
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 having qualifying
7 education and training in child custody evaluations to serve as
8 evaluators 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 regarding custody matters
7 may be 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 the dynamics of domestic violence, including its
12 lethality, subtlety, and prevalence, is essential for child
13 custody evaluators.

14 The purpose of this Act is to:

- 15 (1) Require certain individuals attempting to serve as
16 child custody evaluators to complete a training course
17 on the dynamics of domestic violence every three
18 years;
- 19 (2) Require individuals to submit a letter or certificate
20 of completion of the training course to the family
21 court; and



1 (3) Establish standards for evaluations and reports by
2 child custody evaluators in contested custody dispute
3 cases.

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

6 "[+]§571-46.4[+] **Child custody evaluators; qualification;
7 standards; registry; complaints.** (a) [A] Subject to subsection
8 (c), a person may be appointed as a child custody evaluator for
9 purposes of section 571-46 if the person is actively licensed as
10 a:

- 11 (1) Physician under chapter 453 and is a board certified
12 psychiatrist or has completed a residency in
13 psychiatry;
- 14 (2) Psychologist under chapter 465;
- 15 (3) Marriage and family therapist under chapter 451J; or
- 16 (4) Clinical social worker under section 467E-7(3).

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

- 19 (1) The individual has obtained education and training
20 that meet nationally recognized competencies and
21 standards of practice in child custody evaluation;



1 provided that there are no child custody evaluators
2 enumerated under subsection (a) who are willing and
3 available, within a reasonable period of time, to
4 perform child custody evaluations; or

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

9 (c) Beginning July 1, 2024, the following requirements
10 shall apply to a person described in subsections (a) or (b) (2)
11 who seeks to be appointed as, or who wishes to continue acting
12 as, a child custody evaluator pursuant to this section:

13 (1) The person shall complete a training course on the
14 dynamics of domestic violence at least once every
15 three years; provided that the training course shall
16 include a minimum of five hours of training;

17 (2) Following completion of the training course, the
18 person shall submit a letter or certificate of
19 completion to the family court and, upon request,
20 shall provide copies thereof to all parties or to the
21 parties' attorneys;



1 (3) If the person is included on the family court's
2 registry of child custody evaluators as of
3 July 1, 2024, the person shall submit to the family
4 court proof of completion of the training course on or
5 before June 1, 2026; and

6 (4) If the person is not on the family court's registry of
7 child custody evaluators as of July 1, 2024, the
8 person shall submit proof of having completed the
9 requisite training course when seeking to be appointed
10 as a child custody evaluator.

11 (d) A person appointed as a child custody evaluator shall
12 be fair and impartial to the mother and father when determining
13 the best interests of a child in a contested custody dispute and
14 shall begin with the presumption, rebuttable by clear and
15 convincing evidence, that joint custody and equally shared
16 parenting is in the best interests of the child. When making a
17 report of the investigation, the child custody evaluator shall
18 provide the evidence and reasons for the evaluator's
19 determinations.

20 ~~[(e)]~~ (e) The judiciary shall maintain on its website a
21 publicly accessible registry of child custody evaluators who are



1 qualified pursuant to this section. Professionals who are
2 willing and available to perform child custody evaluations shall
3 be responsible for providing the judiciary with relevant
4 information, including contact information, evidence of
5 qualifications, and fees.

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

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

19 SECTION 3. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.



1 SECTION 4. This Act shall take effect on July 30, 3000.

2



H.B. NO. 581 H.D. 1

Report Title:

Judiciary; Family Court; Child Custody; Training; Standards

Description:

Requires certain individuals attempting to serve as child custody evaluators to complete a training course on the dynamics of domestic violence every three years. Requires individuals to submit a letter or certificate of completion to the family court. Establishes standards for evaluations and reports by child custody evaluators. Effective 7/30/3000. (HD1)

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