

California Family Code

Section 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) The health, safety, and welfare of the child.

(2)

(A) A history of abuse by one parent or any other 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) 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. As used in this paragraph, “abuse against a child” means “child abuse and neglect” as defined in [Section 11165.6 of the Penal Code](#) and abuse against any other person 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) The habitual or continual illegal use of controlled substances, the habitual or continual abuse of alcohol, or the habitual or continual abuse of 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. 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 any 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.

Amended by Stats. 2022, Ch. 28, Sec. 45. (SB 1380) Effective January 1, 2023.

California Family Code

Section 3183

(a) Except as provided in [Section 3188](#), the mediator may, consistent with local court rules, submit a recommendation to the court as to the custody of or visitation with the child, if the mediator has first provided the parties and their attorneys, including counsel for any minor children, with the recommendations in writing in advance of the hearing. The court shall make an inquiry at the hearing as to whether the parties and their attorneys have received the recommendations in writing. If the mediator is authorized to submit a recommendation to the court pursuant to this subdivision, the mediation and recommendation process shall be referred to as “child custody recommending counseling” and the mediator shall be referred to as a “child custody recommending counselor.” Mediators who make those recommendations are considered mediators for purposes of Chapter 11 (commencing with [Section 3160](#)), and shall be subject to all requirements for mediators for all purposes under this code and the California Rules of Court. On and after January 1, 2012, all court communications and information regarding the child custody recommending counseling process shall reflect the change in the name of the process and the name of the providers.

(b) If the parties have not reached agreement as a result of the mediation proceedings, the mediator may recommend to the court that an investigation be conducted pursuant to Chapter 6 (commencing with [Section 3110](#)) or that other services be offered to assist the parties to effect a resolution of the controversy before a hearing on the issues.

(c) In appropriate cases, the mediator may recommend that restraining orders be issued, pending determination of the controversy, to protect the well-being of the child involved in the controversy.

Amended by Stats. 2010, Ch. 352, Sec. 16. (AB 939) Effective January 1, 2011.

California Family Code

Section 3042

(a) If a child is of sufficient age and capacity to reason so as to form an intelligent preference as to custody or visitation, the court shall consider, and give due weight to, the wishes of the child in making an order granting or modifying custody or visitation.

(b) In addition to the requirements of [subdivision \(b\) of Section 765 of the Evidence Code](#), the court shall control the examination of a child witness so as to protect the best interest of the child.

(c) If the child is 14 years of age or older and wishes to address the court regarding custody or visitation, the child shall be permitted to do so, unless the court determines that doing so is not in the child's best interest, in which case, the court shall state its reasons for that finding on the record.

(d) This section does not prevent a child who is less than 14 years of age from addressing the court regarding custody or visitation, if the court determines that is appropriate pursuant to the child's best interest.

(e) If the court precludes the calling of a child as a witness, the court shall provide alternative means of obtaining input from the child and other information regarding the child's preferences.

(f)

(1) Except as provided in paragraph (2), the court shall not permit a child addressing the court regarding custody or visitation to do so in the presence of the parties. The court shall provide an alternative to having the child address the court in the presence of the parties in order to obtain input directly from the child.

(2) Notwithstanding paragraph (1), the court may permit the child addressing the court regarding custody or visitation to do so in the presence of the parties if the court determines that doing so is in the child's best interest and states its reasons for that finding on the record. In determining the child's best interest under this paragraph, the court shall consider whether addressing the court regarding custody or visitation in the presence of the parties is likely to be detrimental to the child.

(g) To assist the court in determining whether the child wishes to express a preference or to provide other input regarding custody or visitation to the court, a minor's counsel, an evaluator, an investigator, or a child custody recommending counselor shall indicate to the judge that the child wishes to address the court, or the judge may make that inquiry in the absence of that request. A party or a party's attorney may also indicate to the judge that the child wishes to address the court or judge.

(h) If a child informs the minor's counsel, an evaluator, an investigator, or a child custody recommending counselor at any point that the child has changed their choice with respect to addressing the court, the minor's counsel, evaluator, investigator, or child custody recommending counselor shall, as soon as feasible, indicate to the judge, the parties or their attorneys, and other professionals serving on the case that the child has changed their preference.

