
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.

