Judicial Council *of* California

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PATRICIA GUERRERO
Chief Justice of California
Chair of the Judicial Council

MILLICENT TIDWELL
Acting Administrative Director

September 20, 2023

Hon. Gavin Newsom
Governor of California
1021 O Street, Suite 9000
Sacramento, California 95814

Subject: Senate Bill 331 (Rubio)—Request for Veto

Dear Governor Newsom:

The Judicial Council respectfully must request your veto on Senate Bill 331, because while it has been amended to significantly mitigate the negative operational impacts on the branch, the expansion of the judicial education mandate impinges on the independence of the judicial branch in developing and providing judicial education. SB 331 amends existing Government Code section 68555, which requires the Judicial Council to establish domestic violence training programs for judicial officers and other specified court personnel to substantially expand the topics that must be addressed in this mandated training. It would also require the Judicial Council to report to the Legislature, on the trainings for judicial officers provided pursuant to that section and the number of judges who attended.

In addition to these requirements, SB 331 also adds a new section 3193 to the Family Code to prohibit a court from ordering family reunification treatments that require or result in specified custody orders or other conditions. The council's opposition is directed only at the provisions relating to judicial training.

Government Code section 68555 currently requires that the council establish training programs for judges and other court personnel whose work involves domestic violence to provide them with information about the specific issues that arise when domestic violence is involved in a case before the court. That provision has been in the law since 1996 and was amended to include some clarifying language in 2018. SB 331 would amend that section to include a more prescriptive set of requirements that require that the council provide training on an extensive list of specific topics. This expansion of the Legislature's efforts to regulate judicial training represents an unnecessary intrusion into the operations of the judicial branch, especially as it has long demonstrated a commitment to robust training in these areas. The Legislature can use its

authority as the policy making branch of government to limit the kinds of orders that courts can make based on its analysis of what best serves litigants in family law matters as SB 331 proposes to do, but the principle of separation of powers requires that the Legislature defer to the judicial branch on training judicial officers to ensure that the courts can implement any statutory changes that are enacted.

The Judicial Council has been a leader in ensuring that domestic violence is an issue that is centered in judicial training and education, and there are multiple rules of court requiring domestic violence training for judicial officers, and for family court services personnel who perform duties in child custody disputes.[1] These rules demonstrate that the council shares the author's interest in ensuring that this issue is given prominent consideration among the many other legal topics on which judges receive initial and ongoing training. The concerns regarding SB 331 arise as a result of the overly prescriptive required topic areas included in the current version of the legislation which undermine the ability of the branch to exercise its independence in developing and providing appropriate and necessary training. These very specific training topics implicate an advocacy agenda and thus may create the appearance that the training is intended to improperly influence judicial impartiality and neutrality which is at odds with the current curriculum development process driven by judicial officers and based on the issues they see in their courtrooms on a daily basis. SB 331 could have been amended to add the proposed list of topics to section 68555 as items for the council to consider when developing the training required pursuant to that section. This approach would signal the Legislature's strong preference for training to cover these topics, while deferring the final decisions to the judicial branch consistent with its co-equal status.

The council greatly appreciates the amendments taken to align the legislative reporting requirements with the statutory mandate in Government Code 68555 and to delete requirements that judges in family law matters face specific reporting requirements in conflict with the existing structure for judicial education in the California Rules of Court. The council recognizes that the Legislature appropriates the funding used to provide training and thus would welcome a requirement directing the council to report on the training that it provides pursuant to section 68555 an appropriate mechanism to allow for legislative oversight into training on these topics without interfering with the independent operations of the branch and or duplicating the existing reporting requirements for judicial education.

The council takes no position on the other provisions in SB 331 as they are policy issues outside the council's purview. These provisions impose some limits on the orders that courts can make in child custody matters but preserve the court's core discretion to protect the best interests of children who are the subjects of child custody disputes.

For these reasons, the Judicial Council respectfully requests your veto on Senate Bill 331 and welcomes an opportunity to continue working on this important issue next year.

[1] See California Rules of Court, rules 10.464, 5.215, and 5.230.

Should you have any questions or require additional information, please contact Tracy Kenny at 916-323-3121.

