

JAN 19 2023

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# 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 having qualifying  
7 education and training in child custody evaluations to serve as  
8 evaluators 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 regarding custody matters  
7 may be 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 the dynamics of domestic violence, including its  
12 lethality, subtlety, and prevalence, 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 the dynamics of domestic violence every three  
18 years; and
- 19           (2) Require individuals to submit a letter or certificate  
20 of completion to the family court.



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

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

- 8 (1) Physician under chapter 453 and is a board certified  
9 psychiatrist or has completed a residency in  
10 psychiatry;
- 11 (2) Psychologist under chapter 465;
- 12 (3) Marriage and family therapist under chapter 451J; or
- 13 (4) Clinical social worker under section 467E-7(3).

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

- 16 (1) The individual has obtained education and training  
17 that meet nationally recognized competencies and  
18 standards of practice in child custody evaluation;  
19 provided that there are no child custody evaluators  
20 enumerated under subsection (a) who are willing and



1 available, within a reasonable period of time, to  
2 perform child custody evaluations; or

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

7 (c) Beginning July 1, 2024, the following requirements  
8 shall apply to a person described in subsections (a) or (b) (2)  
9 who seeks to be appointed as, or who wishes to continue acting  
10 as, a child custody evaluator pursuant to this section:

11 (1) The person shall complete at least once every three  
12 years a training course on the dynamics of domestic  
13 violence; provided that the training course shall  
14 include a minimum of five hours of training;

15 (2) Following completion of the training course, the  
16 person shall submit a letter or certificate of  
17 completion to the family court and, upon request,  
18 shall provide copies thereof to all parties or to the  
19 parties' attorneys;

20 (3) If the person is included on the family court's  
21 registry of child custody evaluators as of



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

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

16          ~~(d)~~ (e) The judiciary shall establish a referral process  
17          to allow parties to file a complaint with the judiciary  
18          regarding a court-appointed child custody evaluator. Upon  
19          notification by a party of the party's intent to file a  
20          complaint against a child custody evaluator appointed under  
21          subsection (a), the judiciary may refer the complainant to the



1 appropriate licensing authority. The judiciary shall submit to  
2 the legislature an annual report regarding the number of  
3 complaints against court-appointed child custody evaluators that  
4 are processed through the referral process.

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

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

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

11

INTRODUCED BY: Michelle Tedani



# S.B. NO. 237

**Report Title:**

Judiciary; Family Court; Child Custody; Training

**Description:**

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.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

