



The Judiciary, State of Hawai‘i

**Testimony to the Thirty-Second Legislature
2023 Regular Session**

Senate Committee on Health & Human Services
Senator Joy A. San Buenaventura, Chair
Senator Henry J.C. Aquino, Vice Chair

Monday, January 30, 2023 at 1:00 p.m.
State Capitol, Conference Room 225 & Videoconference

by
Matthew J. Viola
Senior Judge, Deputy Chief Judge
Family Court of the First Circuit

WRITTEN TESTIMONY ONLY

Bill No. and Title: Senate Bill No. 237, Relating to Child Custody.

Purpose: 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.

Judiciary's Position:

The Judiciary supports this bill. We agree that custody evaluators and fact finders should be knowledgeable about the dynamics of domestic violence and its impact on children. We believe, therefore, that this bill is in the best interests of children who are the subject of child custody proceedings.

Thank you for the opportunity to testify in this matter.

LATE

SB 237
Child Custody
Evaluators

CARES

COMMUNITY ADVOCACY RESEARCH EDUCATION SERVICES

to.

the Senate
Committees
HHS

The Hawaii State
Legislature

from

Zhizi Xiong
(Angela
Melody
Young)

Creator

Aloha Chair, Vice chair & the Committee of HHS,

CARES testifies in strong support of SB 237. Child custody evaluators should be trained in identifying and responding to domestic violence in child custody cases. Domestic violence can occur in a number of situations such as assault, bodily injury, physical harm, threats, extreme psychological abuse or malicious damage to personal property. Those tasked with the responsibility of managing child custody must be trained to recognize the signs of domestic abuse and also sexual abuse, starvation, drug & alcohol abuse and all forms of abuse.

Blessings,



ANGELA MELODY YOUNG

Zhizi Xiong

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LATE



TO: Committee on Human Services
Chair San Buenaventura
FR: Nanci Kreidman, M.A.
Chief Executive Officer
RE: S.B. 237

Thank you for giving this idea consideration. The Courts rely on the work done by professionals in the community who assume responsibility for certain duties in particular roles. Custody evaluators are crucial in the decision making that occurs when families separate and children are placed with one parent or the other, and visitation must be awarded according to facts related to experiences in the family household.

All parties want to put on their “best face”. And the conflict that defines the current breakdown can be hard to fully grasp. It is a good thing that custody evaluators participate in training to prepare them adequately for the task at hand. We believe that custody evaluators, indeed island families, would benefit from training about domestic violence—which would not be evident in a controlled setting. It is not personal information that is easily shared or offered voluntarily. An inquiry can be shaped by the custody evaluator to capture information and contribute to an assessment that secures the best and safest outcome.

Including training about domestic violence would be of great benefit and support families who need all systems to understand the priority for safety, well-being and healing. Thank you for your favorable action on this Bill.



HAWAII STATE
**COALITION AGAINST
DOMESTIC VIOLENCE**

January 30, 2023

Members of the Senate Committee on Health and Human Services:

Chair Joy A. San Buenaventura

Vice Chair Henry J.C. Aquino

Sen. Sharon Y. Moriwaki

Sen. Maile S.L. Shimabukuro

Sen. Brenton Awa

Re: SB237 Relating to Child Custody

Dear Chair San Buenaventura, Vice Chair Aquino and Members of the House Committee on Health and Human Services:

The Hawai'i State Coalition Against Domestic Violence (HSCADV) addresses the social, political, and economic impacts of domestic violence on individuals, families, and communities. We are a statewide partnership of domestic violence programs and shelters.

On behalf of HSCADV and our 28 member programs statewide, I respectfully submit testimony in **strong support of SB237**. We recognize that the lack of domestic violence training for custody evaluators and fact finders too often results in inconsistent outcomes for survivors of domestic violence and their children. Survivors report feeling re-victimized by their interactions with custody evaluators and fact finders and some choose not to proceed with the custody process.

This bill requires custody evaluators and fact finders to be trained in the dynamics of domestic violence so that their recommendations to the courts on custody matters serve the best interest of survivors and their children. Custody evaluators and fact finders must complete this training in order to be eligible for family courts.

Thank you for the opportunity to testify on this important matter.

Sincerely,

Angelina Mercado, Executive Director

SB-237

Submitted on: 1/29/2023 9:45:09 PM

Testimony for HHS on 1/30/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Lea Minton	Testifying for Midwives Alliance of Hawaii	Support	Written Testimony Only

Comments:

Midwives Alliance of Hawaii stands in strong support of SB237 and requests Health and Human Services committe to pass this bill. Ensuring child custody evaluators receive training regarding domestic violence is of utmost important as they are key players within the system that determines with whom and under what circumstances a parent maintains or obtains custody of their child(ren).

