

**ACT 85**

H.B. NO. 581

A Bill for an Act Relating to Child Custody.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the family court may appoint a child custody evaluator from a list of qualified individuals to investigate a child custody dispute. State law currently prefers that licensed psychologists, marriage and family therapists, psychiatrists, and social workers serve as evaluators, but authorizes individuals having qualifying education and training in child custody evaluations to serve as evaluators when psychologists, marriage and family therapists, psychiatrists, or social workers are not available. The law also authorizes other individuals, known as fact-finding investigators, to serve as child custody evaluators by stipulation of the parties and approval by the court. These evaluators are most often attorneys who practice family law. The legislature also

finds that child custody evaluators typically provide written reports to the court, and sometimes testify at hearings or trial.

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

The purpose of this Act is to:

- (1) Require certain individuals attempting to serve as child custody evaluators to complete a training course on the dynamics of domestic violence every three years; and
- (2) Require the individuals to submit a letter or certificate of completion of the training course to the family court.

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

~~“[H]§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) Marriage and family therapist under chapter 451J;
- ~~[(4)]~~ (2) Physician under chapter 453 and is a board certified psychiatrist or has completed a residency in psychiatry;
- ~~[(2)]~~ (3) Psychologist under chapter 465; or
- ~~[(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, 2024, the following requirements shall apply to a person described in subsection (a) or (b)(2) who seeks to be appointed as, or who wishes to continue acting as, a child custody evaluator pursuant to this section:

- (1) The person shall complete a training course on the dynamics of domestic violence at least once every three years; provided that the training course shall include a minimum of five hours of training;
- (2) Following completion of the training course, the person shall submit a letter or certificate of completion to the family court and, upon request, shall provide copies thereof to all parties or the parties' attorneys;

- (3) If the person is included on the family court's registry of child custody evaluators as of July 1, 2024, the person shall submit to the family court proof of completion of the training course on or before June 1, 2026; and
- (4) If the person is not on the family court's registry of child custody evaluators as of July 1, 2024, the person shall submit proof of having completed the requisite training course when seeking to be appointed as a child custody evaluator.

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

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

~~(e)~~ (f) A complaint against a court-appointed child custody evaluator not qualified under subsection (a) may be resolved through civil litigation.”

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

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

(Approved June 14, 2023.)