

STATE OF NEW YORK

6385

2021-2022 Regular Sessions

IN SENATE

April 26, 2021

Introduced by Sen. HOYLMAN -- 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 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
24 this section in regards to completing within the last two years the

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

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

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

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

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

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

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

50 (iii) The New York State Coalition Against Domestic Violence shall be
51 responsible for providing a certification of completion to each psychia-
52 trist, psychologist or social worker who satisfies the requirements of
53 such training program, so that such individuals may conduct court
54 ordered forensic evaluations involving child custody and visitation
55 pursuant to paragraph (a-4) of subdivision one of section two hundred
56 forty of the domestic relations law.

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

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