



The Judiciary, State of Hawai'i

Testimony to the Thirty-Second State Legislature, 2023 Regular Session

House Committee on Human Services
Representative John M. Mizuno, Chair
Representative, Terez Amato, Vice Chair

Thursday, February 9, 2023 at 9:00 a.m.
State Capitol, Conference Room 329 & Videoconference

by:

Matthew J. Viola
Senior Judge, Deputy Chief Judge
Family Court of the First Circuit

WRITTEN TESTIMONY ONLY

Bill No. and Title: House Bill No. 581 – Relating to Child Custody.

Purpose: Requires certain individuals attempting to serve as child custody evaluators to complete a training course on the dynamics of domestic violence every three years. Requires individuals to submit a letter or certificate of completion to the Family Court.

Judiciary's Position:

The Judiciary supports this bill. We agree that custody evaluators and fact finders should be knowledgeable about the dynamics of domestic violence and its impact on children. We believe, therefore, that this bill is in the best interests of children who are the subject of child custody proceedings.

Thank you for the opportunity to testify on this measure.



TO: Chair John Mizuno
Vice Chair Terez Amato
FR: Nanci Kreidman, M.A.
Chief Executive Officer
RE: H.B. 581

HB 581 Support

Aloha. And thank you for scheduling this Bill for hearing early in the Session. This is an issue of great importance, and necessitates review.

Thank you for giving this idea consideration. The Courts rely on the work done by professionals in the community who assume responsibility for certain duties in particular roles. Custody evaluators are crucial in the decision making that occurs when families separate and children are placed with one parent or the other, and visitation must be awarded according to facts related to experiences in the family household.

All parties want to put on their "best face". And the conflict that defines the current breakdown can be hard to fully grasp. It is a good thing that custody evaluators participate in training to prepare them adequately for the task at hand. We believe that custody evaluators, indeed island families, would benefit from training about domestic violence—which would not be evident in a controlled setting. It is not personal information that is easily shared or offered voluntarily. An inquiry can be shaped by the custody evaluator to capture information and contribute to an assessment that secures the best and safest outcome.

Including training about domestic violence would be of great benefit and support families who need all systems to understand the priority for safety, well-being and healing. Thank you for your favorable action on this Bill.

DOMESTIC VIOLENCE ACTION CENTER

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HAWAI'I STATE
COALITION AGAINST
DOMESTIC VIOLENCE

February 9, 2023

Members of the House Committee on Human Services:

Chair John M. Mizuno
Vice Chair Terez Amato
Rep. Della Au Belatti
Rep. Greggor Ilagan
Rep. Bertrand Kobayashi
Rep. Scott Y. Nishimoto
Rep. Jenna Takenouchi
Rep. Diamond Garcia

Re: HB581 Relating to Child Custody

Dear Chair Mizuno, Vice Chair Amato, and Members of the House Committee on Human Services:

The Hawai'i State Coalition Against Domestic Violence (HSCADV) addresses the social, political, and economic impacts of domestic violence on individuals, families, and communities. We are a statewide partnership of domestic violence programs and shelters.

On behalf of HSCADV and our 28 member programs statewide, I respectfully submit testimony in **strong support of HB581**. This bill requires custody evaluators and fact finders to receive a minimum of five hours of training in the dynamics of domestic violence, once every three years.

We recognize that the lack of domestic violence training for custody evaluators and fact finders too often results in inconsistent outcomes for survivors of domestic violence and their children. Survivors report feeling re-victimized by their interactions with custody evaluators and fact finders and some choose not to proceed with the custody process at all.

Survivors and their children are not justly served when custody evaluators and fact finders are not trained to recognize the dynamics of domestic violence and how the abusive parent could be using tactics of power and control in a custody case.

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

Sincerely,
Angelina Mercado, Executive Director



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: Representative Mizuno, Chair
Representative Amato, Vice Chair
House Committee on Human Services

Re: HB581, relating to early child care
9:00 a.m., Feb. 9, 2023

Aloha Chair Mizuno, Vice Chair Amato and committee members:

On behalf of Hawai'i Children's Action Network (HCAN) Speaks!, mahalo for the opportunity to **testify in STRONG SUPPORT of House Bill 581, relating to child custody.**

Survivors and their children deserve a system that does not re-victimize them. This is a both a matter of justice and practicality. Feelings of re-victimization can persuade survivors to halt necessary legal proceedings. Additionally, even when they proceed, a lack of domestic violence training for custody evaluators and fact finders too often results in inconsistent outcomes for survivors of domestic violence and their children.

