



Judicial Council of California

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REPORT TO THE JUDICIAL COUNCIL

Item No.: 25-036

For business meeting on December 12, 2025

Title

Judicial Council–Sponsored Legislation:
Alternative Methods for Family Courts to
Give Notice of Child Custody Mediation

Report Type

Action Required

Effective Date

January 1, 2027

Rules, Forms, Standards, or Statutes Affected

Fam. Code, § 3176

Date of Report

November 12, 2025

Recommended by

Family and Juvenile Law Advisory
Committee
Hon. Tari L. Cody, Cochair
Hon. Stephanie E. Hulsey, Cochair

Contact

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Executive Summary

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2027, sponsor legislation to amend Family Code section 3176 to allow for alternative methods for the court to give notice to the parties about child custody mediation and require specific content in the notice for cases involving domestic violence. The proposal originates from a group of Family Court Services directors across the state seeking to modernize the procedures for providing notice of child custody mediation by more cost-effective methods, including electronic delivery.

Recommendation

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council sponsor legislation to amend Family Code section 3176(b) and (c), effective January 1, 2027, to allow for alternative methods for the court to give notice to the parties about child custody mediation and require specific content in the notice for cases involving domestic violence.

The proposed amended Family Code section is attached at page 8.

Relevant Previous Council Action

The Judicial Council has taken no previous action relevant to this proposal.

Analysis/Rationale

Family Code section 3176(b)

The committee recommends that subdivision (b) of section 3176 be deleted. This subdivision requires that notice of mediation be given by certified mail, return receipt requested, postage prepaid, to the last known address. In place of the current language, the committee circulated a proposal that the Legislature amend subdivision (b) to provide that notice of mediation be given by one of the following five methods:

- (1) When all parties are present in court for a hearing,
 - (A) In writing;
 - (B) As stated on the record with a court reporter present; or
 - (C) As stated in court and reflected in the minutes.
- (2) In writing from court staff and provided to a party who is present at the courthouse;
- (3) As part of a notice of hearing or court order filed by the court clerk, provided to a party, and required to be served on the other party;
- (4) By mail, express mail, overnight delivery, or facsimile transmission; or
- (5) By electronic notification to parties who are represented by counsel and by the consent of parties who are self-represented as permitted under Code of Civil Procedure section 1010.6 and rule 2.251 of the California Rules of Court.

The five methods were developed in collaboration with Family Court Services directors, managers, and supervisors to reflect how notice is provided in family court matters unrelated to child custody mediation. The intention is to permit the court to choose the method of service that is appropriate for each party.

With respect to the proposed amendment in (b)(1), the committee took into consideration that not all family courts have court reporters available to record court hearings and document when notice of mediation is given to court users (Link A). Because family courts without court reporters do create minutes of the hearings at which the parties are present, the committee proposed an amendment to permit courts three options to give notice of mediation when all parties are present in court for a hearing (in writing, as stated on the record when a court reporter is present, or as stated in court and reflected in the minutes to document that notice was given when a court reporter is not available). These changes were intended to acknowledge that notice can be given other than just on the record.

Family Code section 3176(c)

In addition, the committee circulated for comment a suggestion that subdivision (c) of section 3176 be amended to require that the notice of mediation include that information about communications involving a mediator must be kept confidential. The notice must also inform the parties about the right to meet with the mediator separately and at separate times when the case involves domestic violence. The specific language proposed referenced Family Code section 3181 and rule 5.215 of the California Rules of Court.

Policy implications

There were no policy implications that contributed to controversy or intense debate within the committee about the proposal or the recommendations in this report.

The recommendation to amend Family Code section 3176(b) and (c):

- Is intended to increase efficiencies in the delivery of the notice of mediation, provide significant cost savings, and reduce reliance on paper.¹ Eliminating the requirement for the mediation notice to be sent exclusively by one costly method would result in considerable savings to the courts.
- Is intended to increase the parties' access to court services. Eliminating the requirement that the notice of mediation only be served by certified mail, return receipt requested, could effectively reduce the waiting period for the parties to participate in mandatory child custody mediation, especially if the parties consent to electronic service of the mediation notice. In turn, this could result in a more timely resolution of the issues, either in mediation or at the court hearing.
- Would help parties understand their right to meet with a mediator separately in cases involving domestic violence, while also helping to ensure that family courts meet their obligation to "provide information to the parties regarding their options for separate sessions under Family Code section 3181 and rule 5.215 of the California Rules of Court."²

¹ In July 2024, the U.S. Postal Service increased the certified mail fee to \$4.85. The Return Receipt (PS Form 3811 or "green card") increased to \$4.10, and the Electronic Return Receipt increased to \$2.62. See www.usps.com/ship/insurance-extra-services.htm.

