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# 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.

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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 chapter, 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;

11          (5)   A registered nurse; or

12          (6)   An attorney.

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

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



1 (c) A child custody evaluator who is licensed shall be  
2 subject to disciplinary action by the department for  
3 unprofessional conduct as defined in the applicable licensing  
4 law.

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

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

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



1 (1) Procedures for assigning a mentor and defining the  
2 mentor's responsibilities toward the prospective child  
3 custody evaluator may be used to ensure that qualified  
4 oversight exists during the custody evaluation  
5 process;

6 (2) Mentors shall be assigned on a case-by-case basis;

7 (3) Conditions on the continued use of mentors by an  
8 individual prospective child custody evaluator shall  
9 be established to ensure the necessary experience  
10 requirements are completed in a timely manner; and

11 (4) No compensation for mentoring shall be charged to the  
12 case or the parties.

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

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

22 (c) Eligible training providers shall:



- 1           (1) Develop procedures to verify that participants  
2           complete the applicable education and training  
3           program; and
- 4           (2) Distribute a statement or certificate of completion to  
5           each person who has completed the training. The  
6           statement or certificate shall document:
- 7           (A) The number of hours of training offered;  
8           (B) The number of hours of training the person  
9           completed;
- 10           (C) The dates of the training; and  
11           (D) The name of the training provider.
- 12           (d) Education and training courses that were taken between  
13           January 1, 2007, and January 1, 2010, may be applied toward the  
14           requirements of this section if the courses addressed the  
15           required subjects and were either:
- 16           (1) Certified or approved for continuing education credit  
17           by a professional provider group; or
- 18           (2) Offered as part of a related postgraduate degree or  
19           licensing program."
- 20           SECTION 3. (a) The judiciary shall report its findings,  
21           recommendations, and resource requirements to implement this Act





1 to the legislature no later than twenty days prior to the  
2 convening of the regular session of 2009.

3 (b) The judiciary shall report any findings,  
4 recommendations, and resource requirements to maintain or  
5 improve the policies and procedures contained in this Act to the  
6 legislature no later than twenty days prior to the convening of  
7 the regular session of 2010, and annually thereafter.

8 SECTION 4. This Act shall take effect on July 1, 2020.



**Report Title:**

DCCA; Child Custody Evaluators

**Description:**

Requires DCCA to establish policies and procedures for child custody evaluators and administer certification procedures. Establishes licensing requirements and minimal education and experience requirements, and requiring continuing training for child custody evaluators. Requires DCCA to establish minimum annual continuing training requirements for child custody evaluators, and establish policies for the use of eligible training providers. Effective 7/1/2020. (SB2055 HD2)