(i) This section does not require the child to express to the court a preference or to provide other input regarding custody or visitation.

(j) The Judicial Council shall, no later than January 1, 2023, develop or amend rules as necessary to implement this section.

Amended by Stats. 2021, Ch. 768, Sec. 2. (SB 654) Effective January 1, 2022.

VENTURA COUNTY SUPERIOR COURT RULES:

FAMILY LAW CHILD CUSTODY RECOMMENDING COUNSELING

RULE 9.30 GENERAL PROVISIONS

1. Mediation of disputes over custody, visitation, or both, is required by law and provided by the Ventura County Family Court Services section of the Superior Court pursuant to the provisions of Family Code Chapter 11, (Sections 3160 et seq.).

2. Additionally, the Ventura County Family Courts require parties involved in the dispute to participate in Family Court Orientation prior to any mediation. It is within the discretion of the court to reschedule the mediation, continue the hearing to which it relates, and make interim orders if either party does not participate in Orientation. There is no fee for Orientation. **DO NOT BRING CHILDREN TO ORIENTATION.**

3. In accordance with California Family Code §3183, where mediation has not resulted in a full agreement between the parties on all custody and visitation issues, the mediator may recommend the following: a. A parenting plan, addressing issues of legal and physical custody, visitation or time share, and other orders related to the best interests of the child(ren); b. More mediation time is needed (and, if agreed by the parties or ordered by the court, the mediator will make specified collateral contacts); c. Appointment of an attorney to represent the children under Family Code §3150; d. A psychological evaluation of the parties under Evidence Code §730; e. An investigation or evaluation pursuant to Family Code §3110; and, f. Restraining orders be issued to protect the well-being of the child(ren) involved in the controversy under Family Law Code §3183(c).

4. In accordance with the provisions of Family Code §3183, the mediation process will be referred to as ‘child custody recommending counseling’ (or ‘CCRC’), and the mediator engaged in that process will be referred to as the ‘child custody recommending counselor’ (or ‘RC’).

5. Absent full disclosure and written consent, a RC shall not participate in the mediation process if an attorney-client or psychotherapist-patient relationship or any business relationship exists or existed between the mediator and any party, counsel or witness.

6. There shall be no ex parte communication between the RC and the court without appropriate prior notice to both parties and/or their attorneys providing an opportunity to appear and be heard except as provided in the provisions of Family Code §216. Ventura County Superior Court Rules 29 (Revised eff. July 1, 2020)

RULE 9.31 MATTERS REQUIRING CCRC Whenever a case involves a dispute over parental responsibilities or custody or visitation, the matter shall be referred to Family Court Services for CCRC. Except for temporary orders pending CCRC, the CCRC session must occur prior to any court hearing on the issues. (Revised eff. January 1, 2012)

RULE 9.32 SETTING A MATTER FOR CCRC

A. PROCEDURE. CCRCs shall be calendared at the time of the filing of moving papers requesting a hearing on a contested custody or visitation issue. At the time of filing, the requesting party will be given a CCRC/Orientation Appointment Sheet to be served on the responding party along with the moving papers. In addition parties shall be required to complete a CCRC Intake Questionnaire.

It shall be the responsibility of the requesting party to schedule the appointment, and to give notice to the other party or their counsel at least ten (10) days before the appointment. The CCRC Intake Questionnaire form is available from the court clerk's office.

B. It is within the discretion of the court to hear other issues in the same case prior to the CCRC. It is further within the discretion of the court to make temporary orders to insure that both parents have custodial time with the children, to address safety concerns, or to otherwise protect the best interest of the children pending CCRC.

C. If at the time of hearing a matter has not been to CCRC due to the moving party's lack of knowledge that parental responsibility or access was in dispute, or the parties being unfamiliar with procedure, the court may refer the matter to CCRC and continue the hearing in order to allow for CCRC prior to such hearing. The court shall also have the discretion to order CCRC the same day in an emergency or when it is deemed by the court that it would be a burden to the parties not to proceed the same day.

