
A BILL FOR AN ACT

RELATING TO FAMILY COURT.

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

1 SECTION 1. Existing actions for divorce, separation,
2 annulment, separate maintenance, or any other proceeding where
3 there is at issue a dispute as to the custody of a minor child
4 to allow the family court, during the pendency of the action, at
5 the final hearing, or any time during the minority of the child,
6 to make an order for the custody of the minor child as the court
7 may deem necessary or proper. For this purpose, section
8 571-46(a), Hawaii Revised Statutes, allows the court to appoint
9 a child custody evaluator to investigate and report on the care,
10 welfare, and custody of any minor child of the parties, or any
11 party to produce an expert, whose skill, insight, knowledge, or
12 experience is such that the person's or expert's testimony is
13 relevant to a just and reasonable determination of what is for
14 the best physical, mental, moral, and spiritual well-being of
15 the child whose custody is at issue. However, there are no
16 provisions in current law that require child custody evaluators
17 or experts to have specific professional qualifications.



1 The purpose of this Act is to develop standards of practice
 2 for child custody evaluators and to establish a registry of
 3 child custody evaluators or experts appointed by the family
 4 court or produced by a party to assist the court in awarding
 5 custody in child custody cases.

6 SECTION 2. Chapter 571, Hawaii Revised Statutes, is
 7 amended by adding a new part to be appropriately designated and
 8 to read as follows:

9 **"PART . CHILD CUSTODY EVALUATORS**

10 **§571-A Definitions.** As used in this part:

11 "Board" means the board of family court judges under
 12 section 571-5.

13 "Child custody evaluator" means an investigator or
 14 professional, appointed by the court under section 571-46(a)(4)
 15 to investigate and report on the care, welfare, and custody of
 16 any minor child of the parties.

17 "Eligible training providers" includes the administrative
 18 office of the courts and may include educational institutions,
 19 professional associations, professional continuing education
 20 groups, public or private for-profit or not-for-profit groups,
 21 court-connected groups, and any entity that provides a course or



1 seminar that qualifies for child custody evaluator continuing
2 training or education.

3 **§571-B Duties of the board in child custody cases;**
4 **registry; standards of practice; appointment and certification**
5 **of child custody evaluators.** (a) The board shall establish a
6 child custody evaluator registry. The board shall establish and
7 maintain this registry on or before January 1, 2012.

8 (b) The board shall maintain and update the child custody
9 evaluator registry annually or as new information is received.
10 The child custody evaluator registry shall be made available
11 without charge to any party to the proceeding and shall contain,
12 at a minimum, the information in the child custody evaluator
13 annual declaration under section 571-C.

14 (c) To remove any appearance of impropriety, an
15 appropriate disclaimer regarding the use of the child custody
16 evaluator registry may be included as part of the registry.

17 (d) No person shall be appointed by the court as a child
18 custody evaluator or shall otherwise testify as an expert on
19 behalf of a party to the proceedings to render an opinion on
20 awarding custody pursuant to section 571-46, unless the child
21 custody evaluator or expert is included in the child custody
22 evaluator registry.



1 (e) Child custody evaluator annual declarations under
2 section 571-C shall be retained and made available to parties to
3 a child custody case as part of the registry for not less than
4 twelve years from the date of filing of the initial current
5 child custody evaluator annual declaration.

6 **§571-C Child custody evaluator annual declaration.** (a)
7 Prior to appointment as a child custody evaluator, the child
8 custody evaluator shall have a current child custody evaluator
9 annual declaration, as provided in subsection (b), on file with
10 the court.

11 (b) A child custody evaluator shall file annually with the
12 board, in writing upon forms provided by the board, the
13 following information, under penalty of perjury:

14 (1) The child custody evaluator's contact information,
15 professional license, and professional license
16 expiration date;

17 (2) The circuit, jurisdiction, or state where the child
18 custody evaluator is eligible to perform child custody
19 evaluations;

20 (3) Any certification or child custody evaluator
21 qualifications from any other state or jurisdiction
22 held by the child custody evaluator;



