
A BILL FOR AN ACT

RELATING TO FAMILY COURT.

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

1 SECTION 1. Existing law allows the court to order an
2 investigation and report concerning the care, welfare, and
3 custody of a minor child of the parties in a contested custody
4 case. In such a case, investigators or professional personnel
5 attached to or assisting the court conduct investigations and
6 prepare reports that are made available to all interested
7 parties and counsel before the hearing.

8 The purpose of this Act is to:

- 9 (1) Define court-appointed investigators or professional
10 personnel as child custody evaluators;
- 11 (2) Require the department of commerce and consumer
12 affairs to establish the policies and procedures for
13 child custody evaluators; and
- 14 (3) Establish licensing requirements and minimal education
15 and experience requirements for child custody
16 evaluators.

17



1 SECTION 2. The Hawaii Revised Statutes is amended by
2 adding a new chapter to be appropriately designated and to read
3 as follows:

4 "CHAPTER

5 CHILD CUSTODY EVALUATORS

6 "§ -1 Definitions. As used in this chapter, unless the
7 context otherwise requires:

8 "Child custody evaluator" means all court-appointed
9 investigators or professional persons directed by the court to
10 make investigations and reports pursuant to section 571-46.

11 "Department" means the department of commerce and consumer
12 affairs.

13 "Eligible training providers" includes the administrative
14 office of the courts and may include educational institutions,
15 professional associations, professional continuing education
16 groups, public or private for-profit or not-for-profit groups,
17 court-connected groups, and any entity that provides a course or
18 seminar that qualifies for child custody evaluator continuing
19 education requirements.

20 "Mentor" means a person who meets all the education,
21 experience, training, and other requirements, and is certified
22 as a child custody evaluator under this chapter, and who



1 oversees, supervises, and consults for a court-appointed child
2 custody evaluator who does not meet the experience requirements
3 of this chapter.

4 § -2 Department of commerce and consumer affairs'
5 responsibilities. (a) On or before January 1, 2010, the
6 department shall review, adopt, establish, and maintain
7 statewide policies and procedures based upon the policies and
8 procedures in use in each of the circuits that establish all
9 education, experience, training, methodology, ethical standards,
10 certification, and other requirements for all child custody
11 evaluators appointed pursuant to this chapter. These policies
12 and procedures shall also include:

- 13 (1) Comprehensive standards for investigations,
14 evaluations, and reporting, as related to child
15 custody;
- 16 (2) The monitoring and handling of complaints against
17 child custody evaluators and coordinating with
18 professional licensing boards;
- 19 (3) Disqualification or decertification of child custody
20 evaluators based upon convictions, criminal charges,
21 relevant civil actions or complaints, or ethical
22 violations; and



1 (4) An administrative appeal process for both parties and
2 child custody evaluators, as related to the
3 application of this chapter and established policies.

4 (b) After January 1, 2010, the family court shall
5 administer procedures for certifying and decertifying child
6 custody evaluators. The family court shall certify that child
7 custody evaluators meet the necessary requirements of this
8 chapter and established policies and procedures. No person may
9 be appointed as a child custody evaluator unless certified or
10 appointed pursuant to this chapter.

11 (c) The department and family court shall assess the
12 resources required to implement and maintain this chapter and
13 shall make findings and recommendations.

14 § -3 **Child custody evaluator annual declaration.** The
15 family court shall require a child custody evaluator to declare
16 annually under penalty of perjury:

17 (1) That the child custody evaluator meets all of the
18 required education, experience, training, and other
19 requirements of this section, and if applicable,
20 possesses a license in good standing; and

21 (2) Whether the child custody evaluator has any
22 convictions, criminal charges, relevant civil actions

1 or complaints, or ethical violations lodged or filed
2 against the child custody evaluator.

3 § -4 Licensing requirements. (a) No person may be a
4 child custody evaluator under this chapter unless the person
5 meets one of the following licensing criteria and is in good
6 standing as:

- 7 (1) A social worker;
- 8 (2) A marriage and family therapist;
- 9 (3) A psychologist;
- 10 (4) A physician specializing in psychiatry; or
- 11 (5) An attorney.

