

STATE OF NEW YORK

9888

IN ASSEMBLY

February 20, 2020

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

AN ACT to amend the domestic relations 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-3) to read as follows:

3 (a-3) Forensic evaluator advisory panel. (1) An advisory panel is
4 hereby created for the purpose of developing guidelines for qualifica-
5 tions and training of forensic evaluators as well as a code of ethics
6 and standards of practice.

7 (i) The advisory panel shall consist of thirteen members, of which
8 three shall be appointed by the speaker of the assembly, three shall be
9 appointed by the temporary president of the senate, one shall be
10 appointed by the minority leader of the assembly, one shall be appointed
11 by the minority leader of the senate, two shall be appointed by the
12 governor and three shall be appointed by the office of court adminis-
13 tration.

14 (ii) Such appointed members shall be selected from among entities,
15 organizations or individuals with expertise or practical experience
16 related to forensic evaluations involving child custody and visitation.

17 (iii) Each member of the panel shall serve at the pleasure of the
18 appointing authority, and any vacancy on the panel shall be filled in
19 the same manner as the original appointment. Such panel members shall
20 serve without compensation.

21 (2) The advisory panel shall:

22 (i) select a chairperson, from among its membership, approved by a
23 majority of the authorized membership;

24 (ii) develop and regularly update a code of ethics for professionals
25 conducting forensic evaluations in proceedings involving child custody
26 and visitation, such code to be made publicly available on the office of
27 court administration's website;

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

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1 (iii) develop and regularly update standards of practice for profes-
2 sionals conducting forensic evaluations in proceedings involving child
3 custody and visitation, such standards to be made publicly available on
4 the office of court administration's website;

5 (iv) review any necessary information and make recommendations to the
6 legislature and the chief judge on how best to support and promote
7 forensic evaluations that comply with the advisory panel's code of
8 ethics and standards of practice; and

9 (v) review any information and requests from the office of court
10 administration in regards to forensic evaluations in proceedings involv-
11 ing child custody and visitation.

12 (3) The advisory panel shall issue a report, no later than June thir-
13 tieth of each calendar year, outlining the findings and recommendations
14 of the panel and deliver such report to the governor, the speaker of the
15 assembly, the temporary president of the senate, the minority leader of
16 the assembly, and the minority leader of the senate.

17 (4) The advisory panel shall meet regularly at least two times in each
18 year. Special meetings may be called by its chairperson.

19 (5) No member of the advisory panel shall be disqualified from holding
20 any other public office or employment, nor forfeit any such office or
21 employment by reason of appointment under this paragraph, notwithstand-
22 ing the provisions of any general, special or local law, ordinance or
23 city charter.

24 (6) The office of court administration shall provide the advisory
25 panel with such staff assistance and support services as necessary for
26 such board to perform the functions required of it under this section.

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

29 (a-4) Court ordered forensic evaluations involving child custody and
30 visitation. (1) Appointment. The court may appoint a forensic evaluator
31 on behalf of the court to evaluate and investigate the parties and a
32 child in a proceeding involving child custody and visitation where the
33 forensic evaluator:

34 (i) is a mental health professional currently licensed by the state,
35 including but not limited to psychologists, psychiatrists, and social
36 workers; and

37 (ii) has been placed on a roster of forensic evaluators involving
38 child custody and visitation pursuant to this paragraph.

39 (2) Roster of forensic evaluators involving child custody and visita-
40 tion. (i) (A) The chief administrator of the courts shall promulgate
41 court rules for forensic evaluations in proceedings involving child
42 custody and visitation. Such court rules shall provide for the develop-
43 ment of training programs with the input of and in consultation with the
44 state office for the prevention of domestic violence, state office of
45 mental health, and the forensic evaluator advisory panel created by
46 paragraph (a-3) of this subdivision.

