
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; and

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.



1 (b) A mediator who receives a referral or an order from a
2 court to conduct mediation shall screen for the occurrence of
3 domestic abuse between the parties. A mediator shall not engage
4 in mediation when it appears to the mediator, or when either
5 party asserts, that domestic abuse has occurred, unless:

6 (1) Mediation is authorized by the alleged victim of the
7 domestic abuse; and

8 (2) Mediation is provided, in a specialized manner that
9 protects the safety of the alleged victim, by a
10 mediator who is trained in the field of domestic
11 abuse.

12 (c) An attorney or other individual designated by a party
13 may accompany the party to, and participate in, a mediation. A
14 waiver of participation given before the mediation may be
15 rescinded.

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

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

20 "**§580-41.5** [~~Battered spouses;~~] **Domestic abuse; exemption**
21 **from mediation in divorce proceedings.** (a) In contested



1 divorce proceedings where there are allegations of [~~spousal~~]
2 domestic abuse, the court shall not require a party alleging the
3 [~~spousal~~] domestic abuse to participate in any component of any
4 mediation program against the wishes of that party. The court
5 may order mediation or refer the parties to mediation only if:

6 (1) Mediation is authorized by the alleged victim of the
7 domestic abuse; and

8 (2) Mediation is provided, in a specialized manner that
9 protects the safety of the alleged victim, by a
10 mediator who is trained in the field of domestic
11 abuse.

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 alleged victim of the
19 [~~alleged family violence;~~] 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 [~~family violence; and~~
 4 ~~(3) The victim is permitted to have in attendance at~~
 5 ~~mediation, a supporting person of the victim's choice~~
 6 ~~including but not limited to an attorney or advocate.~~
 7 ~~If the victim chooses to exercise such option, any~~
 8 ~~other party to the mediation will be permitted to have~~
 9 ~~in attendance at mediation, a supporting person of the~~
 10 ~~party's choice including but not limited to an~~
 11 ~~attorney or advocate.] the field of domestic abuse.~~

12 [~~(e) In a proceeding concerning the custody or visitation~~
 13 ~~of a child, if a protective order is in effect[,]the court shall~~
 14 ~~not require a party alleging family violence to participate in~~
 15 ~~any component of any mediation program against the wishes of~~
 16 ~~that party.~~

17 ~~(d)]~~ (c) In a proceeding concerning the custody or
 18 visitation of a child, if [~~there is an allegation of family~~
 19 ~~violence and a protective order is not in effect,]~~ a party has
 20 alleged domestic abuse 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 [~~alleged family violence;~~] domestic abuse; and

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; and~~

6 ~~(3) The victim is permitted to have in attendance at~~
7 ~~mediation, a supporting person of the victim's choice,~~
8 ~~including but not limited to an attorney or advocate.~~

9 ~~If the victim chooses to exercise such option, any~~
10 ~~other party to the mediation will be permitted to have~~
11 ~~in attendance at mediation, a supporting person of the~~
12 ~~party's choice including but not limited to an~~
13 ~~attorney or advocate.] the field of domestic abuse.~~

14 (d) An attorney or other individual designated by a party
15 may accompany the party to, and participate in, a mediation. A
16 waiver of participation given before the mediation may be
17 rescinded.

18 (e) As used in this section, "domestic abuse" has the same
19 meaning as 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 on July 1, 3000.



Report Title:

Parentage Proceedings; Divorce Proceedings; Domestic Abuse;
Mediation

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. 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.

