



Judicial Council of California

ADMINISTRATIVE OFFICE OF THE COURTS

OFFICE OF GOVERNMENTAL AFFAIRS

770 L Street, Suite 1240 • Sacramento, California 95814-3368
Telephone 916-323-3121 • Fax 916-323-4347 • TDD 415-865-4272

TANI G. CANTIL-SAKAUYE
Chief Justice of California
Chair of the Judicial Council

JODY PATEL
Interim Administrative Director of the Courts

CURT SODERLUND
Interim Chief Deputy Director

CURTIS L. CHILD
Director, Office of Governmental Affairs

June 5, 2012

Hon. Noreen Evans, Chair
Senate Judiciary Committee
State Capitol, Room 4032
Sacramento, California 95814

Subject: AB 2365 (Nestande), as amended June 4, 2012 - Support
Hearing: Senate Judiciary Committee – June 12, 2012

Dear Senator Evans:

The Judicial Council is pleased to support AB 2365, which adds to the matters a court shall consider in determining the best interest of a child in a custody proceeding either parent's habitual or continual abuse of prescribed controlled substances and eliminates the sunset date on the court's authority to order drug testing in custody and guardianship matters.

AB 2365 will clarify the court's authority to consider abuse of legally prescribed controlled substances in a manner that will enhance the court's ability to protect the best interests of the child in a custody matter, and it will ensure that courts continue to have the ability to confirm or deny allegations of substance abuse in appropriate cases. Currently the court can consider the habitual or continual use of illegal drugs, as well as the habitual or continual abuse of alcohol. AB 2365 will clarify a gap around the court's discretion to consider abuse of legally prescribed medication, which may be relevant to the best interest of the child. Providing the court with this authority and duty will ensure that the court has the appropriate discretion to consider all relevant substance use and abuse and to issue orders that will protect the interests of children subject to custody disputes.

To determine whether drug or alcohol abuse is a relevant consideration, the court needs a reliable tool to confirm or rebut the allegations of a party. The Judicial Council report evaluating the implementation of the current drug and alcohol testing section found that "judicial officers value the availability of testing for drug or alcohol use," and "need this authority to make decisions in the best interest of the child, particularly if there is a dispute between the parties about whether substance abuse exists." The report also found that judges use their authority judiciously, and apply the information that is obtained from the courts in the context of the other factors in the case, rather than as

Hon. Noreen Evans

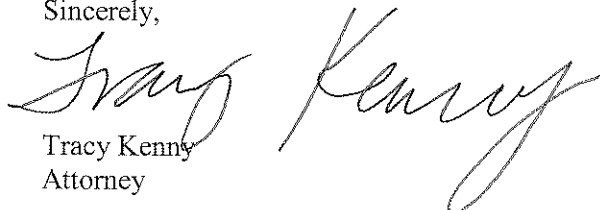
June 5, 2012

Page 2

the sole criterion for custody decisions. Given these findings, the council believes it is critical to continue to provide this authority for the family courts and to eliminate the current sunset provision in this section.

For these reasons, the Judicial Council asks for your "aye" vote on AB 2365.

Sincerely,

A handwritten signature in cursive script, reading "Tracy Kenny". The signature is written in dark ink and is positioned to the right of the typed name and title.

Tracy Kenny
Attorney

TK/yc

cc: Members, Senate Judiciary Committee

Hon. Brian Nestande

Ms. Nichole Rapiet, Counsel, Senate Judiciary Committee

Ms. June Clark, Deputy Legislative Affairs Secretary, Office of the Governor

Mr. Mike Petersen, Consultant, Senate Republican Office of Policy



Judicial Council of California

ADMINISTRATIVE OFFICE OF THE COURTS

OFFICE OF GOVERNMENTAL AFFAIRS

770 L Street, Suite 1240 • Sacramento, California 95814-3368
Telephone 916-323-3121 • Fax 916-323-4347 • TDD 415-865-4272

TANI G. CANTIL-SAKAUYE
Chief Justice of California
Chair of the Judicial Council

JODY PATEL
Interim Administrative Director of the Courts

CURT SODERLUND
Interim Chief Deputy Director

CURTIS L. CHILD
Director, Office of Governmental Affairs

August 9, 2012

Hon. Edmund G. Brown, Jr.
Governor of California
State Capitol, First Floor
Sacramento, California 95814

Subject: AB 2365 (Nestande) – Request for Signature

Dear Governor Brown:

The Judicial Council is pleased to support AB 2365, which adds to the matters a court shall consider in determining the best interest of a child in a custody proceeding either parent's habitual or continual abuse of prescribed controlled substances and eliminates the sunset date on the court's authority to order drug testing in custody and guardianship matters.

AB 2365 will clarify the court's authority to consider abuse of legally prescribed controlled substances in a manner that will enhance the court's ability to protect the best interests of the child in a custody matter, and it will ensure that courts continue to have the ability to confirm or deny allegations of substance abuse in appropriate cases. Currently the court can consider the habitual or continual use of illegal drugs, as well as the habitual or continual abuse of alcohol. AB 2365 will clarify a gap around the court's discretion to consider abuse of legally prescribed medication, which may be relevant to the best interest of the child. Providing the court with this authority and duty will ensure that the court has the appropriate discretion to consider all relevant substance use and abuse and to issue orders that will protect the interests of children subject to custody disputes.

To determine whether drug or alcohol abuse is a relevant consideration, the court needs a reliable tool to confirm or rebut the allegations of a party. The Judicial Council report evaluating the

Hon. Edmund G. Brown, Jr.

August 9, 2012

Page 2

implementation of the current drug and alcohol testing section found that “judicial officers value the availability of testing for drug or alcohol use,” and “need this authority to make decisions in the best interest of the child, particularly if there is a dispute between the parties about whether substance abuse exists.” The report also found that judges use their authority judiciously, and apply the information that is obtained from the courts in the context of the other factors in the case, rather than as the sole criterion for custody decisions. Given these findings, the council believes it is critical to continue to provide this authority for the family courts and to eliminate the current sunset provision in this section.

For these reasons, the Judicial Council requests your signature on AB 2365.

Sincerely,

A handwritten signature in black ink, reading "Tracy Kenney". The signature is written in a cursive, flowing style. The first name "Tracy" is written with a large, looped 'T' and the last name "Kenney" is written with a large, looped 'K'.

Tracy Kenney
Attorney

TK/yc

cc: Hon. Brian Nestande, Member of the Assembly

Ms. June Clark, Deputy Legislative Affairs Secretary, Office of the Governor