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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 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 ~~[spousal]~~



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[~~7~~] 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 on July 1, 3000.



**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. Clarifies the exemption from mediation in divorce proceedings as it relates to domestic abuse. Effective 7/1/3000. (HD1)

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

