

STATE OF NEW YORK

10087

IN ASSEMBLY

April 29, 2022

Introduced by M. of A. PAULIN -- read once and referred to the Committee on Judiciary

AN ACT to amend the domestic relations law and the family court act, in relation to prohibiting certain forensic child custody evaluators from appearing as an expert witness in family court

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 70 of the domestic relations law is amended by
2 adding a new subdivision (c) to read as follows:

3 (c) (1) No court shall permit a forensic child custody evaluator to
4 appear as an expert witness nor shall such court order or allow into
5 evidence a forensic report prepared by such forensic child custody eval-
6 uator, in the context of a custody or visitation proceeding, when such
7 forensic child custody evaluator has been removed from the panel of
8 forensic custody evaluators by the mental health professionals certifi-
9 cation committee or other supervisory body, has offered to step down
10 from the panel, or has negotiated a settlement with the committee or
11 other supervisor body and such forensic child custody evaluator will no
12 longer be on the panel of forensic custody evaluators.

13 (2) For the purposes of this subdivision:

14 (i) "forensic child custody evaluator" shall mean a licensed psychia-
15 trist, psychologist or social worker authorized by statute or the court
16 to perform a forensic evaluation relating to a party or a child in order
17 to assist the court in a child custody or visitation determination.

18 (ii) "forensic report" shall mean any report, assessment or evaluation
19 prepared by a forensic child custody evaluator and used by the court in
20 a child custody or visitation determination.

21 § 2. Subdivision 1 of section 240 of the domestic relations law is
22 amended by adding a new paragraph (a-3) to read as follows:

23 (a-3) (1) No court shall permit a forensic child custody evaluator to
24 appear as an expert witness nor shall such court order or allow into
25 evidence a forensic report prepared by such forensic child custody eval-
26 uator, in the context of a custody or visitation proceeding, when such
27 forensic child custody evaluator has been removed from the panel of

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 forensic custody evaluators by the mental health professionals certifi-
2 cation committee or other supervisory body, has offered to step down
3 from the panel, or has negotiated a settlement with the committee or
4 other supervisor body and such forensic child custody evaluator will no
5 longer be on the panel of forensic custody evaluators.

6 (2) For the purposes of this paragraph:

7 (i) "forensic child custody evaluator" shall mean a licensed psychia-
8 trist, psychologist or social worker authorized by statute or the court
9 to perform a forensic evaluation relating to a party or a child in order
10 to assist the court in a child custody or visitation determination.

11 (ii) "forensic report" shall mean any report, assessment or evaluation
12 prepared by a forensic child custody evaluator and used by the court in
13 a child custody or visitation determination.

14 § 3. Section 651 of the family court act is amended by adding a new
15 subdivision (g) to read as follows:

16 (g) 1. No court shall permit a forensic child custody evaluator to
17 appear as an expert witness nor shall such court order or allow into
18 evidence a forensic report, or updated report, prepared by such forensic
19 child custody evaluator, to be entered into evidence at a hearing, or in
20 any proceeding involving custody or visitation, where the forensic
21 custody evaluator's testimony has been barred or excluded, in whole or
22 in part, for any reason.

23 2. For the purposes of this subdivision:

24 (i) "forensic child custody evaluator" shall mean a licensed psychia-
25 trist, psychologist or social worker authorized by statute or the court
26 to perform a forensic evaluation relating to a party or a child in order
27 to assist the court in a child custody or visitation determination.

28 (ii) "forensic report" shall mean any report, assessment or evaluation
29 prepared by a forensic evaluator and used by the court in a child custo-
30 dy or visitation determination.

31 § 4. This act shall take effect on the ninetieth day after it shall
32 have become a law, provided, however, that effective immediately the
33 chief administrator of the courts, with the approval of the administra-
34 tive board of the courts, is authorized to promulgate any rules neces-
35 sary to implement the provisions of this act on or before such effective
36 date.