



# GENDER AFFIRMATION AND CHILD CUSTODY

The topic of gender affirmation of minor children has been one that family law courts will be contending with for years to come. This is a very complicated and sensitive area of the law that is still in an evolutionary process, as is the psychological and medical science associated with gender-affirming care.

Last year, the California Legislature passed Assembly Bill 957, requiring parents to support a child's gender expression, or the parent could possibly lose custody or visitation with that child.

Gov. Gavin Newsom vetoed AB 957, which lawmakers passed earlier in September. The Assembly

approved the measure and sent it to the governor's desk on a party-line vote of 57-16.

Newsom's justification included: "...a court, under existing law, is required to consider a child's health, safety, and welfare when determining the best interests of a child in these proceedings, including the parent's affirmation of the child's gender identity. For these reasons, I cannot sign this bill."

When two parents get divorced and cannot agree on child custody, the decision is ultimately left up to judges. Judges must weigh a variety of factors when determining custody.

Bill author and Assemblymember Lori Wilson, a Democrat, said the intent of the bill was to protect the health and well-being of transgender children

and noted parents would not be required to move forward with gender-affirming health care.

Lawmakers supporting the measure said gender affirmation would not be the only factor judges would need to consider if it were to become law.

Republicans against this bill argued that judges in California already have the discretion to consider this factor in custody cases and noted the term "affirmation" is not defined in the proposed law.

Legislatively mandating a child's specific healthcare needs and psychological requirements is fraught with peril. Fortunately, Newsom recognized that this issue must be handled delicately on a case-by-case basis with reliance upon medical and psychological experts to assist the court and the parties.

## About Arlene:

Engaged for decades in the Northern California legal community, Arlene D. Kock is a past member of the Alameda County Bar Association (ACBA) Board of Directors. She served on their Attorney Referral Panel for many years and was the past chair of their Ethics and Civility Committee. In her capacity on that committee, Arlene was instrumental in assisting the team in preparing and creating the ACBA statement of professionalism and civility, a policy that is expected to be adhered to today by the court and litigants. She is currently a member of the ACBA and the Contra Costa County Bar Association.



A PROFESSIONAL LAW CORPORATION  
**ARLENE KOCK**  
**DIVORCE & FAMILY LAW**  
40-YEAR LAW PRACTICE · EXPERIENCED SUPPORT STAFF

[ARLENEKOCKLAW.COM](http://ARLENEKOCKLAW.COM)



Follow: @ArleneKock  
for up-to-date articles of concern on  
family law, business and real estate.



**FREE CONSULTATION**  
Bring this ad for your free initial consultation!

**2500 Old Crow Canyon Road | Suite 214 | San Ramon | 925.743.8666**