



OFFICE OF HAWAIIAN AFFAIRS

‘Ōlelo Hō‘ike ‘Aha Kau Kānāwai

TESTIMONY IN SUPPORT OF HOUSE BILL 1705 HD1 SD1

RELATING TO CHILD CUSTODY

Ke Kōmike ‘Aha Kenekoa o ka Ho‘okolokolo

(Senate Committee on Judiciary)

Ke Kapitala ‘o Hawai‘i

(Hawai‘i State Capitol)

‘Apelila 1, 2026

10:30 AM

Lumi 016

Aloha e Chair Rhoads, Vice Chair Gabbard, and Members of the Senate Committee on Judiciary:

The Office of Hawaiian Affairs (OHA) **SUPPORTS HB1705 HD1 SD1** which authorizes licensed mental health counselors (LMHCs) to serve as court-appointed child custody evaluators. This measure expands the pool of qualified professionals available to conduct custody evaluations, helping to address evaluator shortages, reduce delays, and improve access to timely, trauma-informed assessments in family court proceedings.

Child custody evaluations play a critical role in assisting the court in determining the best interests of the child. Expanding eligibility to include LMHCs increases the pool of qualified professionals available to conduct these evaluations, helping to reduce backlogs, shorten wait times, and improve access to timely, trauma-informed assessments for families navigating custody disputes. While this measure applies to custody matters within the family court context, not to proceedings under the Child Protective Act, timely custody evaluations remain deeply consequential for keiki and ‘ohana. Prolonged delays can intensify family conflict, extend instability, and increase stress on children during already difficult transitions. Ensuring adequate evaluator capacity promotes more efficient court processes and supports child-centered decision-making grounded in professional mental health expertise.

LMHC’s possess graduate-level education, clinical training, and experience in assessing trauma, family dynamics, and child development. Authorizing LMHCs to serve as custody evaluators recognizes their qualifications and reflects the realities of Hawai‘i’s broader mental health workforce shortage. It also has the potential to reduce costs associated with evaluations, which can otherwise create inequities in family court proceedings when one party cannot afford the process. This bill represents a practical and measured step toward strengthening family court operations and ensuring that families have timely access to qualified evaluators. For these reasons, the Office of Hawaiian Affairs respectfully urges this Committee to **PASS HB1705 HD1 SD1**.

Mahalo nui for the opportunity to provide testimony on this important measure.

To: Honorable Rep. David Tarnas, Committee Chair
Honorable Rep. Dee Morikawa, Committee Vice Chair
House Committee on Judiciary & Hawai‘ian Affairs
Hawai‘i State Legislature

From: Sarah Adler-Rephan

Re: HB1705

Date: 4/1/26 10:30AM

Location: CR 016 & Videoconference

Aloha Chair Tarnas, Vice Chair Morikawa, and Members of the Committee:

I am writing in strong support of HB1705, which will allow licensed mental health counselors to be appointed as child custody evaluators.

As stated in the House’s legislative findings, there is a significant shortage of child custody evaluators in Hawai‘i resulting in backlogs and long wait times that delay important decisions impacting children's safety and well-being (Hawai‘i State Legislature, 2026). Under current Hawai‘i law, Licensed Mental Health Counselors (LMHC’s) are not eligible to provide child custody evaluations (Hawai‘i State Legislature, 2026), despite having graduate-level education, training, and clinical expertise equivalent to Licensed Clinical Social Workers, who are eligible. (Otto, Edens, & Barcus, 2000, p. 315). Child Custody evaluations utilize standardized testing which is well within the scope of LMHC’s qualifications. (Otto, Edens, & Barcus, 2000, p. 315).

As a social worker working with children and families involved in the family court system, I have seen the harm caused by long wait times for child custody evaluations. Families are being separated and children are being kept in foster care for months while waiting for a custody evaluation. This causes unnecessary stress and trauma for these children and families, which I believe is preventable and unjustifiable when Licensed Mental Health Counselors are fully qualified to provide child custody evaluations.

As a social worker I also experience the stress of excessive caseloads because of the shortage of providers, and I am constantly witnessing colleagues being pushed to burnout. Increasing the

pool of child custody evaluators would not only benefit families, it would also reduce the burden and demand on current evaluators, and help prevent burnout of these invaluable professionals. Increasing the available pool of providers would also reduce the high costs of these services currently caused by high demand and low supply (Hawai'i State Legislature, 2026), improving access for low income families, and creating equity within the family court system.

I believe that the legislature should take every available measure to reduce the delay in custody evaluation, lighten the load for evaluators, provide equitable access to this vital service, and improve the safety and wellbeing of children and families within our community. This can be achieved by HB1705, increasing the pool of available evaluators by authorizing equally qualified Licensed Mental Health Professionals.

Please vote YES on HB1705.

Mahalo,

Sarah Adler-Rephan

Pepe'ekeo, Island of Hawai'i

References:

Hawai'i State Legislature. (2026). *House Bill 1705 (SD1), Relating to child custody* (Hawai'i-2026-HB1705-Amended). <https://legiscan.com/HI/text/HB1705/id/3362983>

Otto, R. K., Edens, E. F., & Barcus, E. H. (2000). The use of psychological testing in child custody evaluations. *Family Court Review*, 38(3), 312–340.
<https://doi.org/10.1111/j.174-1617.2000.tb00578>.