Sincerely,

Cory T. Jasperson
Director
Governmental Affairs

CTJ/TK/lmm
cc: Hon. Susan Rubio, Member of the Senate, 22nd District
Ms. Jessica Devencenzi, Legislative Affairs Secretary, Office of the Governor
Ms. Millicent Tidwell, Acting Administrative Director, Judicial Council of California
Ms. Shelley Curran, Chief Policy & Research Officer, Judicial Council of California

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PATRICIA GUERRERO
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MILLICENT TIDWELL
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September 11, 2023

Hon. Susan Rubio
Member of the Senate, 22nd District
1021 O Street, Suite 8710
Sacramento, California 95814

Subject: Senate Bill 331 (Rubio), as amended September 8, 2023—Oppose, unless amended.
Location: Assembly Third Reading

Dear Senator Rubio:

The Judicial Council regretfully must continue to oppose Senate Bill 331, because while it has been amended to significantly mitigate the negative operational impacts on the branch, the expansion of the judicial education mandate impinges on the independence of the judicial branch in developing and providing judicial education. SB 331 amends existing Government Code section 68555, which requires the Judicial Council to establish domestic violence training programs for judicial officers and other specified court personnel to substantially expand the topics that must be addressed in this mandated training. It would also require the Judicial Council to report to the Legislature, on the trainings for judicial officers provided pursuant to that section and the number of judges who attended.

In addition to these requirements, SB 331 also adds a new section 3193 to the Family Code to prohibit a court from ordering family reunification treatments that require or result in specified custody orders or other conditions. The council's opposition is directed only at the provisions relating to judicial training.

Government Code section 68555 currently requires that the council establish training programs for judges and other court personnel whose work involves domestic violence to provide them with information about the specific issues that arise when domestic violence is involved in a case before the court. That provision has been in the law since 1996 and was amended to include some clarifying language in 2018. SB 331 would amend that section to include a more prescriptive set of requirements that require that the council provide training on an extensive list of specific topics. This expansion of the

Legislature's efforts to regulate judicial training represents an unnecessary intrusion into the operations of the judicial branch, especially as it has long demonstrated a commitment to robust training in these areas. The Legislature can use its authority as the policy making branch of government to limit the kinds of orders that courts can make based on its analysis of what best serves litigants in family law matters as SB 331 proposes to do, but the principle of separation of powers requires that the Legislature defer to the judicial branch on training judicial officers to ensure that they can implement the legislative changes enacted by the legislative branch.

The Judicial Council has been a leader in ensuring that domestic violence is an issue that is centered in judicial training and education, and there are multiple rules of court requiring domestic violence training for judicial officers, and for family court services personnel who perform duties in child custody disputes.[1] These rules demonstrate that the council shares your interest in ensuring that this issue is given prominent consideration among the many other legal topics on which judges receive initial and ongoing training. The concerns regarding SB 331 arise as a result of the overly prescriptive required topic areas included in the current version of the legislation which undermine the ability of the branch to exercise its independence in developing and providing appropriate and necessary training. SB 331 could have been amended to add the proposed list of topics to section 68555 as items for the council to consider when developing the training required pursuant to that section. This approach would signal the Legislature's strong preference for training to cover these topics, while deferring the final decisions to the judicial branch consistent with its co-equal status.

The council greatly appreciates the amendments taken to align the legislative reporting requirements with the statutory mandate in Government Code 68555 and to delete requirements that judges in family law matters face specific reporting requirements in conflict with the existing structure for judicial education in the California Rules of Court. The council recognizes that the Legislature appropriates the funding used to provide training and thus would welcome a requirement directing the council to report on the training that it provides pursuant to section 68555 an appropriate mechanism to allow for legislative oversight into training on these topics without interfering with the independent operations of the branch and or duplicating the existing reporting requirements for judicial education.

The council takes no position on the other provisions in SB 331 as they are policy issues outside the council's purview. These provisions impose some limits on the orders that courts can make in child custody matters but preserve the court's core discretion to protect the best interests of children who are the subjects of child custody disputes.

For these reasons, the Judicial Council is opposed to SB 331.

[1] See California Rules of Court, rules 10.464, 5.215, and 5.230.

Should you have any questions or require additional information, please contact me at 916-323-3121.

Sincerely,

Tracy Kenny
Supervising Attorney
Governmental Affairs

TK/lmm
cc: Mr. Tom Clark, Counsel, Assembly Judiciary Committee
Mr. Daryl Thomas, Policy Consultant, Assembly Republican Office of Policy
Ms. Allison Whitt Meredith, Counsel, Senate Judiciary Committee
Mr. Morgan Branch, Consultant, Senate Republican Office of Policy
Ms. Jessica Devencenzi, Legislative Affairs Secretary, Office of the Governor
Ms. Millicent Tidwell, Acting Administrative Director, Judicial Council of California
Ms. Shelley Curran, Chief Policy & Research Officer, Judicial Council of California

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PATRICIA GUERRERO
Chief Justice of California
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MILLICENT TIDWELL
Acting Administrative Director

June 26, 2023

Hon. Brian Maienschein, Chair
Assembly Judiciary Committee
1021 O Street, Suite 5640
Sacramento, California 95814

Subject: Senate Bill 331 (Rubio), as amended April 27, 2023—Oppose, unless amended.

