

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

SECOND REGULAR SESSION-2006

Legislative Document

No. 1811

H.P. 1251

House of Representatives, January 3, 2006

An Act Regarding Child Custody Evaluations

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Clerk of the House on December 28, 2005. Referred to the Committee on Judiciary pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative DUNN of Bangor.

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Be it enacted by the People of the State of Maine as follows:

Sec. 1. 19-A MRSA §1659 is enacted to read:

§1659. Presumption of good faith for court-appointed licensed psychologist or psychiatrist conducting child custody evaluation

1. Presumption of good faith. A licensed psychologist or licensed psychiatrist who has been appointed by a court to conduct a child custody evaluation in a judicial proceeding is presumed to be acting in good faith if the evaluation has been conducted according to guidelines established by the American Psychological Association for child custody evaluations in divorce proceedings.

2. Anonymous complaints. A complaint to a licensing or accrediting entity against a court-appointed licensed psychologist or psychiatrist relating to a child custody evaluation may not be considered if it is filed anonymously and does not include the full name, address and telephone number of the complainant.

3. Recitation of specific allegation of breach required. An action filed against a licensed psychologist or licensed psychiatrist alleging tortious conduct related to evidence provided by the psychologist or psychiatrist while acting as a court-appointed expert in a child custody matter must contain a recitation of a specific allegation of a breach of the American Psychological Association's guidelines for child custody evaluations in divorce proceedings. Failure to specifically plead such a breach is cause for dismissal of the action.

4. Reimbursement of costs and attorney's fees. A licensed psychologist or licensed psychiatrist who is named in a civil action as a defendant because of that psychologist's or psychiatrist's performance of a child custody evaluation while acting as a court-appointed expert and who prevails due to a finding that the psychologist or psychiatrist acted in accordance with guidelines established by the American Psychological Association for child custody evaluations in divorce proceedings is entitled to reimbursement of all reasonable costs and attorney's fees expended.

SUMMARY

This bill provides good-faith protection for psychologists and psychiatrists conducting child custody evaluations similar to protections existing in Florida and West Virginia.