


[Home](#)
[Bill Information](#)
[California Law](#)
[Publications](#)
[Other Resources](#)
[My Subscriptions](#)
[My Favorites](#)

## AB-957 Family law: gender identity. (2023-2024)

SHARE THIS:



Date Published: 09/08/2023 09:00 PM

ENROLLED SEPTEMBER 08, 2023

PASSED IN SENATE SEPTEMBER 06, 2023

PASSED IN ASSEMBLY SEPTEMBER 08, 2023

AMENDED IN SENATE AUGUST 17, 2023

AMENDED IN SENATE JULY 03, 2023

AMENDED IN SENATE JUNE 05, 2023

AMENDED IN ASSEMBLY MARCH 13, 2023

CALIFORNIA LEGISLATURE— 2023–2024 REGULAR SESSION

### ASSEMBLY BILL

**NO. 957**

**Introduced by Assembly Member Wilson  
(Principal coauthor: Senator Wiener)**

**February 14, 2023**

An act to amend Section 3011 of the Family Code, relating to family law.

### LEGISLATIVE COUNSEL'S DIGEST

AB 957, Wilson. Family law: gender identity.

Existing law governs the determination of child custody and visitation in contested proceedings and requires the court, for purposes of deciding custody, to determine the best interests of the child based on certain factors, including, among other things, the health, safety, and welfare of the child.

This bill, for purposes of this provision, would include a parent's affirmation of the child's gender identity or gender expression as part of the health, safety, and welfare of the child.

This bill would incorporate additional changes to Section 3011 of the Family Code proposed by SB 599 to be operative only if this bill and SB 599 are enacted and this bill is enacted last.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** Section 3011 of the Family Code is amended to read:

**3011.** (a) In making a determination of the best interests of the child in a proceeding described in Section 3021, the court shall, among any other factors it finds relevant and consistent with Section 3020, consider all of the following:

(1) (A) The health, safety, and welfare of the child.

(B) As used in this paragraph, the health, safety, and welfare of the child includes, among other comprehensive factors, a parent's affirmation of the child's gender identity or gender expression. Affirmation includes a range of actions and will be unique for each child, but in every case must promote the child's overall health and well-being.

(2) (A) A history of abuse by one parent or another person seeking custody against any of the following:

(i) A child to whom the parent or person seeking custody is related by blood or affinity or with whom the parent or person seeking custody has had a caretaking relationship, no matter how temporary.

(ii) The other parent.

(iii) A parent, current spouse, or cohabitant of the parent or person seeking custody, or a person with whom the parent or person seeking custody has a dating or engagement relationship.

(B) (i) As a prerequisite to considering allegations of abuse, the court may require independent corroboration, including, but not limited to, written reports by law enforcement agencies, child protective services or other social welfare agencies, courts, medical facilities, or other public agencies or private nonprofit organizations providing services to victims of sexual assault or domestic violence.

(ii) As used in this paragraph, "abuse against a child" means "child abuse or neglect" as defined in Section 11165.6 of the Penal Code.

(iii) Abuse against another person, as described in clause (ii) or (iii) of subparagraph (A), means "abuse" as defined in Section 6203.

(3) The nature and amount of contact with both parents, except as provided in Section 3046.

(4) (A) The habitual or continual illegal use of controlled substances or the habitual or continual abuse of alcohol or prescribed controlled substances by either parent. Before considering these allegations, the court may first require independent corroboration, including, but not limited to, written reports from law enforcement agencies, courts, probation departments, social welfare agencies, medical facilities, rehabilitation facilities, or other public agencies or nonprofit organizations providing drug and alcohol abuse services.

(B) As used in this paragraph, "controlled substances" has the same meaning as defined in the California Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code).

(5) (A) When allegations about a parent pursuant to paragraph (2) or (4) have been brought to the attention of the court in the current proceeding and the court makes an order for sole or joint custody or unsupervised visitation to that parent, the court shall state its reasons in writing or on the record. In these circumstances, the court shall ensure that an order regarding custody or visitation is specific as to time, day, place, and manner of transfer of the child as set forth in subdivision (c) of Section 6323.

(B) This paragraph does not apply if the parties stipulate in writing or on the record regarding custody or visitation.

(b) Notwithstanding subdivision (a), the court shall not consider the sex, gender identity, gender expression, or sexual orientation of a parent, legal guardian, or relative in determining the best interests of the child.

**SEC. 1.5.** Section 3011 of the Family Code is amended to read:

**3011.** (a) In making a determination of the best interests of the child in a proceeding described in Section 3021, the court shall, among any other factors it finds relevant and consistent with Section 3020, consider all of the following:

(1) (A) The health, safety, and welfare of the child.

(B) As used in this paragraph, the health, safety, and welfare of the child includes, among other comprehensive factors, a parent's affirmation of the child's gender identity or gender expression. Affirmation includes a range of actions and will be unique for each child, but in every case must promote the child's overall health and well-being.

(2) (A) A history of abuse by one parent or another person seeking custody against any of the following:

(i) A child to whom the parent or person seeking custody is related by blood or affinity or with whom the parent or person seeking custody has had a caretaking relationship, no matter how temporary.

(ii) The other parent.

(iii) A parent, current spouse, or cohabitant of the parent or person seeking custody, or a person with whom the parent or person seeking custody has a dating or engagement relationship.

(B) (i) As a prerequisite to considering allegations of abuse, the court may require independent corroboration, including, but not limited to, written reports by law enforcement agencies, child protective services or other social welfare agencies, courts, medical facilities, or other public agencies or private nonprofit organizations providing services to victims of sexual assault or domestic violence.

(ii) As used in this paragraph, "abuse against a child" means "child abuse or neglect" as defined in Section 11165.6 of the Penal Code.

(iii) Abuse against another person, as described in clause (ii) or (iii) of subparagraph (A), means "abuse" as defined in Section 6203.

(3) The nature and amount of contact with both parents, including as provided in Sections 3046 and 3100.

(4) (A) The habitual or continual illegal use of controlled substances or the habitual or continual abuse of alcohol or prescribed controlled substances by either parent. Before considering these allegations, the court may first require independent corroboration, including, but not limited to, written reports from law enforcement agencies, courts, probation departments, social welfare agencies, medical facilities, rehabilitation facilities, or other public agencies or nonprofit organizations providing drug and alcohol abuse services.

(B) As used in this paragraph, "controlled substances" has the same meaning as defined in the California Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code).

(5) (A) When allegations about a parent pursuant to paragraph (2) or (4) have been brought to the attention of the court in the current proceeding and the court makes an order for sole or joint custody or unsupervised visitation to that parent, the court shall state its reasons in writing or on the record that the order is in the best interest of the child and protects the safety of the parties and the child. In these circumstances, the court shall ensure that an order regarding custody or visitation is specific as to time, day, place, and manner of transfer of the child as set forth in subdivision (c) of Section 6323.

(B) Nothing in this paragraph eliminates the requirement that the contents of the stipulation be in the best interest of the child and be specific as to time, day, place, and manner of transfer of the child if the parties do stipulate in writing or on the record regarding custody or visitation.

(b) Notwithstanding subdivision (a), the court shall not consider the sex, gender identity, gender expression, or sexual orientation of a parent, legal guardian, or relative in determining the best interests of the child.

**SEC. 2.** Section 1.5 of this bill incorporates amendments to Section 3011 of the Family Code proposed by both this bill and Senate Bill 599. That section shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2024, (2) each bill amends Section 3011 of the Family Code, and (3) this bill is enacted after Senate Bill 599, in which case Section 1 of this bill shall not become operative.