HB581 requires custody evaluators and fact finders to receive a minimum of five hours of training in the dynamics of domestic violence, once every three years. This is an important step forward. Survivors and their children are not justly served when custody evaluators and fact finders are not trained to recognize the dynamics of domestic violence and how the abusive parent could be using tactics of power and control in a custody case.

Please advance HB581.

Mahalo,

Ke'ōpū Reelitz
Director of Early Learning and Health Policy

HB-581

Submitted on: 2/8/2023 1:03:06 AM

Testimony for HUS on 2/9/2023 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Midwives Alliance of Hawaii	Midwives Alliance of Hawaii	Support	Written Testimony Only

Comments:

Please support HB581 Relating to Child Custody.

Survivors and their children are not justly served when custody evaluators and fact finders are not trained to recognize the dynamics of domestic violence and how the abusive parent could be using tactics of power and control in a custody case.

Vote in SUPPORT of HB581

Midwives Alliance of Hawaii

HB-581

Submitted on: 2/8/2023 7:46:31 AM

Testimony for HUS on 2/9/2023 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Russell	Lokahi Treatment Centers	Support	Written Testimony Only

Comments:

HB581 Relating to Child Custody

(Mandatory domestic violence training for custody evaluators and fact finders)

I respectfully submit testimony in strong support of HB581. This bill requires custody evaluators and fact finders to receive a minimum of five hours of training in the dynamics of domestic violence, once every three years.

We recognize that the lack of domestic violence training for custody evaluators and fact finders too often results in inconsistent outcomes for survivors of domestic violence and their children. Survivors report feeling re-victimized by their interactions with custody evaluators and fact finders and some choose not to proceed with the custody process at all.

Survivors and their children are not justly served when custody evaluators and fact finders are not trained to recognize the dynamics of domestic violence and how the abusive parent could be using tactics of power and control in a custody case.

HB-581

Submitted on: 2/8/2023 10:38:28 AM

Testimony for HUS on 2/9/2023 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Doris Segal Matsunaga	Save Medicaid Hawaii	Support	Written Testimony Only

Comments:

Save Medicaid Hawaii supports HB 581

HB-581

Submitted on: 2/7/2023 2:34:01 PM

Testimony for HUS on 2/9/2023 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Marilyn Yamamoto	Hawaii Coalition for Child Protective Reform	Oppose	Written Testimony Only

Comments:

Committee members,

There is a difference between a one-hour online training and fully comprehensive training on any topic. This bill does not specify what kind of training is to be acceptable. Therefore, we oppose what could be inadequate training for custody evaluators that could have a lifelong impact on minor children.

HB-581

Submitted on: 2/8/2023 1:08:26 AM

Testimony for HUS on 2/9/2023 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Melissa W. Chong	Individual	Support	Written Testimony Only

Comments:

Please support HB581 Relating to Child Custody.
Respectfully,

Melissa W. Chong

HB-581

Submitted on: 2/8/2023 8:25:07 AM

Testimony for HUS on 2/9/2023 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Dr. Faith Joyner	Individual	Support	Written Testimony Only

Comments:

Aloha, I support this bill. Mahalo for your consideration.

HB-581

Submitted on: 2/8/2023 9:31:26 AM

Testimony for HUS on 2/9/2023 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Laurie Tochiki	Individual	Support	Written Testimony Only

Comments:

Child custody matters are extremely complex and when intimate partner violence, power and control issues are also involved, it is important that those tasked with assisting the family court by making custody recommendations are fully informed about domestic violence issues. I support domestic violence training for custody evaluators.

HB-581

Submitted on: 2/8/2023 9:53:03 AM

Testimony for HUS on 2/9/2023 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Ryan Samonte	Individual	Support	Written Testimony Only

Comments:

Support

HB-581

Submitted on: 2/8/2023 10:04:21 AM

Testimony for HUS on 2/9/2023 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Sarah Fairchild	Individual	Support	Written Testimony Only

Comments:

I respectfully submit testimony in strong support of HB581. This bill requires custody evaluators and fact finders to receive a minimum of five hours of training in the dynamics of domestic violence, once every three years.