Thank you for this opportunity to testify.

Mahalo,

Midwives Alliance of Hawaii

SB-237

Submitted on: 1/27/2023 5:13:47 PM

Testimony for HHS on 1/30/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Jonathan Stremel	Testifying for Hawaii Coalition of Child Protective Reform	Oppose	Written Testimony Only

Comments:

Aloha,

I am writing today to vehemently **OPPOSE** this bill for the following reasons:

-It will re-victimize domestic violence survivors, including children

-The secret "working group" that created the bill did not follow the sunshine laws and was not formed via a bill nor a resolution

-The secret "working group" who created this bill consisted of problematic for-profit Custody Evaluators who have a financial conflict of Interest and contributed to the bill being poorly written and having zero accountability

-The secret "working work" who created this bill consisted of members of the Hawaii State Coalition Against Domestic Violence, who has a financial interest in this bill as they want for-profit Custody Evaluators to pay their organization to give the training mentioned in the bill

-The bill is vague when it comes to what organization will issue the training, what the training will consist of, what the punishment will be if a for profit CE does not get the certificate (if any)

-The bill gives a false sense of validation to for profit Custody Evaluators to determine whether or not a CRIME was committed. This bill undermines the importance of domestic abuse and domestic violence. This takes away the power of guilt from the police, judges, CWS, and filters all of the power to for profit Custody Evaluators with these vague "trainings"

I strongly urge you **NOT TO PASS** this highly problematic bill. **We believe this bill is riddled with Conflicts of Interests and the secret committee that wrote it violated Hawaii's sunshine laws.** Not only should this bill not advance, but should be investigated by the State's Ethics Office.

Mahalo for your Consideration

SB-237

Submitted on: 1/28/2023 10:34:26 AM

Testimony for HHS on 1/30/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Marilyn Yamamoto	Testifying for Hawaii Coalition for Child Protective Reform	Oppose	Written Testimony Only

Comments:

Committee members,

The intent of this bill to require DV training for custody evaluators is good. There is concern that the DV training is not specific as to how comprehensive the training is. When for-profit evaluators have the power to impact the lives of non-offenders and children, the training should be extensive and not simply an online course. Custody evaluators who would write a report to the court when there is alleged DV should be qualified psychologists or marriage and family therapists.

We OPPOSE this bill



HAWAII COALITION
FOR
CHILD PROTECTIVE REFORM

Date: Jan 29, 2023

To: Senate Committee on Human Services

Chair: Senator Joy San Buenaventura

Vice Chair: Senator Henry Aquino

RE: OPPOSE SB407

I'm writing in OPPOSITION to SB237. The intent of this measure is to provide more training to Custody Evaluators (CE'S). This training suggested includes, "a person shall complete at least once every three years a training course on the dynamics of domestic violence (DV); provided that the training course shall include a minimum of five hours of training." Once every three years, for five hours is NOT enough.

At the least, training should be yearly for at least 10 hours. CE'S should have DV training as well as courses on how to prepare fair and accurate reports. While many States have already eliminated the need for CE'S involved in custody cases, Hawaii lags behind.

In Hawaii, there are CE'S that have shown a pattern of producing misleading and false reporting. Their documents are submitted to the family court as being true and accurate, without review from the parents. CE'S often work together with Child Welfare Services (CWS) to produce reports in the "light most favorable" to CWS. In addition, Hawaii has a small pool of CE'S, leaving little to no options for parents. Parents should be notified and given the option to choose independent private clinical psychologists, who are not contracted providers for the State.

CE'S need to be monitored and parents should have the opportunity to review any reports (on them) prior to submission to the court. Parents should have the opportunity to review reports for inconsistencies, gender discrimination, and fraud.

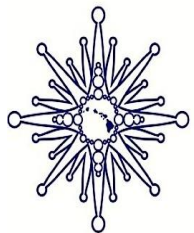
At this time, this Committee needs to re-evaluate the necessity for CE'S altogether. Is this a duplication of services? At the very least, training should be yearly for at least 10 hours. Anything less is useless.

Please OPPOSE SB237. Thank you for your time and consideration.

