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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 excluding social workers employed by the judiciary.

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

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

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



1 upon the policies and procedures in use in each of the circuits  
2 that establish all education, experience, training, methodology,  
3 ethical standards, certification and other requirements for all  
4 child custody evaluators appointed pursuant to this chapter.

5 These policies and procedures shall also include:

- 6       (1) Comprehensive standards for investigations,  
7       evaluations, and reporting, as related to child  
8       custody;
- 9       (2) The monitoring and handling of complaints against  
10       child custody evaluators and coordinating with  
11       professional licensing boards;
- 12       (3) Disqualification or decertification of child custody  
13       evaluators based upon convictions, criminal charges,  
14       relevant civil actions or complaints, or ethical  
15       violations; and
- 16       (4) An administrative appeal process for both parties and  
17       child custody evaluators, as related to the  
18       application of this chapter and established policies.

19       (b) After January 1, 2010, the family court shall  
20 administer procedures for certifying and decertifying child  
21 custody evaluators. The family court shall certify that child  
22 custody evaluators meet the necessary requirements of this



1 chapter and established policies and procedures. No person may  
2 be appointed as a child custody evaluator unless certified or  
3 appointed pursuant to this chapter.

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

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

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

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

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

22 (1) Social worker;



- 1       (2) Marriage and family therapist;
- 2       (3) Psychologist; or
- 3       (4) Physician specializing in psychiatry.

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

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

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

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



1 diagnostic, or medical standards. These standards  
2 shall also require child custody evaluators to inform  
3 each adult party of the purpose, nature, and method of  
4 the evaluation; and

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

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

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

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

21 § -F Continuing training. The board shall establish the  
22 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~~ shall document the number of  
16 hours of training offered, the number of hours of  
17 training the person completed, the dates of the  
18 training, and the 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 on July 1, 2050.





**Report Title:**

Family Court; Child Custody Evaluator Training and Certification Program

**Description:**

Establishes the procedures and requirements for child custody evaluator training and certification. Eff. 7/1/2050. (SD2)