Dear Assembly Member Maienschein:

The Judicial Council regretfully must oppose Senate Bill 331, unless it is amended to protect the independence of the judicial branch in developing and providing judicial education. SB 331 repeals existing Government Code section 68555, which requires the Judicial Council to establish domestic violence training programs for judicial officers and other specified court personnel and replaces it with a similar requirement that only applies to those who handle family law matters. It would also require judges involved in child custody proceedings to report to the Judicial Council, and the Judicial Council to report to the Legislature, on their trainings in the area of domestic violence.

In addition to these requirements, SB 331 also amends Family Code provisions on child custody and domestic violence to clarify the standard for testifying as an expert in a child custody or visitation case where a parent has been alleged to have committed domestic violence or child abuse, prohibit a court from ordering family reunification treatments, as defined, and place limits when a court may order counseling with a parent with whom the child has a damaged relationship. The council's opposition is directed at the provisions relating to judicial training.

Government Code section 68555 currently requires that the council establish training programs for judges and other court personnel whose work involves domestic violence to provide them with information about the specific issues that arise when domestic violence is involved in a case before the court. That provision has been in the law since 1996 and was amended to include some clarifying language in 2018. SB 331 would repeal that section and replace it with a more prescriptive set of requirements that require that the council provide training on an extensive list of specific topics. This expansion of the Legislature's efforts to regulate judicial training represents an unnecessary intrusion into the operations of the judicial branch, especially as it has

long demonstrated a commitment to robust training in these areas. The Legislature can use its authority as the policy making branch of government to modify the standards that courts apply when deciding cases that involve allegations of domestic violence and child abuse as SB 331 proposes to do, but the principle of separation of powers requires that the Legislature defer to the judicial branch on training judicial officers to ensure that they can implement the legislative changes enacted by the legislative branch.

The Judicial Council has been a leader in ensuring that domestic violence is an issue that is centered in judicial training and education, and there are multiple rules of court requiring domestic violence training for judicial officers, and for family court services personnel who perform duties in child custody disputes.[1] These rules demonstrate that the council shares the author's interest in ensuring that this issue is given prominent consideration among the many other legal topics on which judges receive initial and ongoing training. The concerns regarding SB 331 arise as a result of the overly prescriptive required topic areas included in the current version of the legislation which undermine the ability of the branch to exercise its independence in developing and providing appropriate and necessary training. SB 331 could be amended to restore existing section 68555 and then include language directing the council to consider including the listed topics in the required training provided pursuant to that section. This approach would signal the Legislature's strong preference for training to cover these topics, while deferring the final decisions to the judicial branch consistent with its co-equal status.

In addition, the council is opposed to the current reporting requirements contained in proposed Family Code section 3040.5 because they place unnecessary burdens on judicial officers who hear child custody matters and are not aligned with the proposed training mandate in Government Code 68555. California Rules of Court, rule 10.452(e)(7) requires that each trial court presiding judge maintain records of each judicial officer's training and that they report at the end of each three-year education cycle on their court's compliance with education requirements on an aggregate basis to the Judicial Council which may periodically audit that compliance. This rule demonstrates that the branch takes judicial education very seriously and promotes accountability for compliance within the branch. That is the appropriate venue for such accountability in our system of separation of powers.

The council recognizes that the Legislature appropriates the funding used to provide training and thus would not oppose a requirement directing the council to report on the training that it provides pursuant to section 68555. Such a requirement would allow for legislative oversight into training on these topics without interfering with the independent operations of the branch and would not duplicate or supplant the existing reporting requirements for judicial education.

The council takes no position on the other provisions in SB 331 as they are policy issues outside the council's purview. They would impose some limits on the orders that the courts can make in child custody matters but preserve the court's core discretion to protect the best interests of children who are the subjects of child custody disputes.

[1] See California Rules of Court, rules 10.464, 5.215, and 5.230.

For these reasons, the Judicial Council is opposed to SB 331, unless amended.

Should you have any questions or require additional information, please contact Tracy Kenny at 916-323-3121.

