

JAN 17 2014

A BILL FOR AN ACT

RELATING TO CHILD WELFARE.

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

1 SECTION 1. Section 571-46.4, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "~~[+]§571-46.4[+]~~ **Child custody evaluators; child custody**
4 **fact finders; qualification; training; registry; complaints.**

5 (a) A person may be appointed as a child custody evaluator for
6 purposes of section 571-46 if the person ~~[is actively licensed~~
7 ~~as a:~~

8 ~~(1) Physician under chapter 453 and is a board certified~~
9 ~~psychiatrist or has completed a residency in~~
10 ~~psychiatry;~~

11 ~~(2) Psychologist under chapter 465;~~

12 ~~(3) Marriage and family therapist under chapter 451J; or~~

13 ~~(4) Clinical social worker under section 467E-7(3).];~~

14 (1) Is licensed as a:

15 (A) Physician under chapter 453 and is a board
16 certified psychiatrist or has completed a
17 residency in psychiatry;

18 (B) Psychologist under chapter 465;



- 1 (C) Marriage and family therapist under chapter 451J;
- 2 or
- 3 (D) Clinical social worker under section 467E-7(3);
- 4 (2) Completes at least forty total hours of training,
- 5 which includes the twenty-four hours required by child
- 6 custody fact finders, plus sixteen hours in family
- 7 violence, child abuse, mental health, assessment,
- 8 child custody evaluations, and other related issues,
- 9 including but not limited to:
- 10 (A) Unique issues in psychological assessment in
- 11 child custody, including relevant techniques for
- 12 assessing cases involving allegations of domestic
- 13 violence, child abuse, substance abuse, trauma,
- 14 or other mental health issues;
- 15 (B) Research and theory with regard to the impact on
- 16 children from exposure to domestic violence,
- 17 substance abuse, or other adverse childhood
- 18 experiences;
- 19 (C) Risk assessment of likelihood of future
- 20 occurrences of issues of domestic violence, child
- 21 abuse and neglect, substance abuse, or other
- 22 adverse childhood experiences;



- 1 (D) Best intervention practices for parents and
- 2 children if domestic violence, child abuse and
- 3 neglect, substance abuse, trauma, and other
- 4 mental health issues occur;
- 5 (E) Ethical issues and requirements related to child
- 6 custody evaluations;
- 7 (F) Assessment of parenting capacity, strengths, and
- 8 weaknesses;
- 9 (G) Interviewing techniques for adult parties and
- 10 children in cases of alleged child abuse and
- 11 neglect, domestic violence, substance abuse, or
- 12 trauma;
- 13 (H) Construction of parenting plans for complex
- 14 cases, time share arrangements, and relocation
- 15 issues;
- 16 (I) Writing of reports for child custody evaluations
- 17 that include recommendations for custody,
- 18 visitation, parenting plans, and other relevant
- 19 issues with respect to the applicable laws and
- 20 statutes; and



1 (J) Assessment of the health, safety, welfare, and
2 best interests of the child or children involved
3 in child custody cases;

4 (3) Completes and verifies at least one year of experience
5 in conducting child custody evaluations and parenting
6 plans;

7 (4) Completes at least three full child custody
8 evaluations;

9 (5) Completes and verifies at least eight additional hours
10 of continuing education annually to update training;
11 and

12 (6) Completes all of the requirements and training for a
13 child custody fact finder pursuant to subsection (c).

14 (b) A person may be appointed as a child custody evaluator
15 in the absence of a license under subsection (a) if[+]

16 ~~(1) The individual has obtained education and training~~
17 ~~that meet nationally recognized competencies and~~
18 ~~standards of practice in child custody evaluation;~~
19 ~~provided that there are no child custody evaluators~~
20 ~~enumerated under subsection (a) who are willing and~~
21 ~~available, within a reasonable period of time, to~~
22 ~~perform child custody evaluations; or~~



1 ~~(2) The] the~~ parties stipulate to a person who does not
2 qualify as a child custody evaluator under subsection
3 (a) and the court approves that person [~~as a fact-~~
4 ~~finding investigator to the court]~~.

