STATE OF NEW YORK

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Cal. No. 104

2021-2022 Regular Sessions

IN ASSEMBLY

January 19, 2021

Introduced by M. of A. DINOWITZ, COOK, GUNTHER, SILLITTI, GALEF, MONTESANO, McDONOUGH, JEAN-PIERRE, BROWN, PHEFFER AMATO, L. ROSENTHAL, GRIFFIN, FERNANDEZ, SMITH, JACKSON -- read once and referred to the Committee on Judiciary -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee -- ordered to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

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:

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

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

(2) Notwithstanding any provision of law to the contrary, no individual shall be appointed by a court to conduct a forensic evaluation in a proceeding involving child custody and visitation pursuant to this paragraph unless such individual has received within the last two years, a certification of completion for completing the training program pursuant

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

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to paragraph (o) of subdivision three of section five hundred seventy-five of the executive law.

(3) A psychologist, social worker or psychiatrist authorized to conduct court ordered child custody forensic evaluations pursuant to this section shall notify the court in which such individual requests to be considered for such court ordered evaluations. Any psychologist, social worker or psychiatrist who no longer meets the requirements of this section in regards to completing within the last two years the training program pursuant to paragraph (o) of subdivision three of section five hundred seventy-five of the executive law shall be obligated to inform such courts within seventy-two hours of noncompliance so as to be removed from consideration for court ordered evaluations.

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

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

(o) (i) Contracting, within amounts appropriated for such purpose, with the not-for-profit entity the New York State Coalition Against Domestic Violence, to develop a training program as described in this paragraph. Such entity shall be responsible for providing such training to psychiatrists, psychologists and social workers who are licensed in the state of New York, so that such individuals may conduct court ordered forensic evaluations involving child custody and visitation pursuant to paragraph (a-3) of subdivision one of section two hundred forty of the domestic relations law; and for reviewing and updating training topics at least once every two years. Such training shall include, but not be limited to, a review of: relevant statutes; case law and psychological definitions of domestic violence; coercive control and child abuse; the dynamics and effects of domestic violence and child abuse, including but not limited to, emotional, financial, physical, technological and sexual abuse; the barriers and fears associated with reporting domestic violence and child abuse and why victims may not have documented evidence of abuse; tactics commonly used by one party to induce fear in another party or child, including verbal, emotional, psychological, and/or economic abuse, isolating techniques, coercive control, and monitoring of a partner's location and activities; litigation abuse and demands for custody or joint custody in order to pressure the partner to return or punish the partner for leaving; trauma, particularly as it relates to sexual abuse and the risks posed to children and the long-term dangers and impacts imposed by the presence of adverse childhood experiences; the increased risk of escalating violence that occurs during child custody proceedings; and the danger of basing child custody decisions on claims that a child's deficient or negative relationship with a parent is caused by the other parent.

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

(iii) The New York State Coalition Against Domestic Violence shall be responsible for providing a certification of completion to each psychia-

trist, psychologist or social worker who satisfies the requirements of such training program, so that such individuals may conduct court ordered forensic evaluations involving child custody and visitation pursuant to paragraph (a-3) of subdivision one of section two hundred forty of the domestic relations law; and

§ 3. Severability. If any clause, sentence, paragraph, subdivision, section or part of this title shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 4. This act shall take effect on the one hundred eightieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act by the chief administrator of the courts, with the approval of the administrative board of the courts, on its effective date are authorized to be made and completed on or before such effective date.