



TO: Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair
Members of the Committee
FR: Nanci Kreidman, M.A.
Chief Executive Officer
RE: S.B. 2397 Relating to Child Custody

Aloha, and thank you for hearing this Bill. At the Domestic Violence Action Center our attorneys are working with island families relying on the Family Court system to offer resolution, remedy and protection on various calendars.

In a substantial number of cases, custody is an issue of great contention. Abusers will use the fight over custody to further torment their partner, and children are left as victims, again, in a new way. When community professionals are called upon to intervene, engage, support, and consider best interests/best outcomes, they must be equipped and they must be trained to understand what they are looking at, hearing, and deliberating.

This Bill makes it a requirement for custody evaluators to participate in training. This makes infinite sense. Without it, they are likely to make unfortunate or worse, dangerous recommendations and fail at the role they are playing.

Thank you for giving this your greatest consideration. We shall look for favorable action.



HAWAI'I STATE
COALITION AGAINST
DOMESTIC VIOLENCE

February 8, 2022

Members of the Senate Committee on Judiciary:

Chair Karl Rhoads
Vice Chair Jarrett Keohokalole
Sen. Laura Acasio
Sen. Chris Lee
Sen. Mike Gabbard
Sen. Kurt Fevella
Sen. Donna Mercado Kim

Re: SB2397 Relating to Child Custody

Dear Chair Rhoads, Vice Chair Keohokalole, and Members of the Senate Committee on Judiciary:

The Hawai'i State Coalition Against Domestic Violence (HSCADV) advances the safety and healing of victims, survivors and their families. We are the collective voice of a diverse network of organizations and individuals, working to eliminate all forms of domestic violence in Hawai'i by fostering partnership, increasing awareness of domestic violence, developing the capacity our member programs and community partners to address the needs of survivors and their families, and advocating for social justice and change.

On behalf of HSCADV and our 25 member programs statewide, we support the intent of the bill and recognize the serious problem of the lack of domestic violence training of custody evaluators and fact finders on its impact on victimized parents and children exposed to violence and inconsistent outcomes for families.

Section 5 of this bill, is recommended to be amended so that it reads as follows:

This Act shall take effect ~~upon its approval~~ on July 1, 2023.

The purpose of this bill requires custody evaluators and fact finders to be trained in the dynamics of domestic violence so that their recommendations to the courts on custody matters serve the best interest of children. The extension of the effective date would allow HSCADV time to work in collaboration with the Legislature, Judiciary, member programs and community partners to fund and develop the appropriate training for custody evaluators and fact finders. Our research found that only one state, [California, mandates this training](#). The Association of Family and Conciliation Courts has [guidelines](#) that could be incorporated into a training for Hawai'i.

Thank you for the opportunity to testify on this important matter.

Sincerely,

Angelina Mercado
Executive Director, HSCADV



The Judiciary, State of Hawai‘i

**Testimony to the Thirty-First Legislature
2022 Regular Session**

Senate Committee on Judiciary
Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair

Tuesday, February 8, 2022

9:30 a.m.

Via Videoconference

WRITTEN TESTIMONY ONLY

by

Matthew J. Viola

Senior Judge, Deputy Chief Judge
Family Court of the First Circuit

Bill No. and Title: Senate Bill No. 2397, Relating to Child Custody.

Purpose: Requires certain individuals who wish to act as child custody evaluators to complete a training course on domestic violence issues every three years. Requires the Family Court to approve training courses and publish approved courses on the Judiciary website.

Judiciary's Position:

The Judiciary takes no position on the bill but offers the following suggested language, page 4, line 1, in order to ensure its viability.

(c) After June 1, 2022, 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 three-hour training course on domestic violence issues every three years. ~~The~~



Senate Bill No. 2397, Relating to Child Custody
Senate Committee on Judiciary
February 8, 2022 at 9:30 a.m.
Page 2

~~training course shall be approved by the family court, and shall include a minimum of three hours of training. The family court shall publish a list of approved training courses on the judiciary's website. The training course shall 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. 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 on the family court's registry as of June 1, 2022, shall provide proof of completion on or before June 1, 2025.~~

The family court cannot approve training courses because we have neither the ability nor the expertise in training curriculum development to provide or find and then meaningfully “approve” said courses. Consequently, we could not publish a list of “approved training courses.” Please note that a general internet search for “domestic violence training courses” produces millions of results covering a myriad of professions.