² Rule 5.215(d)(6) of the California Rules of Court provides, in pertinent part, that

[i]n a Family Court Services case in which there has been a history of domestic violence between the parties or in which a protective order as defined in Family Code section 6218 is in effect, at the request of the party who is alleging domestic violence in a written declaration under penalty of perjury or who is protected by the order, the Family Court Services mediator, counselor, evaluator, or investigator must meet with the parties separately and at separate times.

If domestic violence is discovered after mediation or evaluation has begun, the Family Court Services staff member assigned to the case must confer with the parties separately regarding safety-related issues and the option of continuing in separate sessions at separate times.

- Would advance a judicial branch goal of facilitating the use of technology in the courts. (Judicial Council of Cal., *Strategic Plan for Technology 2023–2026* (September 2022) (Link B). Specifically, it promotes objective 5.2 of “[e]nsur[ing] current rules and legislation do not inhibit the use of technology solutions.” (*Id.* at p. 18.)
- Would advance Goal III of *The Strategic Plan for California’s Judicial Branch* (Modernization of Management and Administration) to “improve operations through innovation, technology, and the sharing of effective practices” and “efficient processing and resolution of all cases” (Link C).

Comments

This proposal was open for public comment from April 11 through May 23, 2025. The committee received comments from 20 commenters, including the Executive Committee of the California Lawyers Association’s Family Law Section, the Family Violence Appellate Project (FVAP) (submitted jointly with 13 legal organizations), a bar association, and the Superior Courts of Inyo, Los Angeles, Orange, and Sacramento Counties. Three of the comments agreed with the proposal. Sixteen comments agreed, if modified. One comment did not indicate a position but stated that the proposal appropriately addresses the stated purpose and indicated that they do not have any alternative or additional language to propose as amendments at this time.

All comments and the committee’s responses are provided in the attached chart of comments at pages 9–15.

Comments requesting changes to subdivision (b)

The committee received comments from FVAP suggesting alternative language for subdivisions (b) and (b)(1). The commenters expressed concern that referencing the minutes of a court hearing or a court reporter’s record of the hearing would be interpreted as the court being able to provide the notice of mediation by these two methods without giving the parties a separate written notice of mediation. According to these commenters:

[T]he statute should provide that, if the court is giving notice in court to self-represented parties, the court must still also provide the self-represented parties *written notice* of mediation. Self-represented litigants—particularly those experiencing trauma—may not recall verbal notice of mediation and may not be taking notes. (And electronic recording for personal notes is generally prohibited per Cal. Rules of Court, rule 1.150(d).) [¶] Or they may write down the wrong date/time/location, and so may miss a mediation session. (Or some parents, such as abusers, may *say* they wrote down the wrong date/time/location to further drag out the process.) And many self-represented individuals would not be able to timely obtain a transcript to see what was ordered.

In response, the committee recommends that the language in subdivision (b) generally provide that “[n]otice of mediation shall be given in writing to the parties by one of the following

methods.” Further, the committee recommends that (b)(1) be simplified to read “[f]rom court staff when all parties are present for a court hearing.”

With respect to (b)(2), the committee recommends that it be simplified from “in writing from court staff and provided to a party who is present at the courthouse” to “[f]rom court staff when a party is present at the courthouse.”

Further, to address the concerns raised by FVAP, the committee recommends that subdivision (c) be amended to specifically state that each court must develop a notice of mediation to serve as the required writing in (b). Further, the committee recommends that the statute include a new subdivision (d) to provide that the minutes of a court hearing or a court reporter’s transcript may not serve as the writing required in (b).

Finally, FVAP suggested that subdivision (b) be amended to provide that “[t]he notice of mediation shall be given *in a manner accessible to the parties* by one of the following methods.” The committee appreciates the commenters’ intention to improve the statute and believes that it is always a best practice that communications from the court to the parties be accomplished in a manner that is accessible. However, the committee does not recommend that the statute be further amended. Adding the proposed language would impose an additional and affirmative duty on court staff to determine how to draft each notice of mediation to meet the specific needs of each party in the case, even as to those parties who have not filed some form notifying the court of a disability. This would create an unfunded workload issue for the courts, which does not align with the purpose of the recommendation to provide cost savings to the courts relating to providing parties with a notice of mediation.

Comments requesting changes to subdivision (c)

FVAP suggested that the committee recommend that the Legislature add a third requirement for the content of the notice of mediation. They specifically requested including a new subdivision (c)(3) to require the following statement: “Parents can find the statutes and rules mentioned in the notice online, including a hyperlink where these laws can be found.”