I've been through a court-ordered custody evaluation as part of my divorce case and I know several other families who have been through this deeply stressful and personal process. I've also been a volunteer Guardian Ad Litem and worked in the Hawaii foster care system. The custody evaluator has enormous influence over the future lives of the family members and how their lives will be set up. In private cases at least, the custody evaluator is paid very handsomely. the evaluator should be aware and continually retrained to recognize the dynamics of abuse. Within family systems and certainly within contentious cases, abusers often twist the facts and even try to look like the victim. Meanwhile, the victims themselves have often been so conditioned by the abuse, they are unable to speak up for themselves in an effective manner.

HB-581

Submitted on: 2/8/2023 10:34:38 AM

Testimony for HUS on 2/9/2023 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Cynthia Texeira	Individual	Support	Written Testimony Only

Comments:

I strongly support HB581.

HB-581

Submitted on: 2/8/2023 10:51:24 AM

Testimony for HUS on 2/9/2023 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Jonathan Stremel	Individual	Oppose	Remotely Via Zoom

Comments:

Aloha,

I am writing today to vehemently OPPOSE this bill for the following reasons:

-It will re-victimize domestic violence survivors, including children

-The secret "working group" that created the bill did not follow the sunshine laws and was not formed via a bill nor a resolution. This bill may have been written illegally.

-The secret "working group" who created this bill consisted of problematic for-profit Custody Evaluators who have a financial conflict of Interest and contributed to the bill being poorly written and having zero accountability

-The secret "working work" who created this bill consisted of members of the Hawaii State Coalition Against Domestic Violence and the Domestic Violence Action Center, who has a ***financial incentive to pass this bill*** as they want forprofit Custody Evaluators to pay their organiation to give the training mentioned in the bill

-The bill is vague when it comes to what organization will issue the training, what the training will consist of, what the punishment will be if a for profit CE does not get the certificate (if any)

-The bill gives a false sense of validation to for profit Custody Evaluators to determine whether or not a CRIME was committed.

This bill strongly undermines the importance of domestic abuse and domestic violence. This takes away the power of guilt from the police, judges, CWS, and filters all of the power to for profit Custody Evaluators with these vague "trainings."

As a paralegal, parent, and domestic violence survivor, I strongly urge you NOT TO PASS this highly problematic bill.

We believe this bill is riddled with Conflicts of Interests and the secret committee that wrote it violated Hawaii's sunshine laws. Not only should this bill not advance, but its conception should be investigated by the State's Ethics Office.

Mahalo for your Consideration

HB-581

Submitted on: 2/8/2023 11:14:04 AM

Testimony for HUS on 2/9/2023 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Deb Nehmad	Individual	Support	Written Testimony Only

Comments:

I strongly support this bill.

thank you for considering

deb nehmad

TO: Representative John Mizuno, Chair
Representative Terez Amato, Vice Chair
House Human Services Committee Members

FROM: Dara Carlin, M.A.
Domestic Violence Survivor Advocate

DATE: February 9, 2023

RE: Opposition & Comments on HB581

Good Morning Chair Mizuno, Vice Chair Amato & House Human Services Committee Members, and my apologies once again for the following Late Testimony.

As with HB446, it seems that I should be in support of HB581 but at the expense of repeating myself, the main reason why I must OPPOSE it is because of:

“Certain individuals attempting to serve as child custody evaluators”. For brevity’s sake, may I please refer you to my previous testimony on HB446 that elaborates my concerns, not about domestic violence training, which I am all for, but the legitimizing, empowering, authorizing and giving credibility to “certain individuals” who may not be fit to serve as Child Custody Evaluators.

I remain that letters and/or certificates of completion are absolutely worthless if *proficiency in the subject matter cannot be proven*.

Because former legislative sessions have all UNSUCCESSFULLY tried to establish CCE core criteria & training standards as well as provide safeguards for parents and place those into law, which has not yet been achieved, asking for “certain individuals attempting to serve as child custody evaluators” (are they even CCEs?) to complete a training course on the dynamics of domestic violence every three years is validating their “legitimate standing” as a CCE that they may not even have to begin with.

Many professions must *prove subject matter proficiency in order to continue practicing* or face fine, sanction, suspension or be delicensed for malpractice – considering the critically important nature of work involving children & families, where one wrong decision or judgment call could cost a life or lives, all individuals “attempting to serve” in the lives of children & families in Hawaii should be subject to proof of proficiency before they’re permitted to serve.

Please establish CCE core criteria & training standards as well as provide safeguards for parents and place those into law to incorporate mandatory domestic violence training with proof of proficiency and then we’ll be on the right track.

Thank you most sincerely for your time and consideration.