D. The assignment of any particular case to one of the RCs will be at the discretion of the manager or supervisor of Family Court Services. If a party from a family whose issues have not been previously mediated objects to being assigned to a particular RC, the party or his or her counsel must make a request for a different RC to Family Court Services at the first possible date after having an opportunity to learn of the RC assignment. Such request will be honored only one time per party per family. Failure to make such preemptory challenge in a timely manner will constitute a waiver of that challenge.

E. If a party to a previously mediated matter objects to reassignment to the prior RC, that party, or his or her counsel, may notify Family Court Services of that objection, and request CRC, at the first possible date after having an opportunity to learn of the RC assignment. The CCRC will then be scheduled for co-CCRC, with the original RC and another member of the CCRC staff selected by the Manager or Supervisor of Family Court Services. The co-RC will observe, but not participate in, the CCRC for the purpose of assuring that it is conducted in a fair and appropriate manner. Failure to make such request for a co-CCRC in a timely manner shall constitute a waiver of that challenge.

F. Absent a court order to the contrary, children six (6) years of age and older who are involved in the controversy shall always be brought to the initial CCRC session. The court may impose sanctions for the willful failure to produce a child on the party who has the ability to do so. Children under the age of six (6) years of age and other minor siblings, need not be brought to CCRC unless Family Court Services specifically directs that they attend, or by order of the court. Children six (6) years of age and older shall also be brought to subsequent CCRC sessions unless otherwise determined by the court or Family Court Services.

G. In the discretion of (1) the court or (2) the Manager or Supervisor of Family Court Services (subject to review by the court prior to an evidentiary hearing), CCRC may not be required if one of the following conditions is met: 1. The same issue has been addressed in a CCRC session within the past year; or 2. There has been a previous CCRC in the case and the dispute involves only issues of logistics, procedure or if it otherwise appears that CCRC is unlikely to substantially assist the parties or the court.

H. The CCRC appointment may be advanced or continued, so long as it does not impact the date of the corresponding court hearing, by agreement of the parties and Family Court Services or by order of the court. I. Except for good cause shown, the fact that the parties continue to reside in the same home shall not constitute a reason to preclude CCRC, if CCRC will assist the parties in planning for their separation. (Revised eff. July 1, 2023)

RULE 9.33 CCRC PROCESS

A. In all cases in which there is a dispute as to custody and/or visitation, the parties may stipulate to private CCRC instead of having the Ventura Superior Court Family Court Services Department conduct CCRC pursuant to Family Code § 3170. Should the parties elect to participate in private CCRC, they shall enter into a written stipulation. The form "Stipulation and Order for Private CCRC" shall be mandatory and may be obtained in the office of the Clerk of the Ventura Superior Court. Any private RC shall meet the minimum statutory requirements of a court RC.

B. Attorneys need not be present at the commencement of CCRC but shall be available by telephone during CCRC and shall be present in the CCRC department for the last half hour of CCRC or at another time as directed by the RC. Attorneys are responsible for communicating with the RC at the beginning of the CCRC to determine the time when they will be required to be present.

C. In all court CCRCs, the RC shall, in conducting the CCRC, be limited to those documents timely filed with the court.

D. CCRC sessions are customarily conducted with only the parties and the children. The RC will interview children involved in the controversy when the RC considers the interview appropriate or necessary. The RC has the discretion to interview or include other immediate or significant family members if the RC believes that it will be helpful to resolution. The RC shall not contact any other source, except as permitted by California Rules of Court, rule 5.215 or to investigate concerns relating to child abuse or neglect under Penal Code §11164 et seq., unless both parties and counsel, if represented, give written consent to the contact, or by order of the court. It is the responsibility of each party to arrange for proposed collateral contacts to be available by telephone during the CCRC appointment

E. Use of audio or visual recording devices of any type is not permitted at CCRC.

F. All cases involving allegations of domestic violence, shall be screened by a RC for determining the necessity for separate waiting areas for the parties, and separate CCRC sessions, to insure safety and facilitate the CCRC.

