

STATE OF NEW YORK

2375--A

2021-2022 Regular Sessions

IN ASSEMBLY

January 19, 2021

Introduced by M. of A. DINOWITZ -- read once and referred to the Committee on Judiciary -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the domestic relations law and the executive law, in relation to court ordered forensic evaluations involving child custody and visitation

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

1 Section 1. Subdivision 1 of section 240 of the domestic relations law
2 is amended by adding a new paragraph (a-4) to read as follows:

3 (a-4) Court ordered forensic evaluations involving child custody and
4 visitation. (1) The court may appoint a forensic evaluator on behalf of
5 the court to evaluate and investigate the parties and a child or chil-
6 dren in a proceeding involving child custody and visitation provided
7 that the child custody forensic evaluator is a psychologist, social
8 worker or psychiatrist who is licensed in the state of New York and has
9 received within the last two years, a certification of completion for
10 completing the training program pursuant to paragraph (n) of subdivision
11 three of section five hundred seventy-five of the executive law.

12 (2) Notwithstanding any provision of law to the contrary, no individ-
13 ual shall be appointed by a court to conduct a forensic evaluation in a
14 proceeding involving child custody and visitation pursuant to this para-
15 graph unless such individual has received within the last two years, a
16 certification of completion for completing the training program pursuant
17 to paragraph (n) of subdivision three of section five hundred seventy-
18 five of the executive law.

19 (3) A psychologist, social worker or psychiatrist authorized to
20 conduct court ordered child custody forensic evaluations pursuant to
21 this section shall notify the court in which such individual requests to
22 be considered for such court ordered evaluations. Any psychologist,
23 social worker or psychiatrist who no longer meets the requirements of

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

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1 this section in regards to completing within the last two years the
2 training program pursuant to paragraph (n) of subdivision three of
3 section five hundred seventy-five of the executive law shall be obli-
4 gated to inform such courts within seventy-two hours of noncompliance so
5 as to be removed from consideration for court ordered evaluations.

6 (4) Upon appointment, the court shall require such child custody
7 forensic evaluator to show proof of certification for completing within
8 the last two years the training program pursuant to paragraph (n) of
9 subdivision three of section five hundred seventy-five of the executive
10 law.

11 (5) Notwithstanding any other provision of law to the contrary, noth-
12 ing in this paragraph shall prohibit a party to a proceeding involving
13 child custody and visitation from filing a private right of action
14 against a child custody forensic evaluator involved in such proceeding.

15 § 2. Paragraph (n) of subdivision 3 of section 575 of the executive
16 law is relettered paragraph (o) and a new paragraph (n) is added to read
17 as follows:

18 (n) (i) Contracting, within amounts appropriated for such purpose,
19 with the not-for-profit entity the New York State Coalition Against
20 Domestic Violence, to develop a training program as described in this
21 paragraph. Such entity shall be responsible for providing such training
22 to psychiatrists, psychologists and social workers who are licensed in
23 the state of New York, so that such individuals may conduct court
24 ordered forensic evaluations involving child custody and visitation
25 pursuant to paragraph (a-4) of subdivision one of section two hundred
26 forty of the domestic relations law; and for reviewing and updating
27 training topics at least once every two years. Such training shall
28 include, but not be limited to, a review of: relevant statutes; case law
29 and psychological definitions of domestic violence; coercive control and
30 child abuse; the dynamics and effects of domestic violence and child
31 abuse, including but not limited to, emotional, financial, physical,
32 technological and sexual abuse; the barriers and fears associated with
33 reporting domestic violence and child abuse and why victims may not have
34 documented evidence of abuse; tactics commonly used by one party to
35 induce fear in another party or child, including verbal, emotional,
36 psychological, and/or economic abuse, isolating techniques, coercive
37 control, and monitoring of a partner's location and activities; liti-
38 gation abuse and demands for custody or joint custody in order to pres-
39 sure the partner to return or punish the partner for leaving; trauma,
40 particularly as it relates to sexual abuse and the risks posed to chil-
41 dren and the long-term dangers and impacts imposed by the presence of
42 adverse childhood experiences; the increased risk of escalating violence
43 that occurs during child custody proceedings; and the danger of basing
44 child custody decisions on claims that a child's deficient or negative
45 relationship with a parent is caused by the other parent.

46 (ii) The office, in consultation with the New York State Coalition
47 Against Domestic Violence, shall determine the number of training-hours
48 for the first instance such program is provided to psychiatrists,
49 psychologists and social workers and the number of training-hours for
50 subsequent refresher courses provided to such individuals.

51 (iii) The New York State Coalition Against Domestic Violence shall be
52 responsible for providing a certification of completion to each psychia-
53 trist, psychologist or social worker who satisfies the requirements of
54 such training program, so that such individuals may conduct court
55 ordered forensic evaluations involving child custody and visitation

1 pursuant to paragraph (a-4) of subdivision one of section two hundred
2 forty of the domestic relations law.

3 § 3. Severability. If any clause, sentence, paragraph, subdivision,
4 section or part of this title shall be adjudged by any court of compe-
5 tent jurisdiction to be invalid, such judgment shall not affect, impair
6 or invalidate the remainder thereof, but shall be confined in its opera-
7 tion to the clause, sentence, paragraph, subdivision, section or part
8 thereof directly involved in the controversy in which such judgment
9 shall have been rendered. It is hereby declared the intent of the legis-
10 lature that this act would have been enacted even if such invalid
11 provisions had not been included herein.

12 § 4. This act shall take effect on the one hundred eightieth day after
13 it shall have become a law. Effective immediately, the addition, amend-
14 ment and/or repeal of any rule or regulation necessary for the implemen-
15 tation of this act by the chief administrator of the courts, with the
16 approval of the administrative board of the courts, on its effective
17 date are authorized to be made and completed on or before such effective
18 date.