



JUDICIAL COUNCIL OF CALIFORNIA

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

MARTIN HOSHINO
Administrative Director

CORY T. JASPERSON
Director, Governmental Affairs

August 10, 2016

Hon. Luis Alejo
Member of the Assembly
State Capitol, Room 2117
Sacramento, California 95814

Subject: AB 2380 (Alejo), as amended August 8, 2016 - Oppose

Dear Assembly Member Alejo:

The Judicial Council regrettably opposes AB 2380, which requires the court to provide the following information at the arraignment of a defendant who is charged with a felony and who is, or whom the court reasonably deems to be, the sole custodial parent of one or more minor children: (a) Judicial Council Form GC 250, the "Guardianship Pamphlet," (b) information regarding a Power of Attorney for a minor child, and, (c) information regarding trustline background examinations pertaining to child care providers as provided in Chapter 3.35 (commencing with Section 1596.60) of Division 2 of the Health and Safety Code.

The Judicial Council has several concerns about the bill. Because the information would be provided at felony arraignment, the amount of time between an arrest and arraignment, potentially lasting beyond the length of a long weekend, the custody of the minor child or children would be unresolved for days on end. Furthermore, criminal courts are not equipped to answer questions that a defendant may have about child custody issues. Judges and criminal defense attorneys may have little or no experience in the area, and social workers are rarely available for consultation. Additionally, the council is concerned that the logistical requirements

imposed by the bill could require significant and costly adjustments to the felony arraignment process, including determining, at the time of arraignment, which defendants have sole custody of a child or children, and the potential consequences if the court fails to give proposed admonition, which raises the possibility that the defendant could later set aside his or her plea on that basis.

Finally, the council is concerned that requiring courts to provide the "Guardianship Pamphlet" likely will not provide the appropriate information to a defendant who are sole-custodial parent of minor and the information relating to "trustline background examinations" is not likely to be helpful because it relates to childcare and not custody and the background checks are costly.

While the council acknowledges that the bill raises significant issues of concern related to the care and custody of children of criminal defendants, we do not believe that this proposal will accomplish these goals. As was suggested to your staff during multiple discussions over the last few months, information on temporary guardianships should be provided to defendants at the time of arrest and/or booking into jail, rather than delaying providing this information until a defendant appears in front of a judge.

For these reasons, the Judicial Council regretfully opposes AB 2380.

Sincerely,



Sharon Reilly
Attorney

CTJ/SR/ANH/yc-s

cc: Mr. Daniel Seeman, Deputy Legislative Affairs Secretary, Office of the Governor
Mr. Martin Hoshino, Administrative Director, Judicial Council of California



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Director, Governmental Affairs

August 23, 2016

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

Subject: AB 2380 (Alejo) – Request for Veto

Dear Governor Brown:

The Judicial Council respectfully requests your veto on AB 2380, which requires the court to provide information on so-called informal guardianships for minors at the arraignment of a defendant who is charged with a felony and who is, or whom the court reasonably deems to be, the sole custodial parent of one or more minor children. Specifically, the bill requires the court to provide (a) Judicial Council Form GC 250, the “Guardianship Pamphlet,” (b) information regarding a Power of Attorney for a minor child, and, (c) information regarding trustline background examinations pertaining to child care providers as provided in Chapter 3.35 (commencing with Section 1596.60) of Division 2 of the Health and Safety Code.

The Judicial Council has several concerns with the bill. Because the information would be provided at felony arraignment, the amount of time between an arrest and arraignment, potentially lasting beyond the length of a long weekend, could leave the question of the custody of the minor child or children unresolved for days on end. Furthermore, criminal courts are not equipped to answer questions that a defendant may have about child custody issues. Judges and criminal defense attorneys may have little or no experience in the area, and social workers are

Hon. Edmund G. Brown, Jr.

August 23, 2016

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rarely available for consultation. Additionally, the council is concerned that the logistical requirements imposed by the bill could require significant and costly adjustments to the felony arraignment process, including determining, at the time of arraignment, which defendants have sole custody of a child or children, and the potential consequences if the court fails to give proposed admonition, raising the possibility that the defendant could later seek to set aside his or her plea on that basis alone.

Finally, the council is concerned that requiring courts to provide the "Guardianship Pamphlet" will not provide the appropriate information to a defendant who is the sole custodial parent of a minor, and the information relating to "trustline background examinations" is not likely to be helpful because it relates to childcare, and not to any type of legal custody. Additionally, the background checks related to these examinations are expensive and would impose an unfunded cost on the courts.

While the council acknowledges that the bill raises significant issues of concern related to the care and custody of children of criminal defendants, and stems from a tragic case in the author's district, we do not believe that AB 2380 is the appropriate way to address these important concerns. The appropriate time to share information on temporary guardianships with defendants would be at the time of arrest and/or booking into jail, rather than delaying providing this information until a defendant appears in front of a judge.

For these reasons, the Judicial Council requests your veto on AB 2380.

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

Sincerely,



Cory T. Jasperson
Director, Governmental Affairs

CTJ/SR/ANH/yc-s

cc: Hon. Luis Alejo, Member of the Assembly

Mr. Daniel Seeman, Deputy Legislative Affairs Secretary, Office of the Governor

Mr. Martin Hoshino, Administrative Director, Judicial Council of California