The custody evaluators and fact-finding investigators all come from professions that mandate and/or provide continuing education. The intent of this bill can be fulfilled by recognizing and relying on what is customary for professionals. It is not possible or necessary for the family court to find and identify all relevant courses and then decide whether or not to approve them. It is not necessary for the family court to assume this responsibility because mechanisms already exist for each profession. Similarly, the requirement of a letter or certificate of completion is the more customary way of proving compliance.

We believe that the suggested language will much better fulfill the intent of this bill. We hope that the Committee will positively receive the proffered suggestions.

Thank you for the opportunity to testify in this matter.



To: Committee on Judiciary

Date: 8 February 2022

Testimony in STRONG SUPPORT/SUPPORT of SB 2397 Relating to Child Custody

Aloha Chair Rhoads, Vice Chair Keohokalole, and Members,

Members of AAUW of Hawaii thank you for this opportunity to testify in strong support/support of this bill which would ensure that those entrusted with child custody evaluations are properly trained in identifying and understanding domestic violence in households with children.

It is not uncommon for Fact Finders and Custody Evaluators in family court cases with domestic violence, to lack an understanding of domestic violence dynamics. These court-appointed individuals make factual findings and recommendations that directly influence the judge's decisions in the case and can dramatically alter the lives of a victim of domestic violence and their children.

A lack of training interferes with appropriate recommendations that Courts rely on. All professionals whose work impacts the safety and wellbeing of children and families with cases before Family Court need to understand the dynamics of domestic violence. It is often **not** identified at the outset of a case. Therefore, knowledge about its lethality, subtlety and prevalence is of critical importance

Custody evaluators are appointed to explore the circumstances of the household, parenting, safety and potential for appropriate development and well-being of children. We concur with the Domestic Violence Action Center and other professionals in this area, that without a clear understanding of the complexity and subtlety of abuse, consequences will be grave. This Bill establishes a requirement that custody evaluators participate in training about domestic violence.

Me ke aloha pumehana,
Ann S. Freed for
Public Policy Committee, AAUW of Hawaii
publicpolicy-hi@aauw.net



The American Association of University Women (AAUW) of Hawaii is an all volunteer statewide chapter of a national organization and is made up of six branches: Hilo, Honolulu, Kaua'i, Kona, Maui, and Windward Oahu. UH Hilo, UH Manoa, UH Maui College, and Windward Community College are also AAUW partners. AAUW's mission is to advance gender equity for equal opportunities in education, at workplace and for economic security, and in leadership.



COMMITTEE: Senate Committee on Judiciary
DATE: Tuesday, February 8, 2022
TIME: 9:30 a.m.
PLACE: Via Videoconference

TO: Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair
And members of the Senate Committee on Judiciary
RE: SB 2397 Relating to Child Custody

The Hawaii State Democratic Women's Caucus is a catalyst for progressive, social, economic, and political change through action on critical issues facing Hawaii's women and girls. The Women's Caucus SUPPORTS SB 2397 Relating to Child Custody.

The purpose of this bill is to require certain individuals who wish to serve as child custody evaluators to complete a training course on domestic violence issues every 3 years. It also requires the Family Court to approve training courses and publish approved courses on the Judiciary website.

We know that child custody cases can often be contentious especially in domestic violence cases. The Family Court depends heavily on child custody evaluations from child custody evaluators and Best Interest Fact Finders to determine the safety and wellbeing of the children and families involved. It is important for evaluators and fact finders to be trained in the dynamics of domestic violence, its lethality, subtleties, and prevalence so the court can make appropriate recommendations.

We urge your favorable consideration of this measure.
Thank you for the opportunity to testify.

Members of Hawaii State Democratic Women's Caucus



— H a w a i i —
Children's Action Network Speaks!
Building a unified voice for Hawaii's children

Hawai'i Children's Action Network Speaks! is a nonpartisan 501c4 nonprofit committed to advocating for children and their families. Our core issues are safety, health, and education.

To: Senate Committee on Judiciary
Re: **SB 2397 - Relating to Child Custody**
Hawai'i State Capitol, via Videoconference
February 8, 2022, 9:30 AM

Dear Chair Rhoads, Vice Chair Keahokalole, and committee members,

On behalf of Hawai'i Children's Action Network Speaks!, I am writing in SUPPORT of SB 2397, relating child custody. This bill would require certain individuals attempting to serve as child custody evaluators to complete a training course on domestic violence issues every 3 years and require the Family Court to approve training courses and publish approved courses on the Judiciary website.

A lack of training in domestic violence undermines the ability of Best Interest Fact Finders and Custody Evaluators to provide accurate recommendations in family court. Without such training, many evaluators are not equipped to recognize domestic violence dynamics. Meanwhile, judges rely on their recommendations in child custody cases.

