

JAN 20 2023

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 alleged victim of the
16 domestic abuse;



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

5 (3) The alleged victim may have in attendance at mediation
6 a supporting person of the alleged victim's choice,
7 including but not limited to an attorney or advocate.
8 If the alleged victim chooses to exercise this option,
9 any other party to the mediation may have in
10 attendance at mediation a supporting person of that
11 party's choice, including but not limited to an
12 attorney or advocate.

13 (c) The court shall not require a party alleging domestic
14 abuse to participate in any component of any mediation program
15 against the wishes of that party if a temporary restraining
16 order or a protective order is in effect with regard to the
17 parties.

18 (d) If a party has alleged domestic abuse and a temporary
19 restraining order or a protective order is not in effect with
20 regard to the parties, the court may order mediation or refer
21 either party to mediation only if:



- 1 (1) Mediation is authorized by the alleged victim of the
2 domestic abuse;
- 3 (2) Mediation is provided, in a specialized manner that
4 protects the safety of the alleged victim, by a
5 mediator who is trained in the field of domestic
6 abuse; and
- 7 (3) The alleged victim may have in attendance at mediation
8 a supporting person of the alleged victim's choice,
9 including but not limited to an attorney or advocate.
10 If the alleged victim chooses to exercise this option,
11 any other party to the mediation may have in
12 attendance at mediation a supporting person of that
13 party's choice, including but not limited to an
14 attorney or advocate.
- 15 (e) As used in this section, "domestic abuse" has the same
16 meaning as in section 586-1."

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

19 **"§580-41.5 [~~Battered spouses,~~] Domestic abuse; exemption**
20 **from mediation in divorce proceedings.** (a) In contested
21 divorce proceedings where there are allegations of [~~spouse~~]

1 domestic abuse, the court shall not require a party alleging the
2 [~~spousal~~] domestic abuse to participate in any component of any
3 mediation program against the wishes of that party.

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

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



1 in attendance at mediation[7] a supporting person of
2 [~~the~~] that party's choice, including but not limited
3 to an attorney or advocate.

4 (c) In a proceeding concerning the custody or visitation
5 of a child, if a temporary restraining order or a protective
6 order is in effect[7] with regard to the parties, the court
7 shall not require a party alleging [~~family violence~~] domestic
8 abuse to participate in any component of any mediation program
9 against the wishes of that party.

10 (d) In a proceeding concerning the custody or visitation
11 of a child, if [~~there is an allegation of family violence~~] a
12 party has alleged domestic abuse and a temporary restraining
13 order or a protective order is not in effect[7] with regard to
14 the parties, the court may order mediation or refer either party
15 to mediation only if:

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

18 (2) Mediation is provided, in a specialized manner that
19 protects the safety of the alleged victim, by a
20 mediator who is trained in [~~family violence;~~] the
21 field of domestic abuse; and



1 (3) The alleged victim [~~is permitted to~~] may have in
2 attendance at mediation[7] a supporting person of the
3 alleged victim's choice, including but not limited to
4 an attorney or advocate. If the alleged victim
5 chooses to exercise [~~such~~] this option, any other
6 party to the mediation [~~will be permitted to~~] may have
7 in attendance at mediation[7] a supporting person of
8 [~~the~~] that party's choice, including but not limited
9 to an attorney or advocate.

10 (e) As used in this section, "domestic abuse" has the same
11 meaning as in section 586-1."

12 SECTION 3. This Act does not affect rights and duties that
13 matured, penalties that were incurred, and proceedings that were
14 begun before its effective date.

15 SECTION 4. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

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

18 *Karl Rhoad*
INTRODUCED BY: _____



S.B. NO. 984

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 abuse unless certain requisites are met. Prohibits a court from requiring mediation in paternity proceedings if there is a temporary restraining order or a protective order in effect and 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 but there is no temporary restraining order or no protective order, under certain circumstances. Replaces the term "family violence" with "domestic abuse" in section 580-41.5, HRS.

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

