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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 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15 rescinded.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 an 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 [~~(c) 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. (HD2)

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