All individuals whose decisions and recommendations influence outcomes for children in family court need to learn about domestic violence and how to ascertain its presence within families. Regular training is an important way to ensure that child custody evaluators have this important knowledge.

Mahalo for the opportunity to provide this testimony. Please pass this bill.

Thank you,

Nicole Woo
Director of Research and Economic Policy

Date: February 7th, 2022

To: Judiciary Committee
Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair

From: Early Childhood Action Strategy

Re: Testimony in Support of SB2397– Relating to Child Custody

Aloha and thank you for hearing this Bill. Early Childhood Action Strategy (ECAS) is a statewide cross-sector collaborative designed to improve the system of care for Hawai'i's youngest children and their families. ECAS partners work to align priorities for children prenatal to age eight, streamline services, maximize resources, and improve programs to support our youngest keiki.

ECAS supports SB 2397, requiring certain individuals attempting to serve as child custody evaluators to complete a training course on domestic violence every three years. SB 2397 requires the Family Court to approve training courses and publish approved courses on the Judiciary website.

Family violence undermines the health and wellbeing of everyone in the home. Preventing violence in families is a key to healthy early childhood development. When community professionals are called upon to intervene, engage, support, and consider best interests/best outcomes for keiki, they must be trained on family violence, so that they can provide informed decision making on child custody cases.

Children have the greatest chance to develop to their full capacity when they live in safe, secure and nurturing homes. Young children who endure abuse and neglect and are exposed to intimate partner violence experience emotional, mental, and social damage that can affect their development, school readiness and longer-term school success.

Custody challenges are difficult enough for our keiki. We want to make sure that we are doing everything we can to ensure they are placed in safe and nurturing homes. Required training will contribute to strengthening the quality of our system.

Mahalo for your continued support to improve the health, safety and learning of our youngest keiki's. We appreciate you supporting **SB 2397**.



LATE

TO: Chair Rhoads, Vice Chair Keohokalole, and Members of the Senate Committee on Judiciary

FROM: Ryan Kusumoto, President & CEO of Parents And Children Together (PACT)

DATE/LOCATION: February 8, 2022; 9:30 a.m., Video Conference

RE: TESTIMONY IN SUPPORT OF SB 2397 WITH ADDITIONAL COMMENTS—RELATING TO CHILD CUSTODY

We support SB 2397 which requires certain individuals attempting to serve as child custody evaluators to complete a training course on domestic violence issues every 3 years and requires the Family Court to approve training courses and publish approved courses on the Judiciary website.

As a provider of domestic violence prevention and intervention services, we highly encourage approved training for professionals tasked to support families and children. Child custody is often a contentious issue in court cases surrounding domestic abuse. Abusers will use the fight over custody to further torment their partners and children who are caught in the middle suffer even further. When community professionals are called upon to intervene, engage, support, and consider best interests/best outcomes, they must be equipped and they must be trained to understand what they are looking at, hearing, and deliberating. We support training courses on domestic violence issues to support professionals in their efforts to serve the best interest of our keiki.

We would also encourage the support of family visitation centers as a critical component for the safety and support of the child and the adult victim/survivor of domestic violence as they navigate difficult and dangerous transitions that often arise from contentious court cases between adult caregivers dealing with issues of domestic violence. The end of a relationship in a domestic violence situation can further escalate the offender's emotional, physical, and psychological abuse and can result in stalking, continuous threats, harassment, and even violence with a result of death. Family Visitation Centers provide safe environments wherein children are provided supervised visitation by trained monitors. Family visitation centers and supervised visits decrease

the incidents of further harm to the child(ren) and victim/survivors of domestic violence in that they ensure that the dynamics of domestic violence and power and control behaviors are not played out in the visits between the offender/parent who has harmed and the child(ren). Additionally, visitation centers and supervised visits also mitigate the incidents of violence toward the victim of domestic violence which can often occur between separated partners by providing supervised opportunities for unsafe parents to have contact and foster relationships with their children.

Founded in 1968, Parents And Children Together (PACT) is one of Hawaii's not-for-profit organizations providing a wide array of innovative and educational social services to unresourced families. Assisting more than 17,000 people across the state annually, PACT helps families identify, address and successfully resolve challenges through its 20 programs. Among its services are: early education programs, domestic violence prevention and intervention programs, child abuse prevention and intervention programs, childhood sexual abuse supportive group services, child and adolescent behavioral health programs, sex trafficking intervention, poverty prevention and community strengthening programs.