Sincerely,

Cory T. Jasperson
Director, Governmental Affairs

CTJ/TK/lmm
cc: Members, Assembly Judiciary Committee
Hon. Blanca E. Rubio, Assembly Member, 48th District
Mr. Tom Clark, Counsel, Assembly Judiciary Committee]
Mr. Daryl Thomas, Policy Consultant, Assembly Republican Office of Policy
Ms. Jessica Devencenzi, Legislative Affairs Secretary, Office of the Governor
Ms. Millicent Tidwell, Acting Administrative Director, Judicial Council of California
Ms. Shelley Curran, Chief Policy & Research Officer, Judicial Council of California

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PATRICIA GUERRERO
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MILLICENT TIDWELL
Acting Administrative Director

April 18, 2023

Hon. Thomas Umberg, Chair
Senate Judiciary Committee
1021 O Street, Suite 6730
Sacramento, California 95814

Subject: Senate Bill 331 (Rubio), as amended March 22, 2023—No position, concerns
Hearing: Senate Judiciary Committee—April 25, 2023

Dear Senator Umberg:

The Judicial Council is still reviewing SB 331 and has engaged in productive conversations with the author's office regarding the bill; however, because SB 331 contains provisions which closely resemble legislation that the council opposed last year on this same topic, it is critical to reiterate the council's key concerns about the judicial training mandates currently included in SB 331.

Current law requires that that the council establish training programs for judges and other court personnel whose work involves domestic violence to provide them with information about the specific issues that arise when domestic violence is involved in a case before the court. SB 331 would repeal that section and replace it with a more proscriptive set of requirements that require that the council provide training on an extensive list set of specific topics, but would also require that judges and other impacted court personnel receive 25 hours of initial training and at least 20 hours of ongoing training to be completed on a three-year cycle. These requirements are an unnecessary intrusion into the operations of the judicial branch, especially as it has long demonstrated a commitment to robust training in these areas.

The Judicial Council has been a leader in ensuring that domestic violence is an issue that is centered in judicial training and education, and there are multiple rules of court requiring domestic violence training for judicial officers, and for family court services personnel who perform duties in child custody disputes.[1] These rules demonstrate that the council shares the author's interest in ensuring that this issue is given prominent consideration among the many other legal topics on which judges receive initial and ongoing training. The concerns regarding SB 331 arise as a result of the overly proscriptive mandated hours of training and required topic areas included in the current version of the legislation which undermine the ability of the branch to exercise its independence in developing and providing appropriate and necessary training, and

[1] See California Rules of Court, rules 10.464, 5.215, and 5.230.

which would pose substantial unfunded operational obstacles by requiring a substantial increase in the hours of training focused on these topics.

To accomplish the requirements in the legislation, judicial officers and court staff would be required to increase their total time spent in training so that they would be able to complete these hours as well as needed training on the many other pressing legal issues that come before them. For example, judicial officers assigned to family law matters are required to complete a primary assignment orientation within a year of being assigned to a family law calendar. These sessions take up one week of the judge's schedule and provide 30 total hours of training. If 25 of those hours were required to be spent on the topics specified in SB 331, this orientation would need to be substantially extended to ensure that all relevant subject matter was addressed. This additional training time means that in addition to the costs of providing the additional training, the branch must expend additional funding to secure an assigned judge to cover the calendar of the judge in training. Similar concerns arise for the requirements that apply to family court services mediators who are currently required to receive 16 hours of initial domestic violence training, and 4 hours on an ongoing basis. Notably these additional costs would be substantially more than what California might hope to receive in additional federal funding via the Violence Against Women Act recent reauthorization. Moreover, that funding is limited to a four-year duration, while these requirements would be ongoing.

The council looks forward to working with the author to address these concerns while ensuring adequate and appropriate training on this critical area of the law and urges the committee to recognize that judicial training standards and content should be developed and promulgated within the judicial branch. The council is also still reviewing the other provisions of the bill and will work with the author to ensure that they can be implemented to accomplish the objectives stated and protect the safety and well-being of the children at issue in child custody litigation while preserving the independence of the branch.

Should you have any questions or require additional information, please contact Tracy Kenny at 916-323-3121.

Sincerely,

Cory T. Jasperson
Director, Governmental Affairs

CTJ/TK/lmm
cc: Members, Senate Judiciary Committee
Hon. Susan Rubio, Member of the Senate
Ms. Allison Meredith, Counsel, Senate Judiciary Committee
Mr. Morgan Branch, Consultant, Senate Republican Office of Policy
Ms. Jessica Devencenzi, Chief Deputy Legislative Secretary, Office of the Governor
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