5 (c) A person may be appointed as a child custody fact
6 finder if the individual:

7 (1) Has obtained a minimum of a master's degree in mental
8 health, social work, or related field, or a juris
9 doctorate or equivalent;

10 (2) Completes and verifies twenty-four hours of child
11 custody fact finding training every year related to:

12 (A) The psychological and developmental needs of
13 children, especially as those needs relate to
14 decisions about child custody;

15 (B) Family dynamics, including but not limited to
16 parent-child relationships, blended families, and
17 extended family relationships;

18 (C) The effects of:

19 (i) Separation;

20 (ii) Divorce;

21 (iii) Domestic violence;



- 1 (iv) Child sexual, physical, or emotional abuse
- 2 or neglect;
- 3 (v) Substance abuse; and
- 4 (vi) Inter-parental conflict on the psychological
- 5 and developmental needs of children and
- 6 adults;
- 7 (D) The significance of culture and religion in the
- 8 lives of the parties;
- 9 (E) Safety issues that may arise during the
- 10 evaluation process and their potential effects on
- 11 all participants in the evaluation;
- 12 (F) When and how to:
- 13 (i) Interview adults and children;
- 14 (ii) Gather information from collateral sources;
- 15 (iii) Collect and analyze relevant data; and
- 16 (iv) Recognize the limits of data sources'
- 17 reliability and validity;
- 18 (G) Addressing issues such as general mental health,
- 19 medication use, and learning or physical
- 20 disabilities;
- 21 (H) Continuing education and staying current with
- 22 relevant literature and research;



- 1 (I) Comparable interview procedures that meet
- 2 generally accepted clinical, forensic,
- 3 scientific, diagnostic, or medical standards to
- 4 all parties;
- 5 (J) When to consult with or involve additional
- 6 experts or other appropriate persons;
- 7 (K) How to inform each adult party of the purpose,
- 8 nature, and method of the evaluation;
- 9 (L) The importance of understanding relevant
- 10 distinctions among the roles of fact finder,
- 11 evaluator, mediator, and therapist;
- 12 (M) How to write reports;
- 13 (N) Mandatory reporting requirements and limitations
- 14 on confidentiality;
- 15 (O) How to prepare for and give court testimony;
- 16 (P) How to maintain professional neutrality and
- 17 objectivity;
- 18 (Q) Mediation training;
- 19 (R) Extradition and reciprocity laws between
- 20 countries that impact child custody, visitation,
- 21 and custodial interference in Hawaii; and



- 1 (S) Self-care skills in emotional protection and
- 2 resilience as a provider of professional
- 3 services, such as maintaining personal and
- 4 professional well-being;
- 5 (3) Completes at least one year of experience conducting
- 6 evaluations;
- 7 (4) Completes at least three evaluations; and
- 8 (5) Completes and verifies at least eight hours of
- 9 relevant continuing education annually to update
- 10 training.

11 ~~[(e)]~~ (d) The judiciary shall maintain on its website a
12 publicly accessible registry of child custody evaluators and
13 child custody fact finders who are qualified pursuant to this
14 section. Professionals who are willing and available to perform
15 child custody evaluations shall be responsible for providing the
16 judiciary with relevant information, including contact
17 information, evidence of qualifications, and fees.

18 ~~[(e)]~~ (e) The judiciary shall establish a referral process
19 to allow parties to file a complaint with the judiciary
20 regarding a court-appointed child custody evaluator~~[-]~~ and child
21 custody fact finder. Upon notification by a party of the
22 party's intent to file a complaint against a child custody



1 evaluator appointed under subsection (a), the judiciary may
2 refer the complainant to the appropriate licensing authority.
3 Upon notification by a party of the party's intent to file a
4 complaint against a court-appointed child custody evaluator not
5 qualified under subsection (a) or a child custody fact finder,
6 the judiciary may notify the party that there is no licensing
7 authority oversight and the complaint may have to be resolved
8 through civil litigation.

9 The judiciary shall submit to the legislature an annual
10 report regarding the number of complaints against court-
11 appointed child custody evaluators and child custody fact
12 finders that are processed through the referral process.

13 ~~[(e) A complaint against a court appointed child custody~~
14 ~~evaluator not qualified under subsection (a) may be resolved~~
15 ~~through civil litigation.]~~

16 (f) For the purposes of this section, "child custody fact
17 finder" means a qualified individual who:

- 18 (1) Interviews parties, children, and collateral sources;
- 19 (2) Observes parent-child interactions;
- 20 (3) Conducts home studies; and
- 21 (4) Reviews documents and records.



1 A child custody fact finder shall not make recommendations
2 concerning child custody or time share arrangements, conduct
3 formal assessments, or create parenting plans."

4 SECTION 2. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 3. This Act shall take effect upon its approval.

7

INTRODUCED BY: *Trzanne Chun Apsel*
Heckman Jr.



S.B. NO. 2374

Report Title:

Child Custody Evaluator; Fact Finder; Qualifications

Description:

Increases training requirements for court appointed child custody evaluators. Establishes child custody fact finder requirements and duties.

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