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# 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 psychiatrists, psychologists,  
5   marriage and family therapists, 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 licensed psychiatrists, psychologists, marriage and family  
9   therapists, or social workers are not available. The law also  
10   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:

- 15       (1) Require certain individuals who wish to act or  
16       continue acting as child custody evaluators to  
17       complete a training course on domestic violence issues  
18       every three years; and
- 19       (2) Establish requirements for the training course and  
20       submitting or providing proof of completion.



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

"[+]§571-46.4[+] **Child custody evaluators; qualification; registry; complaints.** (a) [A] Subject to subsection (c), a person may be appointed as a child custody evaluator for purposes of section 571-46 if the person is actively licensed as a:

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

(2) Psychologist under chapter 465;

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

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

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

(1) The individual has obtained education and training that meet nationally recognized competencies and standards of practice in child custody evaluation; provided that there are no child custody evaluators enumerated under subsection (a) who are willing and



1           available, within a reasonable period of time, to  
2           perform child custody evaluations; or

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

7           (c) Beginning July 1, 2023, a person described in  
8           subsections (a) or (b) (2) who wishes to act or continue acting  
9           as a child custody evaluator pursuant to this section shall  
10           complete a training course on domestic violence issues every  
11           three years. The training course shall be one that is developed  
12           and facilitated by a domestic violence program based in Hawaii.  
13           The person shall submit a letter or certificate of completion to  
14           the family court and, upon request, shall provide copies thereof  
15           to all parties or to the parties' attorneys. All persons on the  
16           family court's registry as of July 1, 2023, shall provide proof  
17           of completion of the training course on or before June 1, 2025.

18           ~~[(e)]~~ (d) The judiciary shall maintain on its website a  
19           publicly accessible registry of child custody evaluators who are  
20           qualified pursuant to this section. Professionals who are  
21           willing and available to perform child custody evaluations shall



1 be responsible for providing the judiciary with relevant  
2 information, including contact information, evidence of  
3 qualifications, and fees.

4 ~~[(d)]~~ (e) The judiciary shall establish a referral process  
5 to allow parties to file a complaint with the judiciary  
6 regarding a court-appointed child custody evaluator. Upon  
7 notification by a party of the party's intent to file a  
8 complaint against a child custody evaluator appointed under  
9 subsection (a), the judiciary may refer the complainant to the  
10 appropriate licensing authority. The judiciary shall submit to  
11 the legislature an annual report regarding the number of  
12 complaints against court-appointed child custody evaluators that  
13 are processed through the referral process.

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

17 SECTION 3. There is appropriated out of the general  
18 revenues of the State of Hawaii the sum of \$35,000 or so much  
19 thereof as may be necessary for fiscal year 2022-2023 for the  
20 development of the training course on domestic violence issues



1 required by section 2 of this Act, including development of the  
2 course curriculum and facilitation of the training process.

3 The sum appropriated shall be expended by the judiciary for  
4 the purposes of this Act; provided that the judiciary may  
5 contract with a nonprofit organization to develop the course  
6 curriculum and facilitate the training process.

7 SECTION 4. The appropriation made by this Act for fiscal  
8 year 2022-2023 for the judiciary shall not lapse at the end of  
9 the fiscal year for which the appropriation is made; provided  
10 that all moneys from the appropriation that are unencumbered as  
11 of June 30, 2024, shall lapse as of that date.

12 SECTION 5. Statutory material to be repealed is bracketed  
13 and stricken. New statutory material is underscored.

14 SECTION 6. This Act shall take effect on July 1, 2060.



**Report Title:**

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

**Description:**

Beginning 7/1/2023 requires certain individuals attempting to serve as child custody evaluators to complete a training course on domestic violence issues every three years. Establishes requirements for the training course and submission of proof of completion. Appropriates funds. Effective 7/1/2060. (HD2)

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