

JAN 25 2006

A BILL FOR AN ACT

RELATING TO FAMILY COURT.

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

1 SECTION 1. In awarding the custody of a minor child, the
2 family court is guided by statutory standards, considerations,
3 and procedures. These guidelines include a determination of the
4 best interests of the child, but there is no statutory
5 definition of "best interests" with respect to child custody.
6 Providing a framework for quantitative and qualitative analysis
7 of enumerated factors and assessments will standardize custody
8 awards based on measurable criteria of what constitutes best
9 interests of the child.

10 The purpose of this Act is to enumerate factors for the
11 family court to consider in deciding the custody of a minor
12 child.

13 SECTION 2. Chapter 571, Hawaii Revised Statutes, is
14 amended by adding a new section to be appropriately designated
15 and to read as follows:

16 "§571- Criteria and procedure in determining best
17 interests of the child. (a) For the purposes of this chapter,



1 the court shall consider all relevant factors in determining the
2 best interests of the child, including:

3 (1) Relationship assessment factors dealing with the
4 parent-child and parent-parent interactions, designed
5 to take into account the importance of relationship
6 variables in mediating the effects of divorce on
7 children, and investigating specific aspects of the
8 parent-child relationship (quality of the relationship
9 and the parental commitment to the child) and the
10 parent-parent relationship (sharing parenting and
11 conflict or cooperation issues), including:

- 12 (A) Sexual abuse of the child by a parent;
- 13 (B) Physical abuse of the child by a parent;
- 14 (C) Overall quality of each parent's relationship
15 with the child;
- 16 (D) Physical violence in the parents' relationship;
- 17 (E) Each parent's affection for the child;
- 18 (F) Each parent's willingness to allow the child
19 contact with the other parent;
- 20 (G) The level of conflict between the parents;
- 21 (H) The child's affection for each parent;

- 1 (I) Each parent's feelings of responsibility for the
- 2 child;
- 3 (J) The parents' ability to cooperate with each other
- 4 on parenting matters;
- 5 (K) The parents' willingness to share parenting
- 6 responsibility post-separation;
- 7 (L) The extent of parent-child contact before
- 8 separation;
- 9 (M) The extent to which parents' new partners may
- 10 contribute to parenting;
- 11 (N) The parents' history of sharing parenting
- 12 responsibilities;
- 13 (O) Parental pressure on the child to choose one
- 14 parent;
- 15 (P) Each parents' preferences for possible shared
- 16 parenting plans;
- 17 (Q) The extent of parent-child contact during the
- 18 separation;
- 19 (R) Keeping a young child and mother together;
- 20 (S) The extent to which each parent is responsible
- 21 for the marriage breaking down; and



- 1 (T) Keeping a parent and child of the same sex
- 2 together;
- 3 (2) Needs of the child assessment factors, dealing with
- 4 the developmental issues of the children, which affirm
- 5 the priority of the child's needs in custody and
- 6 visitation decisions, emphasizing developmental issues
- 7 that have been found to be central to post-divorce
- 8 adjustment in children, and including consideration
- 9 for practical matters such as the child's basic needs,
- 10 including:
- 11 (A) The child's views and preferences;
- 12 (B) The child's emotional needs;
- 13 (C) The child's fears about the current family
- 14 situation;
- 15 (D) The child's physical handicaps or special health
- 16 needs;
- 17 (E) The child's perception of the child's
- 18 relationship with other family members;
- 19 (F) The child's need to be with the child's
- 20 psychological parent;
- 21 (G) The child's need for relationships with siblings;

- 1 (H) The child's desire to see grandparents and
- 2 extended family;
- 3 (I) The child's intellectual needs;
- 4 (J) The child's academic needs;
- 5 (K) The child's interests and preferred activities;
- 6 (L) The child's desire to see the child's friends;
- 7 and
- 8 (M) The child's daily routine; and
- 9 (3) Abilities of the parent factors, dealing with the
- 10 functional abilities of each parent to meet the
- 11 child's needs by addressing stability, parental
- 12 history, and parenting skills, including:
- 13 (A) Each parent's ability to understand the child's
- 14 needs and to separate them from the parent's
- 15 needs;
- 16 (B) Each parent's ability to provide a safe physical
- 17 environment for the child;
- 18 (C) Each parent's current alcohol or drug use;
- 19 (D) The child's psychological adjustment;
- 20 (E) Each parent's ability to accommodate the child's
- 21 health needs;

- 1 (F) Each parent's parenting style, including
- 2 discipline practices and beliefs;
- 3 (G) Each parent's history of alcohol or drug use;
- 4 (H) Each parent's ability to provide access to
- 5 appropriate education;
- 6 (I) Each parent's ability to maintain the child's
- 7 daily routine;
- 8 (J) Each parent's ability to maintain and encourage
- 9 the child's interests and activities;
- 10 (K) Each parent's psychiatric history;
- 11 (L) Each parent's capacity to contribute to the
- 12 child's moral development;
- 13 (M) Each parent's willingness to provide the child
- 14 with contact with the child's grandparents and
- 15 extended family;
- 16 (N) Each parent's childhood history of sexual abuse;
- 17 (O) Each parent's access to and support from family
- 18 and friends;
- 19 (P) Each parent's ability to provide access to other
- 20 children of the same age;
- 21 (Q) Each parent's ability to provide the child with
- 22 access to stable community involvement;

S.B. NO. 3241

1 SECTION 4. New statutory material is underscored.

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

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INTRODUCED BY: *Suzanne Chun Oakland*



Report Title:

Family Court; Best Interests of the Child

SB. NO. 3241

Description:

Enumerates criteria for the family court to consider in awarding the custody of a minor child in divorce or custody proceedings.

