STATE OF NEW YORK

632

2023-2024 Regular Sessions

IN ASSEMBLY

January 10, 2023

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 mandatory training of a forensic evaluator in relation to court ordered forensic evaluations involving child custody and visitation when the child is living out-of-state; to amend the executive law, in relation to training in the prevention and intervention of domestic violence required for forensic investigators; and to amend a chapter of the laws of 2022 amending the domestic relations law and the executive law, relating to court ordered forensic evaluations involving child custody and visitation, as proposed in legislative bills numbers S. 6385-B and A. 2375-C, relating to the effectiveness thereof

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

Section 1. Paragraph (a-3) of subdivision 1 of section 240 of the domestic relations law, as added by a chapter of the laws of 2022 amending the domestic relations law and the executive law, relating to court ordered forensic evaluations involving child custody and visitation, as proposed in legislative bills numbers S. 6385-B and A. 2375-C, is amended by adding a new subparagraph 5 to read as follows:

(5) A court shall appoint a forensic evaluator who has completed the training program pursuant to paragraph (o) of subdivision three of section five hundred seventy-five of the executive law when the child is living out-of-state and is farther than one hundred miles from the New York state border; provided, however, that such forensic custody evaluation may be conducted remotely utilizing videoconferencing technology. The evaluator must take all steps reasonably available to protect the confidentiality of the child's disclosures for any evaluation conducted remotely utilizing videoconferencing technology, as needed.

§ 2. Paragraph (o) of subdivision 3 of section 575 of the executive law, as added by a chapter of the laws of 2022 amending the domestic

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

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relations law and the executive law, relating to court ordered forensic evaluations involving child custody and visitation, as proposed in legislative bills numbers S. 6385-B and A. 2375-C, is amended 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.~~] **Within amounts appropriated for such purpose, the office shall contract with an organization designated by the federal department of health and human services to coordinate statewide improvements within local communities, social services systems, and programming regarding the prevention and intervention of domestic violence in New York state to mutually develop a training program as described in this paragraph. The office and such organization 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; for consulting with domestic violence service providers and representative organizations in the field of domestic violence when such training is provided in their communities; 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~~] **organization designated by the federal department of health and human services to coordinate statewide improvements within local communities, social services systems, and programming regarding the prevention and intervention of domestic violence in New York state**, 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~~] **organization designated by the federal department of health and human services to coordinate statewide improvements within local communities, social services systems, and programming regarding the prevention and intervention of domestic violence in New York state** shall be responsible for providing a certification of completion to each psychiatrist, 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. Section 4 of a chapter of the laws of 2022 amending the domestic relations law and the executive law, relating to court ordered forensic evaluations involving child custody and visitation, as proposed in legislative bills numbers S. 6385-B and A. 2375-C, is amended to read as follows:

§ 4. This act shall take effect [~~on the one hundred eightieth day~~] **one year** 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.

§ 4. This act shall take effect on the same date and in the same manner as a chapter of the laws of 2022 amending the domestic relations law and the executive law, relating to court ordered forensic evaluations involving child custody and visitation, as proposed in legislative bills numbers S. 6385-B and A. 2375-C, takes effect.