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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 shall make investigations and  
6 reports which shall be made available to all interested parties  
7 and counsel before the hearing. This Act defines such court-  
8 appointed investigators or professional personnel as child  
9 custody evaluators, and establishes education, experience,  
10 training, methodology and certification requirements and  
11 procedures applicable to child custody evaluators. This  
12 includes establishing related responsibilities for the board of  
13 family court judges and the courts.

14           SECTION 2. The Hawaii Revised Statutes is amended by  
15 adding six new sections to be appropriately designated and to  
16 read as follows:

17           "§    -A   Definitions.



1 "Board" means the board of family court judges per section  
2 571-5.

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

6 "Eligible training providers" includes the administrative  
7 office of the courts and may include educational institutions,  
8 professional associations, professional continuing education  
9 groups, public or private for-profit or not-for-profit groups,  
10 court-connected groups and any entity that provides a course or  
11 seminar that qualifies for child custody evaluator continuing  
12 education requirements.

13 "Mentor" means a person who meets all the education,  
14 experience, training and other requirements and is certified as  
15 a child custody evaluator under this chapter, and who oversees,  
16 supervises and consults for a court-appointed child custody  
17 evaluator who does not meet the experience requirements of this  
18 chapter.

19 § -B Board and family court responsibilities. (a) On  
20 or before January 1, 2010, the board shall review, adapt,  
21 establish, and maintain statewide policies and procedures based  
22 upon the policies and procedures in use in each of the circuits



1 that establish all education, experience, training, methodology,  
2 ethical standards, certification and other requirements for all  
3 child custody evaluators appointed pursuant to this chapter.

4 These policies and procedures shall also include:

5 (1) Comprehensive standards for investigations,  
6 evaluations, and reporting, as related to child  
7 custody;

8 (2) The monitoring and handling of complaints against  
9 child custody evaluators and coordinating with  
10 professional licensing boards;

11 (3) Disqualification or decertification of child custody  
12 evaluators based upon convictions, criminal charges,  
13 relevant civil actions or complaints, or ethical  
14 violations; and

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

18 (b) After January 1, 2010, the family court shall  
19 administer procedures for certifying and decertifying child  
20 custody evaluators. The family court shall certify that child  
21 custody evaluators meet the necessary requirements of this  
22 chapter and established policies and procedures. No person may



1 be appointed as a child custody evaluator unless certified or  
2 appointed pursuant to this chapter.

3 (c) The board and family court shall assess the resources  
4 required to implement and maintain this chapter and shall make  
5 findings and recommendations.

6 § -C Child custody evaluator annual declaration. The  
7 family court shall require a child custody evaluator to declare  
8 annually under penalty of perjury:

9 (1) That the child custody evaluator meets all of the  
10 required education, experience, training and other  
11 requirements of this section, and if applicable,  
12 possesses a license in good standing; and

13 (2) Whether the child custody evaluator has any  
14 convictions, criminal charges, relevant civil actions  
15 or complaints, or ethical violations lodged or filed  
16 against the child custody evaluator.

17 § -D Licensing requirements. (a) No person may be a  
18 child custody evaluator under this chapter unless the person  
19 meets one of the following licensing criteria and is in good  
20 standing as a:

21 (1) Social worker;

22 (2) Marriage and family therapist;



1       (3) Psychologist; or

2       (4) Physician specializing in psychiatry.

3       The licensing requirements of this section shall not apply in  
4       any case where the court determines that there are no child  
5       custody evaluators who meet the criteria of this section who are  
6       willing and available to perform child custody evaluations. In  
7       those cases, the parties may stipulate to a child custody  
8       evaluator who does not meet the criteria of this section,  
9       subject to approval by the court.

10       (b) A child custody evaluator who is licensed shall be  
11       subject to disciplinary action by the board or the director of  
12       commerce and consumer affairs for unprofessional conduct as  
13       defined in the applicable licensing law.

14       § -E Education and experience. Every child custody  
15       evaluator shall meet minimum education and experience  
16       requirements, as determined by the board.

17       (1) Educational standards which shall require all child  
18       custody evaluators to utilize comparable interview,  
19       assessment, testing and reporting methodologies and  
20       procedures for all parties that are consistent with  
21       generally accepted clinical, forensic, scientific,  
22       diagnostic, or medical standards. These standards



1 shall also require child custody evaluators to inform  
2 each adult party of the purpose, nature, and method of  
3 the evaluation; and

4 (2) Experience; provided that if any experience  
5 requirements are lacking for a prospective child  
6 custody evaluator, procedures for assigning a mentor  
7 and defining the mentor's responsibilities toward the  
8 prospective child custody evaluator may be used to  
9 ensure qualified oversight exists during the custody  
10 evaluation process; provided further that:

11 (A) Mentors shall be assigned on a case by case  
12 basis;

13 (B) Conditions on the continued use of mentors by an  
14 individual prospective child custody evaluator  
15 shall be established to ensure the necessary  
16 experience requirements are completed in a timely  
17 manner; and

18 (C) No compensation for mentoring shall be charged to  
19 the case or the parties.

20 § -F Continuing training. The board shall establish the  
21 minimum child custody evaluator annual continuing training



1 requirements and policies for the use of eligible training  
2 providers.

3 (1) Training approved by professional licensing boards, or  
4 by national or local eligible training providers, as  
5 qualifying for child custody evaluator training, may  
6 count towards the annual continuing education  
7 requirements for child custody evaluators.

8 (2) Eligible training providers shall:

9 (A) Develop procedures to verify that participants  
10 complete the applicable education and training  
11 program; and

12 (B) Distribute a statement or certificate of  
13 completion to each person who has completed the  
14 training; provided that the statement or  
15 certificate must document the number of hours of  
16 training offered, the number of hours the person  
17 completed, the dates of the training, and the  
18 name of the training provider.

19 (3) Education and training courses that were taken between  
20 January 1, 2007, and January 1, 2010, may be applied  
21 toward the requirements of this section if the courses  
22 addressed the required subjects and either were



1           certified or approved for continuing education credit  
2           by a professional provider group or were offered as  
3           part of a related postgraduate degree or licensing  
4           program."

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

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

14          SECTION 4. In codifying the new sections added by section  
15          2 of this Act, the revisor of statutes shall substitute  
16          appropriate section numbers for the letters used in designating  
17          the new sections in this Act.

18          SECTION 5. New statutory material is underscored.

19          SECTION 6. This Act shall take effect upon its approval.





**Report Title:**

Family Court; Child Custody Evaluator Training and Certification Program

**Description:**

Establishes the procedures and requirements for child custody evaluator training and certification. (SD1)