**Written Testimony of Kevin Faust
Senate Committee on Judiciary (JDC)
In Support of Allowing Licensed Mental Health Counselors to Serve as Child Custody
Evaluators**

HB1705 – Relating to Child Custody

April 1, 2026

Aloha e Members of the Committee,

My name is Kevin Faust, and I am a Licensed Mental Health Counselor (LMHC) on Big Island, working as a therapist and as the clinical director for Akahai Emotional Wellness, LLC. I submit this testimony in **strong support** of legislation that would allow **LMHCs** to be appointed as child custody evaluators for the State of Hawai‘i.

Child custody evaluations are among the most complex and sensitive determinations made within our legal system. These evaluations require advanced clinical judgment, a deep understanding of child development, family dynamics, trauma, and mental health diagnoses, as well as the ability to assess risk and make recommendations that prioritize the best interests of the child. Much like Licensed Clinical Social Workers (LCSWs) and Licensed Marriage and Family Therapists (LMFTs) who are already able to be child custody evaluators in Hawai‘i, LMHCs are also uniquely trained and qualified to perform this work.

LMHCs in Hawai‘i complete rigorous graduate-level education in counseling and clinical mental health, followed by thousands of hours of supervised clinical experience before they are even licensed. LMHCs training includes assessment, diagnosis, treatment planning, ethics, cultural competence, human development, and evidence-based theories and practices. These are skills that directly align with the core responsibilities of custody evaluators. Many LMHCs already work extensively with children and families involved in divorce, domestic violence, substance use, and high-conflict situations and relationships.

Personally, I not only have a Master of Science degree in Clinical Mental Health Counseling but also have 2 undergraduate degrees in Human Development and Family Studies. I've been working as a psychotherapist in private practice for 8 years now, specializing in working with victims of abuse and domestic violence. I'm certified as a clinical trauma professional - level 2 (CCTP-II) and am a certified narcissistic abuse treatment clinician (NATC). Previous to my current position, I have experience working as a substance abuse counselor, in intensive in-home therapy with families, as an adjunct professor of Human Development and Family Studies at The Pennsylvania State University, and I co-facilitated a group for abusive men who had been violent to their female partners. I've also interned and volunteered with a victim's services organization for years, completing training in domestic violence and sexual assault advocacy. I am nationally board certified and I am licensed in Hawai‘i and Pennsylvania as a psychotherapist. I believe this experience and training should easily qualify me to be able to be appointed as a child custody evaluator.

LMHCs are trained to work within their scope of practice. This means we are trained to always have awareness of our ethical and clinical bounds. For example, just because someone is a licensed

medical doctor does not mean they should be performing brain surgery without proper training in that area. So, we are not saying that all medical and mental health practitioners should automatically be able to jump into the role of a custody evaluator. We are saying that we have the background needed to then go get trained/certified in child custody evaluation, just like LCSWs and LMFTs should already be doing.

At a time when such legislation goes through, my personal plan is to immediately begin working on the “Certified Forensic Mental Health Evaluator” (CFMHE) credential, then completing the “Certified Child Custody Evaluator” (CCCE) credential through the National Board of Forensic Evaluators (NBFEE) which is endorsed by, and partnered with, the American Mental Health Counselors Association (AMHCA).

Allowing LMHCs to serve as custody evaluators would **expand the pool of qualified professionals**, helping to reduce delays, backlogs, and costs of family court proceedings in Hawai‘i. Families experiencing custody disputes are often under significant emotional and financial strain. Increasing evaluator availability will promote timelier resolutions and will improve access to justice, particularly in rural and otherwise underserved communities.


Importantly, this change would bring Hawai‘i in line with practices in most other states, territories, and countries around the world that already recognize LMHCs as qualified custody evaluators. This measure reflects an evidence-based, modern understanding of the mental health workforce and acknowledges the essential role LMHCs play in safeguarding child and family well-being.

This measure does not lower standards—it **raises capacity while maintaining professional accountability**. LMHCs are licensed, regulated, and bound by strict ethical codes and education requirements. With the passing of this measure, LMHCs can serve effectively and responsibly in this critical role. Hawai‘i currently has a severe shortage of mental health professionals. If we are not including LMHCs as potential child custody evaluators, we are excluding more than one thousand qualified individuals in Hawai‘i from this position.

For these reasons, I respectfully urge the Committee to **support this measure** and take an important step toward strengthening Hawai‘i’s family court system and protecting the best interests of our keiki.

Mahalo for the opportunity to provide testimony and for your commitment to the health and well-being of Hawai‘i’s families.

Respectfully,

Handwritten signature of Kevin Faust in black ink, appearing as 'KZF', followed by the text 'LMHC, NCC, NATC, CCTP-II'.

Kevin Faust, LMHC, LPC, NCC, NATC, CCTP-II
Psychotherapist and Clinical Director at Akahai Emotional Wellness, LLC
Hilo, Hawai‘i