
A BILL FOR AN ACT

RELATING TO FAMILY COURTS.

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

- 1 SECTION 1. Section 571-46, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:
- 3 "(b) In determining what constitutes the best interest of
4 the child under this section, the court shall consider, but not
5 be limited to, the following:
- 6 (1) Any history of sexual or physical abuse of a child by
7 a parent;
- 8 (2) Any history of neglect or emotional abuse of a child
9 by a parent;
- 10 (3) The overall quality of the parent-child relationship;
- 11 (4) The history of caregiving or parenting by each parent
12 prior and subsequent to a marital or other type of
13 separation;
- 14 (5) Each parent's cooperation in developing and
15 implementing a plan to meet the child's ongoing needs,
16 interests, and schedule; provided that this factor
17 shall not be considered in any case where the court



- 1 has determined that family violence has been committed
2 by a parent;
- 3 (6) The physical health needs of the child;
- 4 (7) The emotional needs of the child;
- 5 (8) The safety needs of the child;
- 6 (9) The educational needs of the child;
- 7 (10) The child's need for relationships with siblings;
- 8 (11) Each parent's actions demonstrating that they allow
9 the child to maintain family connections through
10 family events and activities; provided that this
11 factor shall not be considered in any case where the
12 court has determined that family violence has been
13 committed by a parent;
- 14 (12) Each parent's actions demonstrating that they separate
15 the child's needs from the parent's needs;
- 16 (13) Any evidence of past or current drug or alcohol abuse
17 by a parent;
- 18 (14) The mental health of each parent;
- 19 (15) The areas and levels of conflict present within the
20 family; [and]
- 21 (16) Any fears the child has about the current family
22 situation;



- 1 (17) A parent's new partner's contribution to the parenting
- 2 of the child;
- 3 (18) Preservation of assets so a parent can financially
- 4 provide for the child following the issuance of a
- 5 divorce decree;
- 6 (19) Each parent's support of teaching the child age-
- 7 appropriate life skills;
- 8 (20) The child's views and preferences;
- 9 (21) Each parent's willingness to protect the child from
- 10 inter-parental conflict;
- 11 (22) A parent's criminal history, where the parent has been
- 12 convicted of or has entered a plea of no contest to
- 13 crimes that would pose a threat to the child; and
- 14 [~~16~~] (23) A parent's prior wilful misuse of the protection
- 15 from abuse process under chapter 586 to gain a
- 16 tactical advantage in any proceeding involving the
- 17 custody determination of a minor. Such wilful misuse
- 18 may be considered only if it is established by clear
- 19 and convincing evidence, and if it is further found by
- 20 clear and convincing evidence that in the particular
- 21 family circumstance the wilful misuse tends to show
- 22 that, in the future, the parent who engaged in the



1 wilful misuse will not be able to cooperate
 2 successfully with the other parent in their shared
 3 responsibilities for the child. The court shall
 4 articulate findings of fact whenever relying upon this
 5 factor as part of its determination of the best
 6 interests of the child. For the purposes of this
 7 section, when taken alone, the voluntary dismissal of
 8 a petition for protection from abuse shall not be
 9 treated as prima facie evidence that a wilful misuse
 10 of the protection from abuse process has occurred."

11 SECTION 2. This Act does not affect rights and duties that
 12 matured, penalties that were incurred, and proceedings that were
 13 begun before its effective date.

14 SECTION 3. Statutory material to be repealed is bracketed
 15 and stricken. New statutory material is underscored.

16 SECTION 4. This Act shall take effect on July 1, 2010.
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INTRODUCED BY:

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[Signature]



Report Title:

Family Court; Custody

Description:

Amends custody and visitation criteria and procedure to specify what courts shall consider in determining the best interest of the child.

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