The committee appreciates the commenter’s suggestions but does not agree. The committee recognizes that Family Court Services provides this type of information, along with many other resources, to all participants at the initial intake process, and as identified during the course of mediation. For courts that use paper notices of mediation, a hyperlink would not be a functional tool. Some courts already choose to use a QR code to provide this information in the notice of mediation given to the parties.

The committee prefers to allow courts the greatest flexibility to determine how best to present this information to the parties. To this end, the committee refrains from suggesting any language in the statute that would prevent the courts from choosing alternative methods of providing resources to parties, especially as the methods of communication (and technology) continue to evolve.

Finally, after reviewing all comments received with Family Court Services (FCS) directors, managers, and supervisors (who developed the initial proposal), the FCS group recommended changes to subdivision (c)(2) to better reflect the language of Family Code section 3181. The group indicated that the language as circulated for public comment was incomplete because section 3181 provides, in pertinent part, that, “at the request of the party alleging domestic violence, the mediator appointed shall meet with the parties separately and at separate times.” However, the language in (c)(2) as circulated did not provide that the party alleging domestic violence may request that the appointed mediator meet with the parties. The committee agreed with the FCS group and included the proposed amendment, among other changes, that it is recommending for Judicial Council sponsorship.

Alternatives considered

The committee considered alternative language to amend Family Code section 3176(b) that would incorporate various methods that family courts currently use to give notice to parties in the proceedings. For example, the committee considered proposing that notice by certified mail, return receipt requested, postage prepaid, to the last known address be among several other optional methods. However, because a document required to be served by certified or registered mail cannot be served by electronic means under Code of Civil Procedure section 1010.6(a)(2), the committee decided to propose that the Legislature strike that requirement from the statute.

Fiscal and Operational Impacts

The proposal increases the options that family courts have to give notice of child custody mediation without increasing workload or costs. It does not require the court to give notice by electronic delivery. Thus, courts and parties that are not able to send and receive the notice electronically, or do not consent, would not be impacted.

For courts and parties that have access to the technology to facilitate electronic delivery of the notice of mediation, electronic notification would be more efficient, and less costly, than mailing a paper notice. Overall, the Superior Court of Los Angeles County agreed with the committee’s position, stating, “The amendment would allow courts to provide notice in a more cost-effective manner, including electronic delivery. Thus, this proposal will provide cost savings and should not be difficult for courts of different sizes to implement.”

Attachments and Links

1. Fam. Code, § 3176, at page 8
2. Chart of comments, at pages 9–15
3. Link A: *Fact Sheet: Shortage of Certified Shorthand Reporters in California* (June 2024), <https://www4.courts.ca.gov/documents/Fact-Sheet-Shortage-of-Certified-Shorthand-Reporters-June2024.pdf>
4. Link B: *Strategic Plan for Technology 2023–2026* (September 2022), <https://courts.ca.gov/system/files/file/jctc-court-technology-strategic-plan.pdf>
5. Link C: *The Strategic Plan for California’s Judicial Branch*, www.courts.ca.gov/3045.htm

6. Link D: Code Civ. Proc., § 1010.6,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CCP§ionNum=1010.6
7. Link E: Cal. Rules of Court, rules 2.250–2.261 (filing and service by electronic means),
<https://www.courts.ca.gov/cms/rules/index.cfm?title=two>

Section 3176 of the Family Code would be sponsored to be amended, effective January 1, 2027, to read:

1 **§ 3176. Notice of mediation or hearing**

2
3 (a) * * *

4
5 (b) ~~Notice shall be given by certified mail, return receipt requested, postage prepaid, to~~
6 ~~the last known address.~~ Notice of mediation shall be given in writing to all parties
7 by one of the following methods:

8
9 (1) From court staff when all parties are present for a court hearing;

10
11 (2) From court staff when a party is present at the courthouse;

12
13 (3) As part of a notice of hearing or court order filed by the court clerk, provided
14 to a party, and served on the other party;

15
16 (4) By mail, express mail, overnight delivery, or facsimile transmission; or

17
18 (5) By electronic service on parties who are represented by counsel and by the
19 consent of parties who are self-represented, as permitted under Section
20 1010.6 of the Code of Civil Procedure and rule 2.251 of the California Rules
21 of Court.

