

STATE OF NEW YORK

2084

2023-2024 Regular Sessions

IN SENATE

January 18, 2023

Introduced by Sens. HARCKHAM, CLEARE, COMRIE, COONEY, KRUEGER, PALUMBO, RAMOS -- read twice and ordered printed, and when printed to be committed to the Committee on Children and Families

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 custody report prepared by such forensic child
6 custody evaluator, in the context of a custody or visitation proceeding,
7 when such forensic child custody evaluator has been removed from the
8 panel of forensic custody evaluators by the mental health professionals
9 certification committee or other supervisory body, has offered to step
10 down from the panel, or has negotiated a settlement with the committee
11 or other supervisory body and such forensic child custody evaluator will
12 no 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 custody report" shall mean any report, assessment or
19 evaluation prepared by a forensic child custody evaluator and used by
20 the court in 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-4) to read as follows:

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

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

11 (2) For the purposes of this paragraph:

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

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

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

21 (g) 1. No court shall permit a forensic child custody evaluator to
22 appear as an expert witness nor shall such court order or allow into
23 evidence a forensic custody report prepared by such forensic child
24 custody evaluator, in the context of a custody or visitation proceeding,
25 when such child custody evaluator has been removed from the panel of
26 forensic custody evaluators by the mental health professionals certif-
27 ication committee or other supervisory body, has offered to step down
28 from the panel, or has negotiated a settlement with the committee or
29 other supervisory body and such forensic child custody evaluator will no
30 longer be on the panel of forensic custody evaluators.

31 2. For the purposes of this subdivision:

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

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

39 § 4. This act shall take effect on the ninetieth day after it shall
40 have become a law. Effective immediately, the chief administrator of the
41 courts, with the approval of the administrative board of the courts, is
42 authorized to promulgate any rules necessary to implement the provisions
43 of this act on or before such effective date.