G. Support persons will be permitted to attend as provided by Family Code §6303.

H. The RC may meet with the parties separately or together in a joint session, in order to isolate the points of agreement and disagreement in an effort to settle the dispute.

I. Upon completion of the CCRC, the RC shall complete a Report of RC which will incorporate proposed orders for a parenting plan based on the parties' agreement or the RC's recommendation, and/or will inform the court of related information and/or the RC's recommendations as to the need for orders relating to issues such as: 1. More CCRC time and/or collateral contacts; 2. A child custody investigation or evaluation of this family pursuant to Family Code §§3110 et seq.; 3. A psychological evaluation of the parties; 4. Appointment of an attorney for the child(ren); 5. The issuance of restraining orders to protect the well-being of the child(ren).

J. Following the CCRC session, the RC shall meet with counsel and/or unrepresented parties. 1. If the parties have reached an agreement, the RC will review the terms of the proposed Order with the parties and/or counsel, obtain their signatures, and deliver it to the court for approval. 2. If no agreement has been reached, the RC will provide them with a copy and review the terms of the Report of the RC and proposed Order and advise them that the RC may be called as a witness by either party, subject to the right of cross examination by the other. (Revised eff. January 1, 2013)

RULE 9.34 CCRC ORDERS Stipulations and proposed orders which have been signed by both parties and their counsel shall be forwarded to the family law judge for issuance of the order. (Effective January 1, 2012)

RULE 9.35 GRIEVANCE PROCEDURE If a party alleges that an unprofessional or inappropriate act has occurred on the part of the RC during the course of the CCRC, he or she should bring that to the attention of the court at the first opportunity. If time permits before a scheduled hearing, the party should communicate the allegations in a letter to the court with a copy served on the other party. The court, in assessing the complaint, may ask Family Court Services to evaluate the complaint and report back to the court. The court will determine whether a new RC is to be appointed.

Parenting Plan Coordination / Parenting Coordination

■ “ ... no California court can appoint a Parenting Coordinator without the consent of the parents, and [] no California statute or court rule authorizes the appointment of a Parenting Coordinator absent such consent.”

- Local Rules of Court, Monterey County Superior Court, Chapter 11 - Parenting Coordinator Guidelines (Child Custody and Visitation), pg. 17

■ “ ... there is no statute or state-wide parenting coordination court rule in California. ...”

- Family Court Review, Volume 58, Number 3, July 2020, The Journal of The Association of Family and Conciliation Courts, “New AFCC Guidelines for Parenting Coordination (2019),” Task Force, pg. 678

■ “There is no specific legal authority for appointment of a Parenting Coordinator. For this reason, a Parenting Coordinator may only be appointed upon the stipulation of the parties. Absent a stipulation for appointment of a Parenting Coordinator, the court does have authority to appoint a third party (*not a Parenting Coordinator*) [*emphasis added*] under one or more of the following Code sections:

1. An expert witness under Evidence Code section 730;
2. A referee under Code of Civil Procedure section 638 *et seq.*;
3. An investigator or evaluator under Family Code section 3110 *et seq.*;
4. An arbitrator under Code of Civil Procedure section 1280; and
5. A mediator under Family Code sections 3160-3186.”

- Local Rules of Court, Monterey County Superior Court, Chapter 11 - Parenting Coordinator Guidelines (Child Custody and Visitation), pg. 3

■ See Family Law News, Issue 2, 2008, Vol. 30, No. 2, “Parenting Plan Coordinators - Los Angeles County Family Law Section Revises Its Stipulation,” pg. 9 for a brief discussion why the following Codes *do not apply* to the work of the PPC ...

- Family Code Section 290
- Family Code Section 3160
- Evidence Code Section 730
- Code of Civil Procedure Sections 638 and 639
- Code of Civil Procedure Section 1280 et seq.

“Because none of the existing codes fit the role of the PPC, ... the stipulation [for the PPC] is unique. ... [and] the hallmark of the process is that it can only be by the agreement of the parties.”