
A BILL FOR AN ACT

RELATING TO CHILD CUSTODY.

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

1 SECTION 1. The legislature finds that the family court may
2 appoint a child custody evaluator from a list of qualified
3 individuals to investigate a child custody dispute. State law
4 currently prefers that licensed psychologists, marriage and
5 family therapists, psychiatrists, and social workers serve as
6 evaluators, but authorizes individuals with qualifying education
7 and training in child custody evaluations to serve as evaluators
8 when psychologists, marriage and family therapists,
9 psychiatrists, or social workers are not available. The law
10 also authorizes other individuals, known as fact-finding
11 investigators, to serve as child custody evaluators by
12 stipulation of the parties and approval by the court. These
13 evaluators are most often attorneys who practice family law.
14 The legislature also finds that child custody evaluators
15 typically provide written reports to the court, and sometimes
16 testify at hearings or at trial.



1 The legislature believes that professionals who work before
2 the family court and who have an impact on the safety and
3 well-being of children and families need to understand the
4 dynamics of domestic violence. When child custody evaluators do
5 not have in-depth training and education on domestic violence,
6 their recommendations to the courts on custody matters may be
7 unduly affected and may not serve the best interests of
8 children. The legislature recognizes that domestic violence is
9 often not identified at the outset of a custody case and is
10 often not the reason for an evaluation. Accordingly, knowledge
11 about domestic violence issues, including lethality, subtlety,
12 and prevalence of domestic violence, is essential for child
13 custody evaluators.

14 The purpose of this Act is to:

- 15 (1) Require certain individuals attempting to serve as
16 child custody evaluators to complete a training course
17 on domestic violence issues every three years;
- 18 (2) Require that the training course be one approved for
19 professional credit by the evaluator's or fact-finding
20 investigator's professional accreditation body or as



recommended by any state domestic violence services provider on their respective websites; and

(3) Require individuals to submit a letter or certificate of completion to the family court.

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

"[+] §571-46.4 [+] Child custody evaluators; qualification; registry; complaints. (a) [A] Subject to subsection (c), a person may be appointed as a child custody evaluator for purposes of section 571-46 if the person is actively licensed as a:

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

(2) Psychologist under chapter 465;

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

(4) Clinical social worker under section 467E-7(3).

(b) A person may be appointed as a child custody evaluator in the absence of a license under subsection (a) if:

(1) The individual has obtained education and training that meet nationally recognized competencies and



standards of practice in child custody evaluation;
provided that there are no child custody evaluators
enumerated under subsection (a) who are willing and
available, within a reasonable period of time, to
perform child custody evaluations; or

(2) The parties stipulate to a person who does not qualify
as a child custody evaluator under subsection (a) and
the court approves, subject to subsection (c), that
person as a fact-finding investigator to the court.

(c) Beginning July 1, 2023, a person described in
subsection (a) or paragraph (b)(2) who wishes to act or continue
acting as a child custody evaluator pursuant to this section
shall complete a training course on domestic violence issues
every three years. The training course shall be one approved
for professional credit by the evaluator's or fact-finding
investigator's professional accreditation body or as identified
as approved by any state domestic violence services provider on
their respective websites. The person shall submit a letter or
certificate of completion to the family court and shall provide
a copy to parties or their attorneys upon request. All persons



1 on the family court's registry as of July 1, 2023, shall provide
2 proof of completion on or before June 1, 2025.

3 ~~[(e)]~~ (d) The judiciary shall maintain on its website a
4 publicly accessible registry of child custody evaluators who are
5 qualified pursuant to this section. Professionals who are
6 willing and available to perform child custody evaluations shall
7 be responsible for providing the judiciary with relevant
8 information, including contact information, evidence of
9 qualifications, and fees.

10 ~~[(d)]~~ (e) The judiciary shall establish a referral process
11 to allow parties to file a complaint with the judiciary
12 regarding a court-appointed child custody evaluator. Upon
13 notification by a party of the party's intent to file a
14 complaint against a child custody evaluator appointed under
15 subsection (a), the judiciary may refer the complainant to the
16 appropriate licensing authority. The judiciary shall submit to
17 the legislature an annual report regarding the number of
18 complaints against court-appointed child custody evaluators that
19 are processed through the referral process.



1 [~~e~~] (f) A complaint against a court-appointed child
2 custody evaluator not qualified under subsection (a) may be
3 resolved through civil litigation."

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

7 SECTION 4. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 5. This Act shall take effect on July 30, 2075.



Report Title:

Judiciary; Family Court; Child Custody; Evaluation; Fact-Finding

Description:

Requires certain individuals attempting to serve as child custody evaluators to complete a training course on domestic violence issues every three years. Requires that the training course be one approved for professional credit by the evaluator's or fact-finding investigator's professional accreditation body or as recommended by any state domestic violence services provider on their respective websites. Requires individuals to submit a letter or certificate of completion to the Family Court. Takes effect 7/30/2075. (SD1)

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