Thank you for the opportunity to testify regarding **SB 2397**, please contact me at (808) 847-3285 or rkusumoto@pacthawaii.org if you have any questions.

LATE

SB-2397

Submitted on: 2/7/2022 11:11:27 AM

Testimony for JDC on 2/8/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Marilyn Yamamoto	Testifying for Hawaii Family Advocacy Team	Support	No

Comments:

Senator Rhoads,

I have worked with Dara Carlin for a decade to help families in child welfare cases.. She was responsible for testifying on behalf of my grandchildren to be released from a state custody case due to domestic violence. You can take what she says to the bank.

I strongly support this bill and any language that Dara supports for its success to remedy harm to innocent parents and children.

LATE

SB-2397

Submitted on: 2/7/2022 10:52:32 AM

Testimony for JDC on 2/8/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Dara Carlin, M.A.	Individual	Support	No

Comments:

STRONG SUPPORT for SB2397

This measure is *long overdue* & as a Domestic Violence Survivor Advocate whose been doing this work since 2006, I would implore some changes to subsection (c) as well as insist upon an additional clause to include service and/or ongoing service retention contingent upon the successful passing of a domestic violence competency test following DV training completion so subsection (c) would read as follows:

(c) A person described in subsection (a) or paragraph (b)(2) is prohibited from acting or from continuing to act as a child custody evaluator pursuant to this section unless proof of training on domestic violence issues, to include the successful passing of a domestic violence competency exam, can be proven. The mandated training course and exam shall be approved by the family court, and shall include a minimum of three hours of in-person training with the exam to be conducted immediately following the training. The trainer shall be permitted to express concerns to the Judiciary and/or any candidate's superior. The family court shall publish a list of approved training courses on the judiciary's website.

I request these changes because we either take domestic violence seriously or we don't and, in my experience, DV is only ever taken seriously once we have a (preventable) tragedy; the rest of the time (which is the majority) domestic violence is shrugged off, mitigated or litigated away due to professional ignorance, arrogance, incompetence or malfeasance.

100% of my domestic violence cases involve one or more professionals (college-educated attorneys, psychologists, marriage and family therapists, psychiatrists, social workers, GALs, custody evaluators, fact finders, etc.) who have "gotten it wrong" - they've either:

- failed to recognize the domestic violence that's occurred (or occurring) in the case, thereby failing to appropriately act/respond in a timely manner
- are willfully ignoring domestic violence to cover up malfeasance or to "take it off the table" in a misguided effort "to ensure the best interests of the child" or
- have decided by their own personal bias regardless of laws or best practices.

A Custody Evaluator (CE) once told me that because she personally felt my client should "stick out" the marriage until the 4 children were adults, she was going to recommend full physical-

legal custody to the abuser (which was/is in violation of **HRS 571-46(9)** and I did point that out to her).

My client's children were all under age 10 at the time. The CE said the only way she would rescind this decision was if my client reconciled with her husband and dropped the divorce petition; if my client still wanted to divorce once the youngest child was 18, then "she was free to do so" but anytime sooner & her recommendation would stand.

My client chose to follow her protective parenting instincts and continued her divorce petition. The CE did just as she threatened & the judge gave full physical-legal custody to the abuser as the Custody Evaluator recommended. Years later (and no longer in Hawaii because the first thing the abuser did was relocate out of state) the eldest daughter would be brave enough to report her father's abusiveness and custody was reversed. What those 4 kids experienced while under their father's custody would turn your stomach.

In all my years of doing this work, I don't think there's a single case I've ever had where any professional has practiced what they preach when they've made an error: to apologize & take responsibility for their error then make amends for the damage they've done.

The direct consequences resulting from this hubris is lives of DV survivors and children lost, destroyed or so damaged as to ensure that the transgenerational nature of domestic violence is passed on and into the next generation. In one case, the abuser knew exactly where to hunt his victim down to when she fled to a DV shelter *because he had stayed at that shelter as a child himself*.

"According to a conservative estimate by experts at the Leadership Council on Child Abuse and Interpersonal Violence (LC), **more than 58,000 children a year are ordered into unsupervised contact with physically or sexually abusive parents following divorce** in the United States." <http://leadershipcouncil.org/1/med/PR3.html> This alarming statistic was published in 2008 and since then, Hawaii has tried for many years to get legislation such as SB2397 passed in response but to date, nothing of its sort has ever succeeded which is why I initially stated, we either take domestic violence seriously or we don't.