Respectfully,

Dara Carlin, M.A.

Domestic Violence Survivor Advocate

TO: Chair: Rep. John M. Mizuno
Vice Chair: Rep. Terez Amato

FROM: Melinda L. Franklin, M.A., Nurse Practitioner (neurosurgery specialty, retired) I am a mother who won my case in the Hawai'i Intermediate Court of Appeals (see Chee v. Chee referenced below)

Date: Wednesday, February 8, 2023

Date of Hearing: Thursday, February 9, 2023
Time: 9:00am

RE: STRONG OPPOSITION to HB 446 and HB 581

The language of these bills is poorly written, vague, and self-serving by corrupt court players.

*Requires **certain individuals attempting** to serve as **child custody evaluators** to complete a training course on the dynamics of domestic violence every three years. Requires individuals to submit a letter or certificate of completion to the Family Court.*

Objections:

- 1) "Requires certain individuals"
- 2) "attempting to serve"
- 3) "as child custody evaluators"
- 4) "training course"

1). Who are these "**certain individuals**"? Are they licensed professionals, or people who want to play God and make life altering decisions pertinent to families.

In my case, which I won in the Hawai'i Intermediate Court of Appeals as a pro se litigant. A decision was initially made about the custody of my 4 children by a woman "certain individual", specifically **Barbara Shintani**, an unlicensed court worker who **never** met me. She obtained input only from my ex-husband, Kevin Chee (an attorney).

[Chee v. Chee, 121 Haw. 30, 211 P.3d 88 \(Haw. Ct. App. 2009\)](#)

[\(Mother lost custody in family court after reporting child sexual abuse by father and paternal grandfather, confirmed by daughter who threatened to kill herself if she was forced to return to her father. Father alleged parental alienation. Mother represented herself pro se in the ICA and won. The ICA vacated and remanded family court's judgement, but by that time 10 years had passed and significant financial harm to Mother due to trial-level litigation abuse by Father. Custody evaluators: Marvin Acklin, Sue Lehrke, Barbara Shintani. GAL: Kimberly S. Towler.](#)

With no license to protect the public, these "certain individuals" (custody evaluators) are free to make decisions without evidence!

2). “Attempting to serve”. That says it all! Custody evaluators are serving their own interests. They are unnecessary and are used as pawns by litigants and the family court team of operatives. As Hawaii psychologist Marvin Acklin noted: **“We’re a group”**. (See [Beam v. Beam, 130 Haw. 346, 310 P.3d 1047 \(Haw. Ct. App. 2010\)](#))
([Mother lost custody of child after reporting child sexual abuse of daughter by father. Father alleged parental alienation. Mother cited a conflict of interest due to the custody evaluator’s \(Marvin Acklin’s past employment with father, which was rejected by court. ICA affirmed family court’s ruling. Hon. Justice Nakamura dissented, finding family court committed “an abuse of discretion” in precluding mother from entering evidence to the record.\)](#))

See also, [Mother’s appellate brief.](#)

3). The Hawai’i Family Court is rife with problems, particularly gender bias against mothers. Parents deserve due process and equal protection under the law. The family court **“group”** players make things up without evidence, twist facts to meet their narrative and agenda. The Hawai’i Family Court needs to have it’s corruption exposed. They are still following the junk science of “parental alienation” which was long ago debunked and is now illegal for courts to use in many states.

4). With regard to language in the bill: *a training course on the dynamics of domestic violence* . What does this mean? Who conducts the “course”? Is it the same people in Marvin Acklin’s **“group”**? What does the “training” consist of? More blather about the debunked junk sciences like parental alienation?

I agree with Hawai’i Domestic Violence (DV) Survivor Advocate Dara Carlin. With regard to DV training: letters, certificates are worthless. Anyone can get a certificate of completion. Just show up!

The Hawai’i legislature needs to boldly address Family Court corruption. Decisions made by “certain individuals **attempting** to serve as **child custody evaluators**” is NOT a step in that direction. To that end “training courses” are worthless and are merely a smoke screen used by the **“group”**.

Respectfully,

Melinda L. Franklin, MA

Nurse Practitioner (neurosurgery specialty, retired). Mother who won her case in the Hawai’i Intermediate Court of Appeals (see Chee v. Chee referenced above).

