

---

# A BILL FOR AN ACT

RELATING TO FAMILY.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Chapter 584A, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4           "~~§584A-~~ Domestic abuse; exemption from mediation in  
5 parentage proceedings. (a) In contested parentage 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. The court may order mediation or refer the parties  
10 to mediation only if:

11           (1) Mediation is authorized by the alleged victim of the  
12           domestic abuse;

13           (2) Mediation is provided, in a specialized manner that  
14           protects the safety of the alleged victim, by a  
15           mediator who is trained in the field of domestic  
16           abuse; and



1       (3) The alleged victim and any other party may have a  
2       supporting person designated pursuant to section  
3       658H-10, including but not limited to an attorney or  
4       other individual, to accompany the party and  
5       participate in the mediation.

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

11      (1) The alleged victim of the domestic abuse authorizes  
12      mediation;

13      (2) A mediator who is trained in the field of domestic  
14      abuse provides mediation in a specialized manner that  
15      protects the safety of the alleged victim; and

16      (3) The alleged victim and any other party may have a  
17      supporting person designated pursuant to section  
18      658H-10, including but not limited to an attorney or  
19      other individual, to accompany the party and  
20      participate in the mediation.



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

6        (d) If a party has alleged domestic abuse and a temporary  
7 restraining order or a protective order is not in effect with  
8 regard to the parties, the court may order mediation or refer  
9 either party to mediation only if all of the conditions  
10 specified in subsection (b) are met.

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

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

15        **"§580-41.5 [~~Battered spouses~~] Domestic abuse; exemption**  
16 **from mediation in divorce proceedings.** (a) In contested  
17 divorce proceedings where there are allegations of [~~spousal~~]  
18 domestic abuse, the court shall not require a party alleging the  
19 [~~spousal~~] domestic abuse to participate in any component of any  
20 mediation program against the wishes of that party. The court  
21 may order mediation or refer the parties 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 and any other party may have a  
8        supporting person designated pursuant to section  
9        658H-10, including but not limited to an attorney or  
10       other individual, to accompany the party and  
11       participate in the mediation.

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

18       (1) [~~Mediation is authorized by the victim of the alleged~~  
19       ~~family violence;~~] The alleged victim of the domestic  
20       abuse authorizes mediation;



1           (2) ~~[Mediation is provided in a specialized manner that~~  
 2           ~~protects the safety of the victim by a]~~ A mediator who  
 3           is trained ~~[in family violence; and]~~ in the field of  
 4           ~~domestic abuse provides mediation in a specialized~~  
 5           ~~manner that protects the safety of the alleged victim;~~  
 6           and

7           (3) The alleged victim ~~[is permitted to have in attendance~~  
 8           ~~at mediation, a supporting person of the victim's~~  
 9           ~~choice including but not limited to an attorney or~~  
 10          ~~advocate. If the victim chooses to exercise such~~  
 11          ~~option, any other party to the mediation will be~~  
 12          ~~permitted to have in attendance at mediation, a~~  
 13          ~~supporting person of the party's choice including but~~  
 14          ~~not limited to an attorney or advocate.]~~ and any other  
 15          party may have a supporting person designated pursuant  
 16          to section 658H-10, including but not limited to an  
 17          attorney or other individual, to accompany the party  
 18          and participate in the mediation.

19          (c) ~~[In]~~ If a temporary restraining order or a protective  
 20          order is in effect with regard to the parties of a proceeding  
 21          concerning the custody or visitation of a child, ~~[if a~~



1 ~~protective order is in effect,~~] the court shall not require a  
2 party alleging [~~family violence~~] domestic abuse to participate  
3 in any component of any mediation program against the wishes of  
4 that party.

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

12 ~~(1) Mediation is authorized by the victim of the alleged~~  
13 ~~family violence;~~

14 ~~(2) Mediation is provided in a specialized manner that~~  
15 ~~protects the safety of the victim by a mediator who is~~  
16 ~~trained in family violence; and~~

17 ~~(3) The victim is permitted to have in attendance at~~  
18 ~~mediation, a supporting person of the victim's choice~~  
19 ~~including but not limited to an attorney or advocate.~~  
20 ~~If the victim chooses to exercise such option, any~~  
21 ~~other party to the mediation will be permitted to have~~



1           ~~in attendance at mediation, a supporting person of the~~  
2           ~~party's choice including but not limited to an~~  
3           ~~attorney or advocate.]~~ all of the conditions specified  
4           in subsection (b) are met.

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

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

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

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



**S.B. NO.** 2149  
S.D. 1

**Report Title:**

Domestic Abuse; Mediation; Exemption; Parentage Proceedings;  
Divorce Proceedings

**Description:**

Establishes an exemption from mediation in parentage 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.*

