
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 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 the individuals to submit a letter or
20 certificate of completion of the training course to
21 the family court.



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

3 "[+]§571-46.4[+] 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) Marriage and family therapist under chapter 451J;

9 ~~[(1)]~~ (2) Physician under chapter 453 and is a board
10 certified psychiatrist or has completed a residency in
11 psychiatry;

12 ~~[(2)]~~ (3) Psychologist under chapter 465; or

13 ~~[(3)]~~ ~~Marriage and family therapist under chapter 451J; or]~~

14 (4) Clinical social worker under section 467E-7(3).

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

17 (1) The individual has obtained education and training
18 that meet nationally recognized competencies and
19 standards of practice in child custody evaluation;
20 provided that there are no child custody evaluators
21 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 subsection (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 a training course on the
12 dynamics of domestic violence at least once every
13 three years; 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 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 proof of completion of the training course on or
3 before June 1, 2026; 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.



Report Title:

Judiciary; Family Court; Child Custody Evaluators; 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. (SD2)

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