47 (B) Forensic evaluator training programs shall include the dynamics of
48 domestic violence and its effect on victims and on children and the
49 relationship between such dynamics and the issues considered by the
50 court, including, but not limited to, custody, visitation and child
51 support. Such training programs along with the providers of such train-
52 ing shall be approved by the office of court administration following
53 consultation with and input from the state office for the prevention of
54 domestic violence, state office of mental health, and the forensic eval-
55 uator advisory panel created by paragraph (a-3) of this subdivision. All
56 individuals conducting forensic evaluations in proceedings involving

1 custody and visitation shall have completed such forensic evaluator
2 training program within two years of such forensic evaluations.

3 (ii) Upon completion of such forensic evaluator training program by a
4 mental health professional, the office of court administration shall
5 place the name of such mental health professional on a roster for fill-
6 ing court appointments for forensic evaluations in proceedings involving
7 child custody and visitation pursuant to this paragraph for the follow-
8 ing two years. Such roster shall be public information and publicly
9 available on the office of court administration's website.

10 (iii) Notwithstanding any provision of law to the contrary, no mental
11 health professional shall be appointed by a court to conduct a forensic
12 evaluation in a proceeding involving child custody and visitation pursu-
13 ant to this paragraph unless such mental health professional has
14 completed the forensic evaluator training program and has been placed on
15 the roster of forensic evaluators or a waiver for equivalent training
16 has been granted by the office of court administration.

17 (iv) The office of court administration may develop a program to waive
18 specific training requirements based on equivalent training completed by
19 professionals licensed by another state.

20 (v) The office of court administration shall review complaints regard-
21 ing forensic evaluators and establish and use a process to resolve
22 complaints and, after notice and an opportunity to be heard, temporarily
23 suspend or remove evaluators from the roster of forensic evaluators when
24 necessary.

25 (vi) Forensic evaluators appointed on behalf of the court under
26 sections two hundred fifty-one and six hundred fifty-one of the family
27 court act shall be from the roster of forensic evaluators maintained
28 pursuant to this paragraph.

29 (3) Annual report. The chief administrator of the courts shall submit
30 an annual report to the governor and legislative leaders no later than
31 December thirty-first of each year. Such report, to the extent practica-
32 ble, shall include, but need not be limited to:

33 (i) a description of the forensic evaluation process of appointment;

34 (ii) the number of professionals placed on the roster of forensic
35 evaluators under this paragraph for each calendar year;

36 (iii) the data considered and the methodology and assumptions used in
37 conducting such review and evaluation of the process, including but not
38 limited to the number of evaluators appointed in child custody and visi-
39 tation cases, the cost of the evaluators to the litigants and the number
40 of times the court deviates from the recommendation of the evaluator,
41 and an explanation for the deviation;

42 (iv) the number of complaints received regarding forensic evaluators,
43 how the complaints were resolved, the length of time it took to reach
44 resolution and an analysis of the effectiveness of the process; and

45 (v) other pertinent information as may be required and which the chief
46 administrator of the courts deems advisable.

47 § 3. Severability. If any clause, sentence, paragraph, subdivision,
48 section or part of this title shall be adjudged by any court of compe-
49 tent jurisdiction to be invalid, such judgment shall not affect, impair
50 or invalidate the remainder thereof, but shall be confined in its opera-
51 tion to the clause, sentence, paragraph, subdivision, section or part
52 thereof directly involved in the controversy in which such judgment
53 shall have been rendered. It is hereby declared the intent of the legis-
54 lature that this act would have been enacted even if such invalid
55 provisions had not been included herein.

1 § 4. This act shall take effect immediately; provided, however, that
2 section one of this act shall take effect on the thirtieth day after it
3 shall have become a law; and provided further, however, section two of
4 this act shall take effect on the one hundred eightieth day after it
5 shall have become a law. Effective immediately, the addition, amendment
6 and/or repeal of any rule or regulation necessary for the implementation
7 of this act by the chief administrator of the courts, with the approval
8 of the administrative board of the courts, on its effective date are
9 authorized to be made and completed on or before such effective date.