- 1 (4) Training relevant to child custody evaluations;
2 provided that the training shall extend back beyond
3 the immediately preceding calendar year;
- 4 (5) Experience relevant to child custody evaluations,
5 including the total number of investigations and
6 reports performed and appointments acquired as a child
7 custody evaluator in the immediately preceding
8 calendar year;
- 9 (6) Continuing specialized training, relevant to child
10 custody evaluations, received in the immediately
11 preceding calendar year, including the course, date of
12 the course, sponsoring organization, and continuing
13 education credits earned from the course;
- 14 (7) Any criminal convictions, pending criminal charges,
15 civil actions to which the child custody evaluator was
16 or is a party, complaints about the child custody
17 evaluator to a professional licensing agency or ethics
18 enforcement body resulting in public discipline, and
19 orders for protection issued against the child custody
20 evaluator;
- 21 (8) Any disciplinary action taken against the child
22 custody evaluator by the appropriate licensing



1 authority with jurisdiction over the professional
2 license of the child custody evaluator that is
3 relevant to child custody evaluations;

4 (9) References from other relevant professionals or
5 clients of the child custody evaluator;

6 (10) The specific services provided by the child custody
7 evaluator and the associated cost or fee structure;

8 (11) Formal education, including academic degrees earned by
9 the child custody evaluator; provided that a
10 curriculum vitae may be provided as an attachment; and

11 (12) Any other qualifications or information deemed
12 relevant by the board to child custody evaluations, as
13 contained in the child custody evaluator annual
14 declaration.

15 (c) A current child custody evaluator annual declaration
16 on file with the board shall be a prerequisite for a child
17 custody evaluator or expert to be qualified to testify in family
18 court on the issue of custody pursuant to section 571-46. The
19 board shall not accept for filing any incomplete child custody
20 evaluator annual declaration.

21 **§571-D Child custody evaluator certification.** The board
22 may establish a child custody evaluator certification program,



1 including requirements for licensing criteria, academic
2 education, professional experience, and continuing specialized
3 training in child custody evaluations. Certification criteria
4 may include knowledge of policies related to complaints, ethical
5 violations, disciplinary actions, and the certification of the
6 child custody evaluator by other states.

7 **§571-E Child custody evaluation standards.** The board
8 shall establish child custody evaluation standards for child
9 custody evaluators to apply in recommending an award of custody
10 of a child, including best practices, benchbooks, and
11 guidelines, based upon the type and extent of the custody
12 investigation and report to the court."

13 SECTION 3. Section 571-5, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§571-5 Board of family court judges.** A board of family
16 court judges, which shall consist of all the State's family
17 court judges and district family judges is hereby created. The
18 board shall annually elect from among its members a chairperson
19 who shall preside at meetings of the board. The chairperson
20 shall have no ~~[other]~~ authority ~~[not]~~ other than authority
21 specifically authorized under this chapter~~[7]~~ or any applicable
22 rule of the supreme court, or specifically delegated by a



1 majority of the board. The board shall meet at stated times to
2 be fixed by it but not less often than once every six months,
3 and on call of the chairperson.

4 The board shall discuss and shall attempt to achieve
5 agreement upon general policies for the conduct of the family
6 courts and forms for use in ~~[such]~~ the family courts,
7 including the appointment and certification of child custody
8 evaluators under part . The board shall recommend, for
9 adoption by the supreme court, rules of court governing
10 procedure and practices in ~~[such]~~ the family courts. The board
11 may, within the limitations of the facilities available to the
12 family courts of the State, seek the consolidation of the
13 statistical and other data on the work and services ~~[such]~~ the
14 family courts and research studies that may be made of the
15 problems of families and children dealt with by ~~[such]~~ the
16 family courts to the end that the treatment of children and
17 families subject to the jurisdiction of ~~[such]~~ the family courts
18 shall achieve the highest possible degree of uniformity
19 throughout the State and to the further end that knowledge of
20 treatment, methods, and therapeutic practices be shared among
21 ~~[such]~~ the family courts. The board may also formulate
22 recommendations for remedial legislation. All actions by the



1 board shall be subject to the regulatory supervision of the
2 chief justice of the supreme court."

3 SECTION 4. In codifying the new sections added by section
4 2 of this Act, the revisor of statutes shall substitute
5 appropriate section numbers for the letters used in designating
6 the new sections in this Act.

7 SECTION 5. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 6. This Act shall take effect on July 1, 2050.



Report Title:

Family Court; Custody; Child Custody Evaluators

Description:

Establishes a program in the family court for the registration of child custody evaluators; allows board of family court judges to establish a program for certification of child custody evaluators. Effective 07/01/2050. (SD2)

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