If we are to take DV seriously then we must ensure that all professionals working with children be properly trained on domestic violence but more than that, these professionals should be able to prove subject matter competency because of the feedback I've received from various DV trainers who have come to Hawaii to train where they've told me that class participants only seem interested in the complimentary food, signing in on the attendance sheet to prove they showed, and in collecting their CEs or certificates of completion but as for attention, retention and application? No evidence of any training is reflected in the way DV cases are being/have been handled which is why an exam following training is absolutely necessary and should be contingent on a professional's ability to further serve if we are taking domestic violence seriously.

When the family court was located at the Punchbowl location, a CE the Judiciary relied upon & heavily used for decades did an evaluation of my client, her abuser & their 2 children on the

same day where each family member went into an interview room to meet with this CE independently. I was horrified when this evaluator concluded that the abuser should get full physical-legal custody of the children (despite **HRS 571-46(9)** once again) because the teen daughter replied “Yea” with a sarcastic laugh when asked if she remembered the day her father choked her (in front of a crowd at a sporting event where police were called).

The CE told me that the daughter’s laugh indicated deception, the father flat out denied choking her, mom didn’t see him choke her (she was not at the event) and since the younger brother didn’t see it happen either (because he was on the field playing) she concluded that the daughter was “just making it up” since mom was the one more concerned about the incident than the daughter was.

When I began questioning this evaluator about domestic violence, she had absolutely no clue and became enraged by my questions. Because the daughter initially answered “yea” the evaluator didn’t ask anything further about the incident. I urged her to call the daughter back in to ask details about the incident and the evaluator begrudgingly did so. When the daughter left the interview room for the second time, this evaluator yelled at me – and in front of everyone in the waiting room to hear – that she knows what domestic violence is, she doesn’t need me telling her anything about domestic violence, “Ok, this is a domestic violence case, are you happy now, are you happy now?!” I think everyone was stunned. I just said thank you in reply and ushered my client and her kids out of the waiting room and away from the evaluator.

Because this is public testimony, I’m withholding names but I’d be happy to provide those at your request.

If the legislature is interested in seeing a before-and-after analysis, the exam could initially be administered pre & post-training so you can see for yourselves how much the professionals don’t know (or if they do know, how can the misapplication of laws & services then be explained?)

The above is also why I am requesting the language in subsection (c) be changed from:

(c) After _____, a person described in subsection (a) or paragraph (b)(2) who wishes to act or continue acting as a child custody evaluator

to the stronger language of:

(c) A person described in subsection (a) or paragraph (b)(2) is prohibited from acting or from continuing to act as a child custody evaluator

because no professional having access to children should be devoid of proper domestic violence training, whether they “wish to” or not.

Allowing any professional to work a case involving children in absence of DV training goes far beyond the concern of “their recommendations to the courts on custody matters may be unduly affected and may not serve the best interests of children” as it can be proven that such ignorance is not only dangerous and potentially life-threatening to the survivors and their children seeking

the court's assistance but condones malpractice, contributes towards law violations, rewards the abusers, revictimizes the victim-survivors, endangers the children and comes at great financial expense to the taxpayers and state when the professionals "get it wrong" by misapplying/extending services or the state has to settle for damages postmortem.

It doesn't have to be this way. Please support the changes I am recommending to SB2397 and please feel free to call on me for any assistance needed in implementation or task force to further study any of the concerns outlined above.

Respectfully,

Dara Carlin, M.A.

Domestic Violence Survivor Advocate

SB-2397

Submitted on: 2/8/2022 8:30:59 AM

Testimony for JDC on 2/8/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Rex Fujichaku	Individual	Support	No

Comments:

Aloha committee members,

Requiring custody evaluators to participate in domestic violence training makes sense. When community professionals are called upon to intervene, engage, support, and consider best interests/best outcomes, they must be equipped and they must be trained to understand what they are looking at, hearing, and deliberating. Training helps achieve this goal. Thank you.

SB-2397

Submitted on: 2/8/2022 8:31:35 AM

Testimony for JDC on 2/8/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Rex Fujichaku	Individual	Support	No

Comments:

Aloha committee members,

Requiring custody evaluators to participate in domestic violence training makes sense. When community professionals are called upon to intervene, engage, support, and consider best interests/best outcomes, they must be equipped and they must be trained to understand what they are looking at, hearing, and deliberating. Training helps achieve this goal. Thank you.

LATE

SB-2397

Submitted on: 2/8/2022 12:06:00 PM

Testimony for JDC on 2/8/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Mara Garcia	Individual	Support	No

Comments:

I believe that custody evaluators need to participate in training, in order to make recommendations that are in the best interest of our island community.