

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

FIRST REGULAR SESSION-2023

Legislative Document

No. 538

H.P. 343

House of Representatives, February 9, 2023

An Act Regarding the Qualification of Expert Witnesses in Certain Family Court Actions

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative DOUDERA of Camden.
Cosponsored by Senator CARNEY of Cumberland and
Representatives: HENDERSON of Rumford, MOONEN of Portland, MORIARTY of
Cumberland, POIRIER of Skowhegan, RECKITT of South Portland.

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

2 **Sec. 1. 19-A MRSA §1653, sub-§6-C**, as enacted by PL 2021, c. 577, §1, is
3 amended to read:

4 **6-C. Forensic ~~risk~~ evaluation or assessment**. Upon motion from either party or upon
5 the court's own motion, the court may order a parent to complete a forensic ~~risk~~ evaluation
6 or assessment performed by a licensed clinical social worker, psychologist or psychiatrist
7 qualified to conduct psychosexual evaluations.

8 A. In determining whether to order a forensic ~~risk~~ evaluation or assessment, the court
9 may consider:

10 (1) The existence of any court findings, including but not limited to a criminal
11 conviction, that the parent has committed a child-related sexual offense as defined
12 in subsection 6-A, paragraph A or dissemination of sexually explicit material or
13 possession of sexually explicit material as described in Title 17-A, chapter 12;

14 (2) The existence of substantiated findings of abuse or neglect under Title 22,
15 section 4004, subsection 2, paragraph C-1, or an equivalent finding from another
16 state, against the parent involving a child-related sexual offense as defined in
17 subsection 6-A, paragraph A or dissemination of sexually explicit material or
18 possession of sexually explicit material as described in Title 17-A, chapter 12;

19 (3) Whether a guardian ad litem appointed to the case recommends the evaluation
20 or assessment; and

21 (4) Any other factor the court considers relevant.

22 B. The court may order that the person performing the forensic ~~risk~~ evaluation or
23 assessment may interview the parent who is the subject of the order and any other
24 parent of the child and have access to court documents, records of any interview with
25 the child and other relevant documents.

26 C. The court shall order that the parent ordered to complete the forensic ~~risk~~ evaluation
27 or assessment is responsible for any fees associated with the evaluation or assessment
28 unless another parent agrees to pay part or all of the fees.

29 D. If the parent ordered to complete the forensic ~~risk~~ evaluation or assessment has
30 completed an evaluation or assessment in the past year, the court may order the parent
31 to release that evaluation or assessment to the court, the guardian ad litem or another
32 party and may order the parent to complete a new evaluation or assessment only if the
33 court determines a new evaluation or assessment is necessary.

34 E. In a matter involving the existence of domestic abuse between the parents, in the
35 past or currently, the court in an action to award parental rights and responsibilities
36 may not qualify an expert witness to provide a forensic evaluation or assessment
37 regarding how the court should structure parental rights and responsibilities to achieve
38 the best interest of the child unless the court finds the witness has training and
39 demonstrated expertise on at least the following topics:

40 (1) The domestic abuse tactics affecting parent and child safety after separation of
41 parents;

- 1 (2) The effects of domestic abuse and violence on children and conditions that
2 support resilience;
3 (3) Best practices for recognizing, asking about and assessing the effects of abuse
4 on the parent-child relationship; and
5 (4) Methods for reducing post-separation abuse of the nonabusing parent and
6 promoting child safety and security.

7 **SUMMARY**

8 This bill provides that the court may qualify an expert witness to provide a forensic
9 evaluation or assessment regarding parental rights and responsibilities in cases involving
10 domestic abuse only if that expert can show a certain level of training and expertise in how
11 domestic abuse and violence continue after separation of parents and affect child resilience,
12 safety and security. The bill also changes the term "forensic risk assessment" to "forensic
13 evaluation or assessment" in the laws governing court orders for parental rights and
14 responsibilities.