
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; and



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.

5 (c) The court shall not require a party alleging domestic
6 abuse to participate in any component of any mediation program
7 against the wishes of that party if a temporary restraining
8 order or a protective order is in effect with regard to the
9 parties.

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

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

16 (2) Mediation is provided, in a specialized manner that
17 protects the safety of the alleged victim, by a
18 mediator who is trained in the field of domestic
19 abuse.

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



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

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

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

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

(2) Mediation is provided, in a specialized manner that protects the safety of the alleged victim, by a mediator who is trained in ~~[family violence;]~~ the 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 (c) In a proceeding concerning the custody or visitation
11 of a child, if a temporary restraining order or a protective
12 order is in effect[~~7~~] with regard to the parties, the court
13 shall not require a party alleging [~~family violence~~] domestic
14 abuse to participate in any component of any mediation program
15 against the wishes of that party.

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



1 (1) Mediation is authorized by the alleged victim of the
2 ~~[alleged family violence,]~~ 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 ~~[family violence,]~~ the
6 field of domestic abuse; and

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

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

18 SECTION 3. This Act does not affect rights and duties that
19 matured, penalties that were incurred, and proceedings that were
20 begun before its effective date.



1 SECTION 4. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.
3 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. (HD2)

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

