

JAN 21 2022

A BILL FOR AN ACT

RELATING TO CHILD CUSTODY.

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

1 SECTION 1. The legislature finds that the family court may
2 appoint a child custody evaluator from a list of qualified
3 individuals to investigate a child custody dispute. State law
4 currently prefers that licensed psychologists, marriage and
5 family therapists, psychiatrists, and social workers serve as
6 evaluators, but authorizes individuals with qualifying education
7 and training in child custody evaluations to serve as evaluators
8 when psychologists, marriage and family therapists,
9 psychiatrists, or social workers are not available. The law
10 also authorizes other individuals, known as fact-finding
11 investigators, to serve as child custody evaluators by
12 stipulation of the parties and approval by the court. These
13 evaluators are most often attorneys who practice family law.
14 The legislature also finds that child custody evaluators
15 typically provide written reports to the court, and sometimes
16 testify at hearings or at trial.



1 The legislature believes that professionals who work before
2 the family court and who have an impact on the safety and
3 well-being of children and families need to understand the
4 dynamics of domestic violence. When child custody evaluators do
5 not have in-depth training and education on domestic violence,
6 their recommendations to the courts on custody matters may be
7 unduly affected and may not serve the best interests of
8 children. The legislature recognizes that domestic violence is
9 often not identified at the outset of a custody case and is
10 often not the reason for an evaluation. Accordingly, knowledge
11 about domestic violence issues, including lethality, subtlety,
12 and prevalence of domestic violence, is essential for child
13 custody evaluators.

14 The purpose of this Act is to require certain individuals
15 who wish to act as child custody evaluators to complete a
16 training course on domestic violence issues every three years.

17 SECTION 2. Section 571-46.4, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "~~§~~571-46.4~~§~~ **Child custody evaluators; qualification;**
20 **registry; complaints.** (a) [A] Subject to subsection (c), a
21 person may be appointed as a child custody evaluator for



1 purposes of section 571-46 if the person is actively licensed as

2 a:

3 (1) Physician under chapter 453 and is a board certified
4 psychiatrist or has completed a residency in
5 psychiatry;

6 (2) Psychologist under chapter 465;

7 (3) Marriage and family therapist under chapter 451J; or

8 (4) Clinical social worker under section 467E-7(3).

9 (b) A person may be appointed as a child custody evaluator
10 in the absence of a license under subsection (a) if:

11 (1) The individual has obtained education and training
12 that meet nationally recognized competencies and
13 standards of practice in child custody evaluation;
14 provided that there are no child custody evaluators
15 enumerated under subsection (a) who are willing and
16 available, within a reasonable period of time, to
17 perform child custody evaluations; or

18 (2) The parties stipulate to a person who does not qualify
19 as a child custody evaluator under subsection (a) and
20 the court approves, subject to subsection (c), that
21 person as a fact-finding investigator to the court.



1 (c) After _____, a person described in
2 subsection (a) or paragraph (b) (2) who wishes to act or continue
3 acting as a child custody evaluator pursuant to this section
4 shall complete a training course on domestic violence issues
5 every three years. The training course shall be approved by the
6 family court, and shall include a minimum of three hours of
7 training. The family court shall publish a list of approved
8 training courses on the judiciary's website.

9 [~~(e)~~] (d) The judiciary shall maintain on its website a
10 publicly accessible registry of child custody evaluators who are
11 qualified pursuant to this section. Professionals who are
12 willing and available to perform child custody evaluations shall
13 be responsible for providing the judiciary with relevant
14 information, including contact information, evidence of
15 qualifications, and fees.

16 [~~(d)~~] (e) The judiciary shall establish a referral process
17 to allow parties to file a complaint with the judiciary
18 regarding a court-appointed child custody evaluator. Upon
19 notification by a party of the party's intent to file a
20 complaint against a child custody evaluator appointed under
21 subsection (a), the judiciary may refer the complainant to the



1 appropriate licensing authority. The judiciary shall submit to
 2 the legislature an annual report regarding the number of
 3 complaints against court-appointed child custody evaluators that
 4 are processed through the referral process.

5 ~~[(e)]~~ (f) A complaint against a court-appointed child
 6 custody evaluator not qualified under subsection (a) may be
 7 resolved through civil litigation."

8 SECTION 3. This Act does not affect rights and duties that
 9 matured, penalties that were incurred, and proceedings that were
 10 begun before its effective date.

11 SECTION 4. Statutory material to be repealed is bracketed
 12 and stricken. New statutory material is underscored.

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

14

INTRODUCED BY: *Kal Rhoad*



S.B. NO. 2397

Report Title:

Judiciary; Family Court; Child Custody; Evaluation; Fact-Finding

Description:

Requires certain individuals attempting to serve as child custody evaluators to complete a training course on domestic violence issues every 3 years. Requires the Family Court to approve training courses and publish approved courses on the Judiciary website.

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

