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# A BILL FOR AN ACT

RELATING TO FAMILY.

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

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

4           "§584- Domestic abuse; exemption from mediation in  
5 paternity proceedings. (a) In contested paternity proceedings  
6 where there are allegations of domestic abuse, the court shall  
7 not require a party alleging the domestic abuse to participate  
8 in any component of any mediation program against the wishes of  
9 that party.

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

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



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

12       (c) If a temporary restraining order or a protective order  
13       is in effect, the court shall not require a party alleging  
14       domestic abuse to participate in any component of any mediation  
15       program against the wishes of that party.

16       (d) If there is an allegation of domestic abuse and a  
17       temporary restraining order or a protective order is not in  
18       effect, the court may order mediation or refer either party to  
19       mediation only if:

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



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

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

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

16       "**§580-41.5** [~~Battered spouses,~~] Domestic Abuse; exemption  
17       **from mediation in divorce proceedings.** (a) In contested  
18       divorce proceedings where there are allegations of [~~spousal~~]  
19       domestic abuse, the court shall not require a party alleging the  
20       spousal abuse to participate in any component of any mediation  
21       program against the wishes of that party.



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

- 7 (1) Mediation is authorized by the victim of the alleged  
8 [~~family violence~~]; domestic abuse;
- 9 (2) Mediation is provided in a specialized manner that  
10 protects the safety of the victim by a mediator who is  
11 trained in [~~family violence~~]; the field of domestic  
12 abuse; and
- 13 (3) The victim is permitted to have in attendance at  
14 mediation, a supporting person of the victim's choice  
15 including but not limited to an attorney or advocate.  
16 If the victim chooses to exercise such option, any  
17 other party to the mediation will be permitted to have  
18 in attendance at mediation, a supporting person of the  
19 party's choice including but not limited to an  
20 attorney or advocate.



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

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

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

13 (2) Mediation is provided in a specialized manner that  
14 protects the safety of the victim by a mediator who is  
15 trained in [~~family violence;~~] in the field of domestic  
16 abuse; and

17 (3) The victim is permitted to have in attendance at  
18 mediation, a supporting person of the victim's choice  
19 including but not limited to an attorney or advocate.  
20 If the victim chooses to exercise such option, any  
21 other party to the mediation will be permitted to have



1           in attendance at mediation, a supporting person of the  
2           party's choice including but not limited to an  
3           attorney or advocate.

4           (e) As used in this section, "domestic abuse" shall have  
5           the same meaning as in section 586-1."

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

9           SECTION 4. Statutory material to be repealed is bracketed  
10          and stricken. New statutory material is underscored.

11          SECTION 5. This Act shall take effect on July 30, 2075.



**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 if the party alleging domestic abuse does not wish to participate. Prohibits a mediator from engaging in mediation where there are allegations of domestic violence unless certain requisites are met. Prohibits a court from requiring mediation in paternity proceedings if there is a temporary restraining order or protective order in effect if the party alleging domestic abuse does not wish to participate. Allows the court to order mediation in paternity proceedings where there are allegations of domestic abuse if there is no temporary restraining or protective order under certain circumstances. Amends the term family violence to domestic abuse in section 480-41.5, Hawaii Revised Statutes. Takes effect 7/30/2075. (SD1)

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

