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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 in actions for divorce,  
2 separation, annulment, separate maintenance, or any other  
3 proceeding where the custody of a minor child is in dispute,  
4 allows the family court, during the pendency of the action, at  
5 the final hearing, or at any time during the minority of the  
6 child, to make an order for the custody of the minor child as  
7 necessary or proper. For this purpose, section 571-46, Hawaii  
8 Revised Statutes, allows the court to appoint a child custody  
9 evaluator to investigate and report concerning the care,  
10 welfare, and custody of any minor child of the parties, or any  
11 party to produce an expert, whose skill, insight, knowledge, or  
12 experience is such that the person's or expert's testimony is  
13 relevant to a just and reasonable determination of what is for  
14 the best physical, mental, moral, and spiritual well-being of  
15 the child whose custody is at issue. However, current law does  
16 not require child custody evaluators or experts to have specific  
17 professional qualifications.



1           The purpose of this Act is to develop standards of practice  
2 and to establish a registry of child custody evaluators or  
3 experts appointed by the family court or produced by a party to  
4 assist the court in awarding custody in child custody cases.

5           SECTION 2. Chapter 571, Hawaii Revised Statutes, is  
6 amended by adding a new part to be appropriately designated and  
7 to read as follows:

8                       "PART     .   CHILD CUSTODY EVALUATORS

9           §571-A Definitions. As used in this part:

10          "Board" means the board of family court judges under  
11 section 571-5.

12          "Child custody evaluator" means an investigator or  
13 professional, appointed by the court, to investigate and report  
14 concerning the care, welfare, and custody of any minor child of  
15 the parties as described under section 571-46(a) (4).

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



1 §571-B Duties of board in child custody cases; registry;  
2 standards of practice; appointment and certification of child  
3 custody evaluators. (a) The board shall establish a child  
4 custody evaluator registry. The board shall establish and  
5 maintain this registry on or before January 1, 2011.

6 (b) The board shall maintain and update the child custody  
7 evaluation registry annually, or as new information is received.  
8 The child custody evaluator registry shall be made available  
9 without charge to any party to the proceeding. The child  
10 custody evaluator registry shall contain, at a minimum, the  
11 information in the child custody evaluator annual declaration  
12 under section 571-C.

13 (c) To remove any appearance of impropriety, an  
14 appropriate disclaimer regarding the use of the child custody  
15 evaluator registry may be included as part of the registry.

16 (d) No person shall be appointed by the court as a child  
17 custody evaluator or shall otherwise testify as an expert on  
18 behalf of a party to the proceedings to render an opinion on  
19 awarding custody pursuant to section 571-46, unless the child  
20 custody evaluator or expert is included in the child custody  
21 evaluator registry or is a social worker employed by the  
22 judiciary.



1 (e) Child custody evaluator annual declarations under  
2 section 571-C shall be retained and made available to parties to  
3 a child custody case as part of the registry for not less than  
4 twelve years from the date of filing of the initial current  
5 child custody evaluator annual declaration.

6 §571-C Child custody evaluator annual declaration. (a)  
7 Prior to appointment as a child custody evaluator, the child  
8 custody evaluator shall have a current child custody evaluator  
9 annual declaration on file with the court as provided in  
10 subsection (b).

11 (b) A child custody evaluator shall file annually with the  
12 board, in writing upon forms provided by the board, the  
13 following information, under penalty of perjury:

14 (1) The child custody evaluator's contact information,  
15 professional license, and professional license  
16 expiration date;

17 (2) The circuit, jurisdiction, or state where the child  
18 custody evaluator is eligible to perform child custody  
19 evaluations;

20 (3) Any certification or custody evaluator qualifications  
21 from any other state or jurisdiction held by the child  
22 custody evaluator;



- 1 (4) Training relevant to child custody evaluations;  
2 provided that the training shall extend back beyond  
3 the immediately preceding calendar year;
- 4 (5) Experience relevant to child custody evaluations,  
5 including total number of investigations and reports  
6 performed and appointments as a child custody  
7 evaluator in the immediately preceding calendar year;
- 8 (6) Continuing specialized training, relevant to child  
9 custody evaluations, received in the immediately  
10 preceding calendar year, including the course, date of  
11 the course, sponsoring organization, and continuing  
12 education credits earned from the course;
- 13 (7) Any criminal convictions, pending criminal charges,  
14 civil actions to which the child custody evaluator was  
15 a party, complaints about the child custody evaluator  
16 to a professional licensing agency or ethics  
17 enforcement body resulting in public discipline, and  
18 orders for protection issued against the child custody  
19 evaluator;
- 20 (8) Any discipline action taken against the child custody  
21 evaluator by the appropriate licensing authority with  
22 jurisdiction over the professional license of the