HB-581

Submitted on: 2/8/2023 3:25:47 PM

Testimony for HUS on 2/9/2023 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Kyle Shelly	Individual	Support	Written Testimony Only

Comments:

I am testifying in support of H.B. 581 as an individual citizen. The Family Court system uses Custody Evaluators and/or Best Interest Fact Finders to render opinions regarding physical and/or legal custody of children. It is imperative that these individuals be regularly trained on the dynamics of domestic violence, especially its impact on children, or they should not be appointed by the Court in such circumstances.

Through personal experience, I believe this Bill will help to reduce inconsistent outcomes for families and produce safer custody decisions for Children.

Thank you for hearing this Bill and for your service to the State of Hawaii.

Kyle J Shelly

**Testimony to the Thirty-Second State Legislature
2023 Regular Session**

House Committee on Human Services

Representative John M. Mizuno, Chair
Representative Terez Amato, Vice Chair

Members:

Della Au Belatti
Greggor Ilagan
Bertrand Kobayashi
Scott Y. Nishimoto
Jenna Takenouchi
Diamond Garcia

Thursday, February 9, 2023 at 9:00 am.
State Capitol, Conference Room 329 & Videoconference

WRITTEN TESTIMONY

by: Troy Fujii
Special Education Teacher
State of Hawaii, Department of Education

Bill No. and Title: House Bill No. 581, Relating to Child Custody

Purpose: Requires certain individuals attempting to serve as child custody evaluators to complete a training course on the dynamics of domestic violence every three years. Requires individuals to submit a letter or certificate of completion to the Family Court.

My Position:

On House Bill No. 581, I am recommending the following amendments to be considered for inclusion into the bill.

Amending the purpose of the bill to include the following:

3. Require child custody evaluators to be fair and impartial to both mothers and fathers when considering the best interests of a child in a contested custody dispute.
4. Require child custody evaluators to start with the presumption, **rebuttable by clear and convincing evidence**, that joint custody and equal shared parenting is in the best interests of the child.
5. Require child custody evaluators provide evidence and reasons for their decision.

According to Equality for Children:

Equal Shared Parenting Benefits EVERYONE



Reduces Conflict

Equal shared parenting reduces conflict, court costs, and using children as pawns in an adult dispute.



Children Feel Loved

Studies have shown that children feel loved when they share equal time with both parents and children have fears that the non-custodial parents do not want them in unequal time that leads to poor mental and physical health.



Equality

Mothers and fathers must equally share in parenting to move society forward and to show our children that men and women are equal at both home and work.

PERSONAL EXPERIENCE

I am a 51 year old father born and raised on Kauai in a traditional household but live and work in Hilo since 1991. I graduated with a Bachelor's degree in Sociology from the University of Hawai'i at Hilo and then got my certification in special education. I also earned a Masters Degree in Kinesiology and Leisure Science with an emphasis in Adapted Physical Education. I got married at the age of 29 and have two sons ages 21 and 16 as well as a 5 year old daughter with my current partner. I've been employed with the DOE for the past 26+ years working with Special Education students at all levels. I am currently working at the elementary level the past 16+ years. I have volunteered my spare time to coach both my son's baseball teams from 2005 to 2018 and coached at a high school for 6 years during that time.

I feel pretty accomplished with my life thus far, however no one goes without fault. In 2011, my ex-wife and I separated and I then filed for divorce in 2013 and it was finalized in 2014.

I initially agreed to my ex-wife having full physical custody at the time. I didn't have a permanent residence to provide the best living situation for my children and felt it was in their best interest to live with their mother in her home so that they could adjust to the divorce. However, in 2016, I did establish a permanent home and filed for joint custody of my children. That is when my life along with my children's lives have been in complete turmoil.

My ex-wife did not agree to joint custody and we have been in a vicious conflict. I went into seeking joint custody with high hopes as I couldn't think of any reason why I shouldn't have my children half of the time.

Enter the child custody evaluator at this point. He was a family court lawyer and it is my opinion that had he had the presumption of 50/50 shared parenting. I would no doubt have gotten joint custody of my two boys. However, during one of 2 interviews he had with me he did not take down any notes to what I was saying. It was as if he had made up his mind without getting all the facts and was biased towards my ex-wife and her well known lawyer.

It would be my hope that these amendments make it into this bill. It will level the playing field for parents seeking equal shared parenting and holding child custody evaluators accountable for their decisions.

Thank you,

Troy Fujii

HB-581

Submitted on: 2/9/2023 9:31:26 AM

Testimony for HUS on 2/9/2023 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
James Trice	NuWayve Unlimited	Support	Written Testimony Only

Comments:

Support