



Judicial Council of California

ADMINISTRATIVE OFFICE OF THE COURTS

OFFICE OF GOVERNMENTAL AFFAIRS

770 "L" Street, Suite 700 • Sacramento, California 95814-3393

Telephone 916-323-3121 • Fax 916-323-4347 • TDD 800-735-2929

RONALD M. GEORGE
Chief Justice of California
Chair of the Judicial Council

WILLIAM C. VICKREY
Administrative Director of the Courts

RONALD G. OVERHOLT
Chief Deputy Director

CURTIS L. CHILD
Director, Office of Governmental Affairs

August 11, 2010

Hon. Arnold Schwarzenegger
Governor of California
State Capitol, First Floor
Sacramento, California 95814

Subject: AB 1050 (Ma) – Request for Signature

Dear Governor Schwarzenegger:

The Judicial Council is pleased to support AB 1050, which would create a presumption that children 14 and older are of sufficient maturity to testify before the court on a child custody or visitation issue unless the court finds that testimony is not in the child's best interests and states its reasons on the record, because it will ensure that family courts can include children's input into their determinations when it is appropriate to do so. Family Code section 3042 requires that the court "consider and give due weight to the wishes of the child in making an order granting or modifying custody" when the child is "of sufficient age and capacity to reason so as to form an intelligent preference as to custody." Despite this requirement, advocates for family law litigants report that courts are often unwilling to hear from children in these matters regardless of their age or capacity. AB 1050 would provide more structure to these requirements but still preserve the discretion of the court to make case-by-case determinations by making the age of 14 a presumptive age when children have the capacity to provide input to the court, but allowing the court to refuse to accept such testimony if it is not in the child's best interest.

AB 1050 also requires the Judicial Council to adopt a rule of court to implement the revised statute, with specific guidelines for courts on methods of obtaining information from children other than by direct testimony. This aspect of AB 1050 is critical, because a frequent hurdle for courts in hearing from children is the courts' concern that involving the child in the proceedings

Hon. Arnold Schwarzenegger

August 11, 2010

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will be psychologically harmful to the child. Guidance for courts on methods of obtaining input from children that will be appropriate for the age and maturity of the child, yet still ensure that all parties receive due process, will improve the implementation of the existing statutory requirement, as well as the revisions contained in AB 1050. For this reason, the revisions to AB 1050 will not be effective until the date by which the rule is to be adopted. Requiring that the rule and the new statutory provisions become effective at the same will ensure consistent implementation of these requirements throughout the state.

For these reasons, the Judicial Council requests your signature on AB 1050.

Sincerely,

Tracy Kenny
Attorney

TK/yt

cc: Hon. Fiona Ma, Member of the Assembly

Mr. Aaron Maguire, Deputy Legislative Affairs Secretary, Office of the Governor

Ms. Kirsten Kolpitzke, Deputy Director of Legislation, Governor's Office of Planning and Research



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Hon. Arnold Schwarzenegger

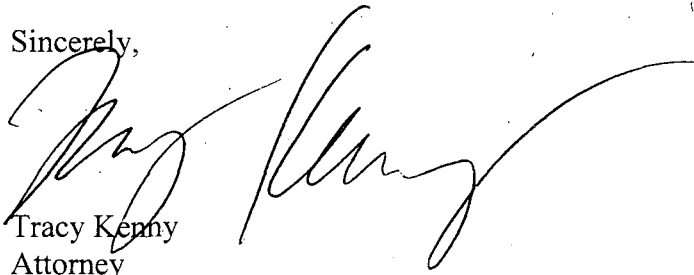
August 11, 2010

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For these reasons, the Judicial Council requests your signature on AB 1050.

Sincerely,

A handwritten signature in black ink, appearing to read "Tracy Kenny", is written over the word "Sincerely,". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Tracy Kenny
Attorney

TK/yt

cc: . Hon. Fiona Ma, Member of the Assembly

Mr. Aaron Maguire, Deputy Legislative Affairs Secretary, Office of the Governor

Ms. Kirsten Kolpitke, Deputy Director of Legislation, Governor's Office of Planning and Research



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July 29, 2010

Hon. Fiona Ma
Speaker pro Tempore
California State Assembly
State Capitol, Room 3173
Sacramento, California 95814

Subject: AB 1050 (Ma), as proposed to be amended - Support

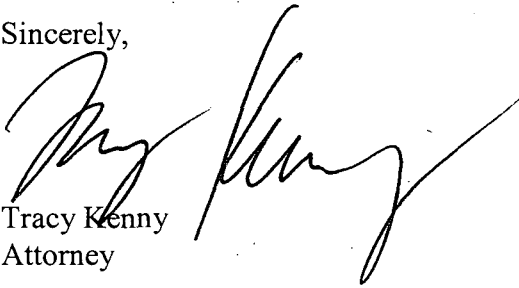
Dear Speaker Ma:

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Sincerely,

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Tracy Kenny
Attorney

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