1 child custody evaluator that is relevant to child  
2 custody evaluations;

3 (9) References from other relevant professionals or  
4 clients of the child custody evaluator;

5 (10) The specific services provided by the child custody  
6 evaluator and the associated cost or fee structure;

7 (11) Formal education, including academic degrees earned by  
8 the child custody evaluator; provided that a  
9 curriculum vitae may be provided as an attachment; and

10 (12) Any other qualifications or information deemed  
11 relevant by the board to child custody evaluations, as  
12 contained in the child custody evaluator annual  
13 declaration written form.

14 (c) A current child custody evaluator annual declaration  
15 on file with the board shall be a prerequisite for a child  
16 custody evaluator or expert to be qualified to testify in family  
17 court on the issue of custody pursuant to section 571-46. The  
18 board shall not accept for filing any incomplete child custody  
19 evaluator annual declaration.

20 §571-D Child custody evaluator certification. The board  
21 may adopt a child custody evaluator certification program,  
22 including requirements for licensing criteria, education,



1 professional experience, and continuing specialized training in  
2 child custody evaluations. Certification criteria may include  
3 policies related to complaints, ethical violations, disciplinary  
4 actions, and the certification of child custody evaluators by  
5 other states.

6       §571-E Child custody evaluation standards. The board  
7 shall establish child custody evaluation standards for child  
8 custody evaluators to apply in recommending an award of custody  
9 of a child, including best practices, benchmarks, and  
10 guidelines, based upon the type and extent of the custody  
11 investigation and report to the court."

12       SECTION 3. Section 571-5, Hawaii Revised Statutes, is  
13 amended to read as follows:

14       "§571-5 Board of family court judges. A board of family  
15 court judges, which shall consist of all the State's family  
16 court judges and district family judges is hereby created. The  
17 board shall annually elect from among its members a chairperson  
18 who shall preside at meetings of the board. The chairperson  
19 shall have no other authority not specifically authorized under  
20 this chapter, or any applicable rule of the supreme court, or  
21 specifically delegated by a majority of the board. The board



1 shall meet at stated times to be fixed by it but not less often  
2 than once every six months, and on call of the chairperson.

3       The board shall discuss and shall attempt to achieve  
4 agreement upon general policies for the conduct of the family  
5 courts and forms for use in such courts. The board shall  
6 recommend, for adoption by the supreme court, rules of court  
7 governing procedure and practices in such courts[-], including  
8 the appointment and certification of child custody evaluators  
9 under part \_\_\_\_\_. The board may, within the limitations of the  
10 facilities available to the family courts of the State, seek the  
11 consolidation of the statistical and other data on the work and  
12 services of such courts and research studies that may be made of  
13 the problems of families and children dealt with by such courts  
14 to the end that the treatment of children and families subject  
15 to the jurisdiction of such courts shall achieve the highest  
16 possible degree of uniformity throughout the [~~State~~] state and  
17 to the further end that knowledge of treatment, methods, and  
18 therapeutic practices be shared among such courts. The board  
19 may also formulate recommendations for remedial legislation.  
20 All actions by the board shall be subject to the regulatory  
21 supervision of the chief justice of the supreme court."





1           SECTION 4. In codifying the new part added to chapter 571,  
2 Hawaii Revised Statutes, by section 2 of this Act, the revisor  
3 of statutes shall substitute appropriate section numbers for  
4 letters used in designating the new sections in this Act.

5           SECTION 5. Statutory material to be repealed is bracketed  
6 and stricken. New statutory material is underscored.

7           SECTION 6. This Act shall take effect on July 1, 2050.



**Report Title:**

Child Custody Evaluators

**Description:**

Establishes a child custody evaluator registry to assist the court in awarding custody in child custody cases. Allows the Supreme Court to adopt a child custody evaluator certification program. (HB1936 HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