22
23 (c) ~~Notice of mediation pursuant to Section 3188 shall state that all communications~~
24 ~~involving the mediator shall be kept confidential between the mediator and the~~
25 ~~disputing parties.~~ Each court shall develop a notice of mediation to serve as the
26 required writing in subdivision (b). The notice shall include that:

27
28 (1) All communications involving the mediator shall be kept confidential
29 between the mediator and the disputing parties pursuant to Section 3188; and

30
31 (2) Where there has been a history of domestic violence between the parties,
32 including allegations or a finding of domestic violence, or where a protective
33 order is in effect, the party alleging domestic violence may request that the
34 appointed mediator meet with the parties separately and at separate times as
35 provided by Section 3181 and rule 5.215 of the California Rules of Court.

36
37 (d) The minutes of a court hearing or a court reporter's transcript shall not serve as the
38 writing required in subdivision (b).

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Judicial Council–Sponsored Legislation: Alternative Methods for Family Courts to Give Notice of Child Custody Mediation Rules (Amend Fam. Code, § 3176)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
1.	California Lawyers Association Family Law Section Executive Committee (FLEXCOM) by Shannon Quinley FLEXCOM Legislation Chair and by Saul Bercovitch, Associate Executive Director Governmental Affairs	A	FLEXCOM agrees with this proposal.	The committee appreciates this comment.
2.	Family Violence Appellate Project (FVAP) by Jody Lewis, Senior Managing Attorney Jointly submitted by: California Protective Parents Association; California Women’s Law Center; Center for Access to QDROs; Community Legal Aid SoCal; Harriet Buhai Center for Family Law Jenesse Center; Lassen Family Services, Inc.; Law Foundation of Silicon Valley; Legal Aid Association of California; Public Counsel; Queen’s Bench Bar Association; Stopping Domestic Violence; and Survivor Justice Center.	AM	We appreciate the Advisory Committee’s commitment to providing alternative methods for providing notice of mediation. We nonetheless encourage the committee to revise the proposed statute in the following three ways. First, the statute should provide that, if the court is giving notice in court to self-represented parties, the court must still also provide the self- represented parties <i>written notice</i> of mediation. Self-represented litigants—particularly those experiencing trauma—may not recall verbal notice of mediation and may not be taking notes. (And electronic recording for personal notes is generally prohibited per Cal. Rules of Court, rule 1.150(d).) Or they may write down the wrong date/time/location, and so may miss a mediation session. (Or some parents, such as abusers, may	The committee appreciates the comments jointly submitted by the listed organizations. The committee agrees to recommend alternative language Family Code section 3176(b), (b)(1), and (b)(2). In response, the committee recommends that the language in section (b) generally provide that the notice of mediation shall be given in writing to the parties. Further, the committee recommends that subdivision (c) specify that each court shall develop a “Notice of Mediation” to serve at the required writing in (b) and that the minutes of a court hearing or a court reporter’s transcript shall not serve as the writing required in (b). ”

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	Commenter	Position	Comment	Committee Response
			<p>say they wrote down the wrong date/time/location to further drag out the process.) And many self-represented individuals would not be able to timely obtain a transcript to see what was ordered.</p> <p>(In FVAP’s experience, for instance, it can take several weeks <i>or months</i> to even get a response from a court reporter with an estimate for the transcript, let alone a copy of that actual transcript itself.) Plus, for some litigants it might also be challenging to timely obtain a minute order.</p>	See above response.
			<p>Second, FVAP also appreciates that the proposed amendment to Family Code section 3176 includes that the notice must state that where there is a history of domestic violence, the mediator shall meet with the parties separately and at separate times.</p> <p>Because most litigants are self-represented in family law (Stats. 2010, ch. 352 (AB 939), § 1, subd. (f)), references to other code sections within proposed Family Code section 3176 may be confusing. We suggest, therefore, the notice provided to parties of when/where their mediation will take place also include a provision explaining where on-line statutes and rules may be found to better assist litigants. (Suggested language is below.)</p>	<p>The committee appreciates the commenter’s suggestions. However, the committee does not agree to recommend that the Legislature amend the statute to require courts to include a provision on the notice of mediation explaining where on-line statutes and rules may be found online, along with a hyperlink where the statute and rule can be found online.</p> <p>The committee recognizes that Family Court Services provides this type of information, along with many other resources, to all participants at the initial intake process, and as identified during the course of mediation. For courts that use paper notices of mediation, a hyperlink would not be a functional tool. Some courts already choose to use a QR code to provide this information in the notices it provides to the parties in mediation.</p>

