AB 1674 (Ma) – Child Custody: Visitation

Introduced February 14, 2012, Chaptered September 28, 2012

This bill, sponsored by the California Association of Supervised Visitation Service Providers, seeks, for the most part, to codify existing Judicial Council guidelines for providers of supervised visitation. According to the author: "The purpose of the bill is to ensure that supervised visitation providers are complying with 5.20 Standards to ensure providers are properly trained . . . in cases of domestic violence, child abuse, and sexual abuse."

When making custody and visitation orders, a court may sometimes order that the child only have contact with a parent when a neutral third-party is present. This may be necessary to protect the child and the parents in situations involving, for example, domestic violence, child abuse, substance abuse, or mental illness. These arrangements are known as supervised visitation. Often supervised visitation providers are family or friends. Other times professional supervisors working at visitation centers are used and the parents must pay for the services. Sometimes parents use supervised visitation centers just to facilitate safe custody exchanges.

As directed by the Legislature, the Judicial Council has developed standards of practice for supervised visitation providers. These standards, which were developed in consultation with the various stakeholders, are thoughtful and detailed. This bill seeks to codify many of those standards.

Specifically, this bill, among other things:

1) Requires any standards adopted by the Judicial Council for supervised visitation providers to conform to the provisions of this bill.

2) Defines the requirements to be a "nonprofessional" and "professional" provider of supervised visitation services. Requires that a nonprofessional provider may not be used in cases where the court has determined that there is domestic violence or child abuse or neglect, unless the court makes a determination that using a nonprofessional provider would be in the child's best interest.

3) Requires that professional providers have received 24 hours of training in specified subjects, including confidentiality, needs of children, child abuse laws, substance abuse, sexual abuse and domestic violence, and requires these providers to sign a declaration stating that they meet the training and qualification requirements.

4) Requires each provider to maintain neutrality and to avoid conflicts of interest, as specified.

5) Requires all providers to report suspected child abuse to the appropriate agency. Requires all providers to provide a safe visit for the child and the parent, and to terminate the visit if the rules of the visit have been violated, the child becomes acutely distressed or the safety of the child or the provider is at risk. Requires professional providers to provide written notice of a temporary suspension or termination of the supervised visit to both parties, their attorneys, the attorney for the child and the court.

6) Requires professional providers to keep specified written records of each visit.

Assembly Bill No. 1674

CHAPTER 692

An act to add Section 3200.5 to the Family Code, relating to visitation.

[Approved by Governor September 28, 2012. Filed with Secretary of State September 28, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1674, 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 supervised visitation providers to be professional providers or nonprofessional providers, as specified. The bill would require the court, in any case in which it has determined there is domestic violence or child abuse or neglect, as specified, and it determines that supervision is necessary, to consider whether to use a professional or nonprofessional provider based upon the child's best interest.

The bill would also require professional providers to receive 24 hours of training in certain subjects. 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 people of the State of California do enact as follows:

SECTION 1. Section 3200.5 is added to the Family Code, to read:

3200.5. (a) Any standards for supervised visitation providers adopted by the Judicial Council pursuant to Section 3200 shall conform to this section. A provider, as described in Section 3200, shall be a professional provider or nonprofessional provider.

(b) In any case in which the court has determined that there is domestic violence, child abuse or neglect, as defined in Section 11165.6 of the Penal Code, and the court determines supervision is necessary, the court shall consider whether to use a professional or nonprofessional provider based upon the child's best interest.

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

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

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

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

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

(D) Agree to adhere to and enforce the court order regarding supervised visitation.

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

(A) Be at least 21 years of age.

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

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

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

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

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

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

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

(I) Agree to adhere to and enforce the court order regarding supervised visitation.

(J) Meet the training requirements set forth in subdivision (d).

(d) (1) Professional providers shall have received 24 hours of training that includes training in the following subjects:

(A) The role of a professional provider.

(B) Child abuse reporting laws.

(C) Recordkeeping procedures.

(D) Screening, monitoring, and termination of visitation.

(E) Developmental needs of children.

(F) Legal responsibilities and obligations of a provider.

(G) Cultural sensitivity.

(H) Conflicts of interest.

(I) Confidentiality.

(J) Issues relating to substance abuse, child abuse, sexual abuse, and domestic violence.

(K) Basic knowledge of family and juvenile law.

(2) Professional providers shall sign a declaration or any Judicial Council form that they meet the training and qualifications of a provider.

(e) The ratio of children to a professional provider shall be contingent on:

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

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

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

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

(5) The duration and location of the visit.

(6) The experience of the provider.

(f) Professional providers of supervised visitation shall:

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

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

(3) Suspend or terminate visitation under subdivision (h).

(g) Professional providers shall:

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

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

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

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

(B) Who attended the visit.

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

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

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

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

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

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

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

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