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HOUSE FLOOR AMENDMENTS

2024 Regular Session

Amendments proposed by Representative Egan to Engrossed House Bill No. 787 by Representative Egan

1 AMENDMENT NO. 1

2 On page 1, line 2, after "To" and before "enact" insert "amend and reenact R.S. 9:331 and
3 to"

4 AMENDMENT NO. 2

5 On page 1, line 4, after "cases;" and before "and to" insert "to provide for evaluation by
6 licensed mental health professionals in child custody cases; to provide for a child's testimony
7 in a child custody case;"

8 AMENDMENT NO. 3

9 On page 1, delete line 6 in its entirety and insert the following:

10 "Section 1. R.S. 9:331 is hereby amended and reenacted and R.S. 9:330 is hereby
11 enacted to read as follows:"

12 AMENDMENT NO. 4

13 On page 1, delete lines 13 through 21 in their entirety and insert the following:

14 "B. A child's testimony in a custody case shall proceed as follows:
15 (1) The child's testimony in the form of an interview shall be conducted in
16 the judge's chambers outside of the presence of the parents but shall be conducted
17 in the presence of their attorneys with a record being made by the court reporter.
18 (2) The judge shall first determine the child's competency as a person of
19 proper understanding by interrogating the child with appropriate questions. The
20 attorney for the parent shall be allowed to participate in the competency examination
21 by asking questions and registering appropriate, but only necessary, objections.
22 (3) If the judge determines that the child is not a competent witness, the
23 judge shall immediately terminate the interview.
24 (4) If the judge determines that the child is competent, the judge may
25 continue the interview in the presence of the attorney for the parent only as an
26 observer. The attorney for the parent shall not participate by asking questions, cross-
27 examination, or registering objections, but the attorney for the child may ask
28 questions. The attorney for the parent may in advance of the interview submit to the
29 court in writing the proposed questions that the attorney deems relevant to the factual
30 allegations at issue or effect the best interest of the child. In the judge's discretion,
31 any relevant questions submitted by the attorney for the parent may be modified into
32 a more neutral and appropriate form, considering the child's age, maturity, and
33 vulnerability.
34 (5) When the court is adjudicating distinct factual issues regarding
35 allegations of detrimental parental conduct which the child may have witnessed or
36 experienced, the court shall obtain relevant information from the child in a manner
37 that minimizes any discomfort or fear that the child may experience."

1 AMENDMENT NO. 5

2 On page 2, line 1, after "conducted" and before "are" delete "pursuant to R.S.9:331" and
3 insert "in child custody cases"

4 AMENDMENT NO. 6

5 On page 2, line 10, after "substantive law" delete the remainder of the line and on line 11
6 delete "Article 134".

7 AMENDMENT NO. 7

8 On page 3, line 11, after "Evidence" and before "803" change "Article" to "Articles"

9 AMENDMENT NO. 8

10 On page 4, after line 5, add the following:

11 "§331. Custody or visitation proceeding; evaluation by licensed mental health
12 professional

13 A. The court may order ~~an~~ a mental health evaluation of a party or the child
14 in a custody or visitation proceeding for good cause shown. The mental health
15 evaluation shall be made by a licensed mental health professional selected by the
16 parties or by the court. The court may render judgment for costs of the mental health
17 evaluation, or any part thereof, against any party or parties, as ~~it~~ the court may
18 consider equitable, taking into consideration the parties ability to pay. The court
19 may preliminarily allocate costs at the outset and reserve the right to reallocate costs
20 upon conclusion of the matter. The court may order a party to submit to and
21 cooperate in the mental health evaluation, testing, or interview by the licensed
22 mental health professional. The licensed mental health professional shall provide the
23 parties with a written report and may be called as a witness, subject to cross-
24 examination by a party.

25 B. ~~The~~ With the parties consent, the court may order ~~a party or the child to~~
26 ~~submit to and cooperate in the evaluation, testing, or interview by the licensed~~
27 ~~mental health professional.~~ that a licensed mental health professional jointly selected
28 by the parties evaluate the family for the purpose of identifying and describing the
29 dynamics and relationships among the family members who would be impacted by
30 the court's custody or visitation judgment. The cost of any such evaluation shall be
31 equally shared by the parties. The licensed mental health professional shall provide
32 the court and the parties with a written report and may be called as a witness, subject
33 to cross-examination by a party. The licensed mental health professional shall serve
34 as the witness of the court, subject to cross-examination by a party.

35 C. "Licensed mental health professional" as used in this Chapter means a
36 person who possesses at least a master's degree and who ~~is licensed~~ holds a current
37 unrestricted license in counseling, social work, psychology, or marriage and family
38 counseling, or exempt from licensing requirements pursuant to R.S. 37:1113 and
39 1121.

40 D. Any licensed mental health professional appointed by the court, or
41 selected by the parties, to conduct a mental health evaluation in a case where
42 domestic abuse is an issue shall have current and demonstrable training and
43 experience working with perpetrators and victims of domestic abuse.

44 ~~D.~~ E. When a licensed mental health professional has been appointed by the
45 court, or selected by the parties, there shall be no ex parte communication by the
46 litigants or their attorneys with the licensed mental health professional unless
47 authorized by law or court order or agreed to by the parties. All oral communication
48 with the licensed mental health professional shall be by teleconference or meeting
49 in which each party to the proceeding participates either through the party's attorney
50 or as a self-represented litigant. All written communication or correspondence to the
51 licensed mental health professional, along with any attachments thereto, shall be

1 provided contemporaneously to all parties to the litigation or their attorneys of
2 record. Communications initiated by the licensed mental health professional with
3 a litigant for the purpose of conducting the court-ordered evaluation shall not be
4 considered ex parte communications prohibited by this Subsection."
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