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	Commenter	Position	Comment	Committee Response
				The committee prefers to allow courts the greatest flexibility to determine how best to present this information to the parties. To this end, the committee refrains from suggesting any language in the statute that would prevent the courts from choosing alternative methods of providing resources to parties, especially as the methods of communication (and technology) continue to evolve.
			Third, FVAP respectfully asks that the proposed statute provide that the notice provided—however it is provided—is language-accessible , i.e., in the language of the party/parties required to attend mediation.	<p>The committee appreciates the commenters' intention to improve the amendments proposed to the statute. However, the committee does not recommend that it be further amended to provide that the notice be given “in a manner accessible to the parties.”</p> <p>Adding this language would impose an additional and affirmative duty on court staff to determine how to draft each notice of mediation to meet the specific needs of each party in the case, even as to those parties who have not filed some form notifying the court of a disability.</p> <p>The committee believes that it is always a good idea that communications from the court to the parties be accomplished in a manner that is accessible. However, it does not support the language as a requirement in Family Code section 3176 for the reason stated above.</p>

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	Commenter	Position	Comment	Committee Response
			Here is a potential way to incorporate these three suggestions into the proposed Family Code section 3176: “(b) The notice of mediation shall be given <i>in a manner accessible to the parties</i> by one of the following methods:	
			(1) When all parties are present in court for a hearing, <i>as stated on the record or in the minutes, along with written notice to self-represented parties;</i>	See above response.
			(2) In writing from	See above response.
			(c) The notice of mediation shall state that:	See above response.
			<i>(3) Parents can find the statutes and rules mentioned in the notice online, including a hyperlink where these laws can be found.”</i>	See above response.
3.	Orange County Bar Association by Mei Tseng, President	AM	No alternative or additional language to propose.	The committee appreciates this comment.
4.	Sharon Allred Remley Director of Self-Help Center/Family Law Facilitator/Small Claims Advisor Superior Court of Inyo County	A	All proposed amendments are appropriate. Thank you for doing this.	The committee appreciates this comment.
5.	Superior Court of Los Angeles County by Stephanie Kuo [title not provided]	AM	Family Code section 3176 requires notice of mediation by certified mail, return receipt requested, postage prepaid. The amendment would allow courts to provide notice in a more cost-effective manner, including electronic delivery. Thus, this proposal will provide cost	The committee appreciates this comment.

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	Commenter	Position	Comment	Committee Response
			savings and should not be difficult for courts of different sizes to implement.	
6.	Superior Court of Orange County Family Law and Juvenile Divisions by Katie Tobias, Operations Analyst	NI	<p><i>Does the proposal appropriately address the stated purpose?</i></p> <p>Yes, the proposal appropriately addresses the stated purpose</p>	The committee appreciates this comment.
			<p><i>Do commenters have alternative or additional language to propose as amendments to Family Code section 3176?</i></p> <p>Orange County does not have any alternative or additional language to propose as amendments at this time.</p>	The committee appreciates this comment.
			<p><i>Would the proposal provide any cost savings? If so, please quantify.</i></p> <p>No, the proposal does not appear to provide any cost savings.</p>	The committee believes that the proposal would provide cost savings by removing the requirement that courts provide notice of mediation to parties in various manners that are more cost-efficient than mailing each notice by certified mail, return receipt requested, postage prepaid.
			<p><i>What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case</i></p>	

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	Commenter	Position	Comment	Committee Response
			<i>management systems, or modifying case management systems?</i> Implementation will require communication to judicial officers and court staff, revising current procedures, revising local forms, and updating the case management system.	The committee appreciates this comment.
			<i>The proposed amendments do not specify any method for how consent from the self-represented party would be documented. Is this something that courts should address, or already have addressed in other procedures involving giving notice? Should this be addressed in a statute, rule of court, or local rule?</i> Self-represented parties must give consent by filing form EFS-005-CV (Consent to Electronic Service and Notice of Electronic Service Address) or form EFS-010 (Notice of Change of Electronic Service Address). If self-represented parties have not previously provided an email address, form MC-040 (Notice of Change of Address or Other Contact) is required to be filed as well.	The committee appreciates the comment and would consider recommending a rule of court to help implement any amendments to the statute that are enacted by the Legislature.
			<i>Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</i> Yes, 3 months would be sufficient time for Orange County.	The committee appreciates this comment.

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	Commenter	Position	Comment	Committee Response
			<i>How well would this proposal work in courts of different sizes?</i> Our court is a large court, and this could work for Orange County.	The committee appreciates this comment.
7.	Superior Court of Sacramento County by Julie Setzer, Director of Family Law and Probate Division	A	Agree with the proposed changes and recommend adding service methods to include: 1) Electronic notification under 1010.6(c) 2) Electronic service if express consent provided under California Rules of Court, rule 2.251.	The committee agrees to recommend amendments to Family Code section 3176, as noted in the comment.