
A BILL FOR AN ACT

RELATING TO FAMILY COURT.

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



1 (16) A parent's prior wilful misuse of the protection from
2 abuse process under chapter 586 to gain a tactical
3 advantage in any proceeding involving the custody
4 determination of a minor. Such wilful misuse may be
5 considered only if it is established by [~~clear and~~
6 ~~convincing~~] preponderance of the evidence, and if it
7 is further found by [~~clear and convincing~~]
8 preponderance of the evidence that in the particular
9 family circumstance the wilful misuse tends to show
10 that, in the future, the parent who engaged in the
11 wilful misuse will not be able to cooperate
12 successfully with the other parent in their shared
13 responsibilities for the child. The court shall
14 articulate findings of fact whenever relying upon this
15 factor as part of its determination of the best
16 interests of the child. For the purposes of this
17 section, when taken alone, the voluntary dismissal of
18 a petition for protection from abuse shall not be
19 treated as prima facie evidence that a wilful misuse
20 of the protection from abuse process has occurred."



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

4 SECTION 3. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 4. This Act shall take effect upon its approval.

7

INTRODUCED BY: PCOMR. Am
By Request
JAN 29 2015



H.B. NO. 1374

Report Title:

Family Court; Child Custody; Best Interests of the Child;
Domestic Abuse Protective Orders

Description:

When determining the best interests of the child in custody or visitation awards, changes to a preponderance of the evidence, the standard of proof required to consider evidence regarding a parent's prior wilful misuse of the protection from abuse process.

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