Nonohe Botelho,

Independant Consultat Victim Advocate

Hawaii Coalition for Child Protective Reform



HAWAII COALITION
— FOR —
CHILD PROTECTIVE REFORM

SB-237

Submitted on: 1/27/2023 2:15:26 PM

Testimony for HHS on 1/30/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
pahnelopi mckenzie	Individual	Support	Written Testimony Only

Comments:

Thank you to the legislators and participants in the Bill,
I fully support this SB 237 bill and would add that yearly training should be required as Domestic Violence is a prevalent issue. Many individuals face either personally or with a loved one. Domestic Violence is an issue that needs to be understood and training must be required for anyone who works in services related to human well being. Domestic Violence is a plague of society and cannot continued to normalized and treated as something that does not need to be addressed. These trainings should come from verified sources in compliance with the [National Coalition of Domestic Violence](#) and Hawaii Commissions on the Status of Woman. Thank you again for this essential Bill and education toward ending Domestic Violence and Normalization of harm.

Blessings, Pahnelopi McKenzie

TO: Chair San Buenaventura
Vice Chair Aquino
Health & Human Services Committee Members

FROM: Dara Carlin, M.A.
Domestic Violence Survivor Advocate

DATE: Monday, January 30, 2023

RE: OPPOSITION to SB237

While it seems that I should be in support of SB237, please let me explain why I must OPPOSE it:

“Certain individuals attempting to serve as child custody evaluators” – this says it all right here:

- Certain individuals
- attempting to serve
- as child custody evaluators

Determining the custody of children should require the skill set of Sherlock Holmes, the wisdom of Solomon & the heart of Mother Theresa, yet that’s not what the parents & children of Hawaii get when a Child Custody Evaluator (CCE) is imposed upon them. Under HRS571-46.4, Child Custody Evaluators are supposed to be licensed:

- Physicians or board certified psychiatrists;
- Psychologists;
- Marriage and family therapists; or
- Clinical social workers

BUT “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 available, within a reasonable period of time, to perform child custody evaluations; or

(2) The parties stipulate to a person who does not qualify as a child custody evaluator under subsection (a) and the court approves that person as a fact-finding investigator to the court.”

Parents going through a contested child custody process (who typically don’t even know what a CCE is initially) are stressed enough as it is and often discover too late and after much expense, both emotionally & financially, that the professional expertise of their CCE is anything but professional – then insult to injury, they learn that:

“A complaint against a court-appointed child custody evaluator not qualified under subsection (a) may be resolved *through civil litigation.*”

Because former legislative sessions have all UNSUCCESSFULLY tried to establish CCE core criteria & training standards as well as provide safeguards for parents (see notes from Senator Chun-Oakland's 2009 Family Court Interventions Working Group below) and place those into law, which has not yet been achieved, asking for "certain individuals attempting to serve as child custody evaluators" (are they even CCEs?) to complete a training course on the dynamics of domestic violence every three years is validating their "legitimate standing" as a CCE that they may not even have to begin with.

I'm all for everyone being trained on the dynamics of domestic violence but what I'm vehemently against is **empowering, authorizing and giving credibility to "certain individuals" who may not be fit to serve as CCEs**, and because no minimum requirements of proficiency, standards or ethics have been established/required of CCEs first or yet (all defeated in previous legislative sessions) this training is likely to only cause more harm and damage to Hawaii families.

I remain that letters and/or certificates of completion are absolutely worthless if *proficiency in the subject matter cannot be proven*. Anyone can get a certificate of completion – you just have to show up – but proving that you know what you're doing is an entirely different matter.

Many professions must prove subject matter proficiency in order to continue practicing or face fine, sanction, suspension or be delicensed – considering the critically important nature of work involving children & families, *where one wrong decision or judgment call could cost a life or lives*, all individuals "attempting to serve" in the lives of children & families in Hawaii should be subject to proof of proficiency *before* they're permitted to serve.

Respectfully,

Dara Carlin, M.A.

Domestic Violence Survivor Advocate

Notes from Senator Chun-Oakland's 2009 Family Court Interventions Working Group:

Child Custody Evaluators (CCE)

1. Report and Discussion:

a. A proposed bill to establish a registry for child custody evaluators and to develop statewide policies, procedures, and other standards was discussed with the following revisions proposed:

(1) Proposed declaration in Section-C(7) should be revised as follows:

"Any criminal convictions, pending criminal charges, civil actions to which the child custody evaluator was a party, and complaints to a professional licensing agency or ethics enforcement body resulting in public discipline, or order for protection issued against the child custody evaluator."

(2) Proposed declaration in Section –F should add "child custody evaluator" for continuing training

(3) Proposed declaration in Section –G should follow Act 149 language and revise "may" to "shall" regarding establishment of child custody evaluator standards.

b. A proposed resolution to convene a working group to assist the court in developing child custody evaluation standards and training curriculum was presented. After extensive discussion, it was decided that, while there was agreement on the concept, it needed clarification regarding the work requested of the working group.