 204 of the Welfare and Institutions Code or Section 1514.5 of the  
28 Probate Code. Any information obtained from access to a juvenile  
29 court case file, as defined in subdivision (e) of Section 827 of the  
30 Welfare and Institutions Code, is confidential and shall only be  
31 disseminated as provided by paragraph (4) of subdivision (a) of  
32 Section 827 of the Welfare and Institutions Code.

33 (c) The report may be received in evidence on stipulation of all  
34 interested parties and is competent evidence as to all matters  
35 contained in the report.

36 (d) If the court determines that an unwarranted disclosure of a  
37 written confidential report has been made, the court may impose  
38 a monetary sanction against the disclosing party. The sanction  
39 shall be in an amount sufficient to deter repetition of the conduct,  
40 and may include reasonable attorney's fees, costs incurred, or both,

1 unless the court finds that the disclosing party acted with substantial  
2 justification or that other circumstances make the imposition of  
3 the sanction unjust. The court shall not impose a sanction pursuant  
4 to this subdivision that imposes an unreasonable financial burden  
5 on the party against whom the sanction is imposed. This  
6 subdivision shall become operative on January 1, 2010.

7 (e) The Judicial Council shall, by January 1, 2010, do the  
8 following:

9 (1) Adopt a form to be served with every child custody  
10 evaluation report that informs the report recipient of the  
11 confidentiality of the report and the potential consequences for the  
12 unwarranted disclosure of the report.

13 (2) Adopt a rule of court to require that, when a court-ordered  
14 child custody evaluation report is served on the parties, the form  
15 specified in paragraph (1) shall be included with the report.

16 (f) For purposes of this section, a disclosure is unwarranted if  
17 it is done either recklessly or maliciously, and is not in the best  
18 interests of the child.