
A BILL FOR AN ACT

RELATING TO FAMILY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Chapter 584, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§584- Domestic abuse; exemption from mediation in paternity proceedings. (a) In contested paternity proceedings where there are allegations of domestic abuse, the court shall not require a party alleging the domestic abuse to participate in any component of any mediation program against the wishes of that party.

(b) A mediator who receives a referral or an order from a court to conduct mediation shall screen for the occurrence of domestic abuse between the parties. A mediator shall not engage in mediation when it appears to the mediator, or when either party asserts, that domestic abuse has occurred, unless:

(1) Mediation is authorized by the alleged victim of the domestic abuse; and



1 (2) Mediation is provided, in a specialized manner that
2 protects the safety of the alleged victim, by a
3 mediator who is trained in the field of domestic
4 abuse.

5 (c) The court shall not require a party alleging domestic
6 abuse to participate in any component of any mediation program
7 against the wishes of that party if a temporary restraining
8 order or a protective order is in effect with regard to the
9 parties.

10 (d) If a party has alleged domestic abuse and a temporary
11 restraining order or a protective order is not in effect with
12 regard to the parties, the court may order mediation or refer
13 either party to mediation only if:

14 (1) Mediation is authorized by the alleged victim of the
15 domestic abuse; and

16 (2) Mediation is provided, in a specialized manner that
17 protects the safety of the alleged victim, by a
18 mediator who is trained in the field of domestic
19 abuse.

20 (e) As used in this section, "domestic abuse" has the same
21 meaning as in section 586-1."



SECTION 2. Section 580-41.5, Hawaii Revised Statutes, is amended to read as follows:

"§580-41.5 ~~[Battered spouses;]~~ Domestic abuse; exemption from mediation in divorce proceedings. (a) In contested divorce proceedings where there are allegations of ~~[spousal]~~ domestic abuse, the court shall not require a party alleging the ~~[spousal]~~ domestic abuse to participate in any component of any mediation program against the wishes of that party.

(b) A mediator who receives a referral or order from a court to conduct mediation shall screen for the occurrence of ~~[family violence]~~ domestic abuse between the parties. A mediator shall not engage in mediation when it appears to the mediator, or when either party asserts, that ~~[family violence]~~ domestic abuse has occurred, unless:

(1) Mediation is authorized by the alleged victim of the ~~[alleged family violence;]~~ domestic abuse; and

(2) Mediation is provided, in a specialized manner that protects the safety of the alleged victim, by a mediator who is trained in ~~[family violence; and~~

~~(3) The victim is permitted to have in attendance at mediation, a supporting person of the victim's choice~~



~~including but not limited to an attorney or advocate.
If the victim chooses to exercise such option, any
other party to the mediation will be permitted to have
in attendance at mediation, a supporting person of the
party's choice including but not limited to an
attorney or advocate.]~~ the field of domestic abuse.

(c) In a proceeding concerning the custody or visitation of a child, if a temporary restraining order or a protective order is in effect[7] with regard to the parties, the court shall not require a party alleging [~~family violence~~] domestic abuse to participate in any component of any mediation program against the wishes of that party.

(d) In a proceeding concerning the custody or visitation of a child, if [~~there is an allegation of family violence~~] a party has alleged domestic abuse and a temporary restraining order or a protective order is not in effect[7] with regard to the parties, the court may order mediation or refer either party to mediation only if:

(1) Mediation is authorized by the alleged victim of the [~~alleged family violence;~~] domestic abuse; and



1 (2) Mediation is provided, in a specialized manner that
2 protects the safety of the alleged victim, by a
3 mediator who is trained in [~~family violence; and~~

4 ~~(3) The victim is permitted to have in attendance at~~
5 ~~mediation, a supporting person of the victim's choice,~~
6 ~~including but not limited to an attorney or advocate.~~
7 ~~If the victim chooses to exercise such option, any~~
8 ~~other party to the mediation will be permitted to have~~
9 ~~in attendance at mediation, a supporting person of the~~
10 ~~party's choice including but not limited to an~~
11 ~~attorney or advocate.] the field of domestic abuse.~~

12 (e) As used in this section, "domestic abuse" has the same
13 meaning as in section 586-1."

14 SECTION 3. This Act does not affect rights and duties that
15 matured, penalties that were incurred, and proceedings that were
16 begun before its effective date.

17 SECTION 4. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 5. This Act shall take effect upon its approval.



Report Title:

Paternity Proceedings; Divorce Proceedings; Domestic Abuse;
Mediation

Description:

Establishes an exemption from mediation in paternity proceedings where there are allegations of domestic abuse. Clarifies the exemption from mediation in divorce proceedings as it relates to domestic abuse. (HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

