

---

# 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 other  
8       individual designated by the alleged victim pursuant  
9       to section 658H-10. If the alleged victim chooses to  
10      exercise this option, any other party to the mediation  
11      may have in attendance at mediation a supporting  
12      person of that party's choice, including but not  
13      limited to an attorney or individual designated by the  
14      other party pursuant to section 658H-10.

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

20      (d) If a party has alleged domestic abuse and a temporary  
21      restraining order or a protective order is not in effect with



1 regard to the parties, the court may order mediation or refer  
2 either party to mediation only if:

3 (1) Mediation is authorized by the alleged victim of the  
4 domestic abuse;

5 (2) Mediation is provided, in a specialized manner that  
6 protects the safety of the alleged victim, by a  
7 mediator who is trained in the field of domestic  
8 abuse; and

9 (3) The alleged victim may have in attendance at mediation  
10 a supporting person of the alleged victim's choice,  
11 including but not limited to an attorney or individual  
12 designated by the alleged victim pursuant to section  
13 658H-10. If the alleged victim chooses to exercise  
14 this option, any other party to the mediation may have  
15 in attendance at mediation a supporting person of that  
16 party's choice, including but not limited to an  
17 attorney or individual designated by the other party  
18 pursuant to section 658H-10.

19 (e) For the purposes of this section, "domestic abuse" has  
20 the same meaning as defined 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.~~] individual designated by  
5       the alleged victim pursuant to section 658H-10. If  
6       the alleged victim chooses to exercise [~~such~~] this  
7       option, any other party to the mediation [~~will be~~  
8       ~~permitted to~~] may have in attendance at mediation[7] a  
9       supporting person of [~~the~~] that party's choice,  
10      including but not limited to an attorney or  
11      [~~advocate.~~] individual designated by the other party  
12      pursuant to section 658H-10.

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

19      (d) In a proceeding concerning the custody or visitation  
20      of a child, if [~~there is an allegation of family violence~~] a  
21      party has alleged domestic abuse and a temporary restraining



1 order or a protective order is not in effect[7] with regard to  
2 the parties, the court may order mediation or refer either party  
3 to mediation only if:

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

6 (2) Mediation is provided, in a specialized manner that  
7 protects the safety of the alleged victim, by a  
8 mediator who is trained in [family violence,] the  
9 field of domestic abuse; and

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

19 (e) For the purposes of this section, "domestic abuse" has  
20 the same meaning as defined in section 586-1."



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

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

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



**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. (SD1)

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

