

MEMORANDUM OF SUPPORT

Prohibit Forensic Examiners Terminated for Cause From Appearing as Expert Witnesses in Family Court

S.2084 Harckham

The New York State Coalition Against Domestic Violence (NYSCADV) urges the New York State Legislature to pass this legislation, which would prohibit forensic child custody evaluators, terminated for cause, from appearing as expert witnesses in child custody or visitation proceedings or including reports prepared by such forensic child custody evaluators as evidence in such proceedings.

Family court proceedings center on issues of great significance to New York's families -- those directly relating to the safety and well-being of children. When courts require additional information related to the needs of a family involved in a custody or visitation proceeding, they often order a forensic child custody evaluation which is intended to be an in-depth analysis from a mental health professional or social worker providing detailed psychological information about each member of the family as it relates to their respective roles in the parent/child relationship.

Forensic evaluation reports are often fraught with bias and inequalities, as described in the 2021 Report of the Governor's Blue-Ribbon Commission on Forensic Custody Evaluations.¹ Yet currently, there is no accountability mechanism in place to prevent forensic child custody evaluators who have been terminated for cause from appearing in Family Court proceedings as an expert witness. Similarly, under current law, the court may still enter into evidence the work product of a terminated forensic evaluator.

This bill would amend the Domestic Relations Law and Family Court Act to:

- Prohibit courts from permitting forensic child custody evaluators who have been removed from the panel of forensic custody evaluators by a supervisory body, has offered to step down from the panel, or has negotiated a settlement and agreed to no longer serve, to appear as an expert witness; and,
- Prohibit courts from allowing into evidence a forensic custody report, assessment or evaluation prepared by such an individual.

This bill ensures that courts' decisions regarding custody and visitation are based on high-quality, sound principles and practices.

ABOUT NYSCADV:

Established in 1978, NYSCADV is designated by the U.S. Department of Health and Human Services as the information clearinghouse, primary point of contact, and resource center on domestic violence for the State of New York. NYSCADV is responsible for supporting the development of policies, protocol, and procedures to enhance domestic violence intervention and prevention and also provides education and technical assistance to the network of primary-purpose domestic violence service providers statewide.

For more information, contact: Joan Gerhardt, Director of Public Policy and Advocacy,
jgerhardt@nyscadv.org

Revised: February 6, 2024

¹ Blue Ribbon Commission on Forensic Custody Evaluations. (2021). *Report on the Blue-Ribbon Commission on Forensic Custody Evaluations*.
<https://ocfs.ny.gov/programs/cwcs/assets/docs/Blue-Ribbon-Commission-Report-2022.pdf>