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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 actions for divorce, separation,  
2 annulment, separate maintenance, or any other proceeding where  
3 there is at issue a dispute as to the custody of a minor child  
4 allow the family court, during the pendency of the action, at  
5 the final hearing, or any time during the minority of the child,  
6 to make an order for the custody of the minor child as the court  
7 may deem necessary or proper. For this purpose, section  
8 571-46(a), Hawaii Revised Statutes, allows the court to appoint  
9 a child custody evaluator to investigate and report on 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, there are no  
16 provisions in current law that require child custody evaluators  
17 or experts to have specific professional qualifications.



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

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

9                           **"PART           .   CHILD CUSTODY EVALUATORS**

10           **§571-A Definitions.** As used in this part:

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

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

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



1 seminar that qualifies for child custody evaluator continuing  
2 training or education.

3       **§571-B Duties of the board in child custody cases;**  
4 **registry; standards of practice; appointment and certification**  
5 **of child custody evaluators.** (a) The board shall establish a  
6 child custody evaluator registry. The board shall establish the  
7 registry on or before January 1, 2012, and shall maintain the  
8 registry.

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

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

18       (d) No person shall be appointed by the court as a child  
19 custody evaluator or shall otherwise testify as an expert on  
20 behalf of a party to a child custody proceeding to render an  
21 opinion on awarding custody pursuant to section 571-46, unless



1 the child custody evaluator or expert is included in the child  
2 custody evaluator registry.

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

8 **§571-C Child custody evaluator annual declaration. (a)**

9 Prior to appointment as a child custody evaluator, the child  
10 custody evaluator shall have a current child custody evaluator  
11 annual declaration, as provided in subsection (b), on file with  
12 the court.

13 (b) A child custody evaluator shall file annually with the  
14 board, in writing upon forms provided by the board, a child  
15 custody evaluator annual declaration with the following  
16 information, under penalty of perjury:

17 (1) The child custody evaluator's contact information,  
18 professional license, and professional license  
19 expiration date;

20 (2) The circuit, jurisdiction, or state where the child  
21 custody evaluator is eligible to perform child custody  
22 evaluations;



- 1           (3) Any certification or child custody evaluator  
2                   qualifications from any other state or jurisdiction  
3                   held by the child custody evaluator;
- 4           (4) Training undertaken by the child custody evaluator  
5                   that is relevant to child custody evaluations;  
6                   provided that the training shall extend back beyond  
7                   the immediately preceding calendar year;
- 8           (5) Experience relevant to child custody evaluations,  
9                   including the total number of investigations and  
10                  reports performed and appointments acquired as a child  
11                  custody evaluator in the immediately preceding  
12                  calendar year;
- 13          (6) Continuing specialized training, undertaken by the  
14                  child custody evaluator that is relevant to child  
15                  custody evaluations, received in the immediately  
16                  preceding calendar year, including the course, date of  
17                  the course, sponsoring organization, and continuing  
18                  education credits earned from the course;
- 19          (7) Any criminal convictions or pending criminal charges  
20                  against the child custody evaluator, civil actions to  
21                  which the child custody evaluator was or is a party,  
22                  complaints about the child custody evaluator to a



- 1 professional licensing agency or ethics enforcement  
2 body resulting in public discipline, and orders for  
3 protection issued against the child custody evaluator;
- 4 (8) Any disciplinary action taken against the child  
5 custody evaluator by the appropriate licensing  
6 authority with jurisdiction over the professional  
7 license of the child custody evaluator that is  
8 relevant to child custody evaluations;
- 9 (9) References from other relevant professionals or  
10 clients of the child custody evaluator;
- 11 (10) The specific services provided by the child custody  
12 evaluator and the associated cost or fee structure;
- 13 (11) Formal education, including academic degrees earned by  
14 the child custody evaluator; provided that a  
15 curriculum vitae may be provided as an attachment; and
- 16 (12) Any other qualifications or information deemed  
17 relevant by the board to child custody evaluations, as  
18 contained in the child custody evaluator annual  
19 declaration.
- 20 (c) A current child custody evaluator annual declaration  
21 on file with the board shall be a prerequisite for a child  
22 custody evaluator or expert to be qualified to testify in family



1 court on the issue of custody pursuant to section 571-46. The  
2 board shall not accept for filing any incomplete child custody  
3 evaluator annual declaration.

4 **§571-D Child custody evaluator certification.** The board  
5 may establish a child custody evaluator certification program,  
6 including requirements for licensing criteria, academic  
7 education, professional experience, and continuing specialized  
8 training in child custody evaluations. Certification criteria  
9 may include knowledge of policies related to complaints, ethical  
10 violations, disciplinary actions, and the certification of the  
11 child custody evaluator by other states.

12 **§571-E Child custody evaluation standards.** The board  
13 shall establish child custody evaluation standards for child  
14 custody evaluators to apply in recommending an award of custody  
15 of a child, including best practices, benchbooks, and  
16 guidelines, based upon the type and extent of the custody  
17 investigation and report to the court."

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

20 **"§571-5 Board of family court judges.** A board of family  
21 court judges, which shall consist of all the State's family  
22 court judges and district family judges is hereby created. The



1 board shall annually elect from among its members a chairperson  
2 who shall preside at meetings of the board. The chairperson  
3 shall have no [~~ether~~] authority [~~not~~] other than authority  
4 specifically authorized under this chapter[-] or any applicable  
5 rule of the supreme court, or specifically delegated by a  
6 majority of the board. The board shall meet at stated times to  
7 be fixed by it but not less often than once every six months,  
8 and on call of the chairperson.

9 The board shall discuss and shall attempt to achieve  
10 agreement upon general policies for the conduct of the family  
11 courts and forms for use in [~~such~~] the family courts[-],  
12 including the appointment and certification of child custody  
13 evaluators under part \_\_\_\_\_. The board shall recommend, for  
14 adoption by the supreme court, rules of court governing  
15 procedure and practices in [~~such~~] the family courts. The board  
16 may, within the limitations of the facilities available to the  
17 family courts of the State, seek the consolidation of the  
18 statistical and other data on the work and services of [~~such~~]  
19 the family courts and research studies that may be made of the  
20 problems of families and children dealt with by [~~such~~] the  
21 family courts to the end that the treatment of children and  
22 families subject to the jurisdiction of [~~such~~] the family courts





1 shall achieve the highest possible degree of uniformity  
2 throughout the State and to the further end that knowledge of  
3 treatment, methods, and therapeutic practices be shared among  
4 [~~such~~] the family courts. The board may also formulate  
5 recommendations for remedial legislation. All actions by the  
6 board shall be subject to the regulatory supervision of the  
7 chief justice of the supreme court."

8 SECTION 4. In codifying the new sections added by section  
9 2 of this Act, the revisor of statutes shall substitute  
10 appropriate section numbers for the letters used in designating  
11 the new sections in this Act.

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

14 SECTION 6. This Act shall take effect on July 1, 2075.



**Report Title:**

Family Court; Custody; Child Custody Evaluators

**Description:**

Establishes a program in the Family Court for the registration of child custody evaluators; allows Board of Family Court Judges to establish a program for certification of child custody evaluators. Effective July 1, 2075. (SB958 HD1)

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