12 The licensing requirements of this section shall not apply in
13 any case where the court determines that there are no child
14 custody evaluators who meet the criteria of this section who are
15 willing and available to perform child custody evaluations. In
16 those cases, the parties may stipulate to a child custody
17 evaluator who does not meet the criteria of this section,
18 subject to approval by the court.

19 (b) The licensing requirements of this section shall not
20 apply to social workers employed by the judiciary.

21 (c) A child custody evaluator who is licensed shall be
22 subject to disciplinary action by the department for



1 unprofessional conduct as defined in the applicable licensing
2 law.

3 **§ -5 Education and experience.** (a) Every child custody
4 evaluator shall meet minimum education and experience
5 requirements, as determined by the department.

6 (b) The department shall establish the minimum educational
7 standards for child custody evaluators. These standards shall
8 require all child custody evaluators to use comparable
9 interview, assessment, testing, and reporting methodologies and
10 procedures for all parties that are consistent with generally
11 accepted clinical, forensic, scientific, diagnostic, or medical
12 standards. These standards shall also require child custody
13 evaluators to inform each adult party of the purpose, nature,
14 and method of the evaluation.

15 (c) The department shall establish the minimum experience
16 requirements for child custody evaluators. If any experience
17 requirements are lacking for a prospective child custody
18 evaluator, a mentor may be assigned and the following shall
19 apply:

20 (1) Procedures for assigning a mentor and defining the
21 mentor's responsibilities toward the prospective child
22 custody evaluator may be used to ensure qualified



- 1 oversight exists during the custody evaluation
2 process;
- 3 (2) Mentors shall be assigned on a case-by-case basis;
- 4 (3) Conditions on the continued use of mentors by an
5 individual prospective child custody evaluator shall
6 be established to ensure the necessary experience
7 requirements are completed in a timely manner; and
- 8 (4) No compensation for mentoring shall be charged to the
9 case or the parties.

10 § -6 Continuing training. (a) The department shall
11 establish the minimum child custody evaluator annual continuing
12 training requirements and policies for the use of eligible
13 training providers.

14 (b) Training approved by professional licensing boards or
15 by national or local eligible training providers, as qualifying
16 for child custody evaluator training, may count toward the
17 annual continuing education requirements for child custody
18 evaluators.

19 (c) Eligible training providers shall:

- 20 (1) Develop procedures to verify that participants
21 complete the applicable education and training
22 program; and



1 (2) Distribute a statement or certificate of completion to
2 each person who has completed the training. The
3 statement or certificate shall document:

4 (A) The number of hours of training offered;

5 (B) The number of hours of training the person
6 completed;

7 (C) The dates of the training; and

8 (D) The name of the training provider.

9 (d) Education and training courses that were taken between
10 January 1, 2007, and January 1, 2010, may be applied toward the
11 requirements of this section if the courses addressed the
12 required subjects and were either:

13 (1) Certified or approved for continuing education credit
14 by a professional provider group; or

15 (2) Offered as part of a related postgraduate degree or
16 licensing program."

17 SECTION 3. (a) The judiciary shall report its findings,
18 recommendations, and resource requirements to implement this Act
19 to the legislature no later than twenty days prior to the
20 convening of the regular session of 2009.

21 (b) The judiciary shall report any findings,
22 recommendations, and resource requirements to maintain or



1 improve the policies and procedures contained in this Act to the
2 legislature no later than twenty days prior to the convening of
3 the regular session of 2010, and annually thereafter.

4 SECTION 4. This Act shall take effect on July 1, 2050.



S.B. NO. 2055
S.D. 2
H.D. 1

Report Title:

DCCA; Child Custody Evaluator Training and Certification

Description:

Establishes procedures and requirements for child custody evaluator training and certification. Effective 7/1/2050.
(SB2055 HD1)

