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May 17, 2023

The Honorable Gail Pellerin
Member of the Assembly, 28th Assembly District
State Capitol
P.O. Box 942849
Sacramento, CA 94249-0028

Re: AB 1019 (Pellerin) as amended
Position: Oppose

Dear Assemblymember Pellerin,

On behalf of the California Association of Certified Family Law Specialists, a non-profit organization with 694 members who are certified family law specialists by the State Bar of California, Board of Legal Specialization, I write to oppose Assembly Bill 1019.

AB 1019 would prevent a judge from ordering a child to be transported to a facility, program or for participation in therapy or services to address the child's alienation from a parent without first obtaining required consent. The bill casts a wide net to address what appears to be anecdotal concern about transporting older children against their will to "reunification camps." Such incidents are not the norm, and this bill could effectively prevent all transport of children even when counseling is needed, and when not done in a forcible manner. Also, the bill provides decision-making about counseling with the child, even if both parents consent to the child attending counseling.

Children are often caught in the middle between parents. This can occur where both parents are acting inappropriately to align a child with themselves, or where only one parent is engaging in that type of behavior. A parent that is aligning a child with themselves may alienate the other parent – either consciously or subconsciously

– in ways to ensure a child does not care for, or want to spend time with, the other parent. The published literature on this issue in the mental health community is far too robust to address here, but these forms of parental behavior are exhibited in many family law cases and must be considered by family law attorneys and judges.

Consider a situation where there is no prior abuse of a child or of either parent, both parents have been meaningfully involved in a child's life, and both parents have had healthy bonds with their child. The parents then part ways, and the child begins to reject spending time with one parent (the "disfavored" parent) and only wants to spend time with the other parent (the "favored" parent). In these common cases, it is not clear from an objective standpoint why the child is rejecting the disfavored parent, and it can be hard for a judge or court-appointed mental health expert to address the child's rejection. These cases present complex circumstances in which a child is not able to articulate the basis for the rejection. If the favored parent's behavior is a factor in the child's rejection, such behavior can be near impossible to address without allowing a child to view the disfavored parent in another light, which can occur through counseling. Also, if a favored parent's behavior is a factor in the rejection, the favored parent might be unlikely to consent to their child participating in counseling.

Parental behaviors can be driven by conscious or subconscious factors based on a parent's emotional state. There is no one perfect way to parent, but there are behaviors an otherwise good parent might exhibit after a breakup that have a negative effect on a child, and which flow from the parent's emotional state caused by the breakup. For example, a parent who has always exhibited good parenting behavior might have an emotional reaction to a marital breakup that results in the following behavior, which had never occurred before:

- Criticizing the other parent in front of the child.
- Removing pictures of the child and the other parent from the child's home.
- Telling a child they can choose which parent to live with.
- Telling a child the reason for the breakup was the other parent's actions.
- Asking a child to keep secrets from the other parent.
- Asking a child if the other parent is dating.
- Telling a child the parent is lonely when the child is with the other parent.

These types of behavior are often unobserved by anyone other than the child and can have the cumulative effect of influencing a child to favor one parent over the other. The bill implies that counseling to address the impact of these sorts of behavior is harmful. However, such counseling can be the only way to help a child who has been plunged into the emotional turmoil a favored parent is experiencing.

The bill would place the power to consent to a child's treatment with a parent who may be exhibiting the above-described behaviors. No one wants to believe they are a bad parent, and a parent who is exhibiting these behaviors often does not accept these behaviors are harmful to the relationship between the child and the other parent. After all, if the parent thought it was harmful, they would not act in such a way. A court order directing a child to participate in counseling to address rejection of the disfavored parent can be seen by the favored parent as an assessment that the favored parent is acting inappropriately. The favored parent is less likely to consent to allowing a child to be transported to counseling where the favored parent believes their own behavior will be evaluated. This is especially true where the favored parent is overtly, consciously manipulating a child to reject the disfavored parent, such as telling a child the disfavored parent does not love the child. The favored parent would likely never consent to counseling in that situation.

Also of note is that this bill would prohibit transport without consent to outpatient counseling. Thus, even if both parents consent to the child going to a one-hour, outpatient counseling session, if a 12-year-old does not consent, then neither parent can take the child to counseling. This places a significant amount of control with a child who might need counseling and who has two caring parents that want to help the child through counseling. The unintended consequence of the bill could be that children ages 12 and up would have the final say as to whether they receive counseling to address issues they have with a parent, thereby preventing much-needed help during a formative period in a child's life.

Aside from the above substantive concerns about the bill, the bill has a procedural ambiguity. In the new subdivision (f)(1) of Family Code section 3190, a court could not order transport of a child without consent of the other parent and of the child. This would mean the consent of a 6-year-old would be required. However, in the new subdivision (f)(2) of Family Code section 3190, if the child is 12 years old or older, then the child must consent. As drafted, this bill would not be clear as to what age a child must consent to be transported to counseling.

Respectfully submitted,



Justin M. O'Connell, Esq., CFLS
Legislative Director, ACFLS
Email: justin@cavassaoconnell.com
Tel: (831) 655-6868