

2022 Regular Session

HOUSE BILL NO. 272

BY REPRESENTATIVE JEFFERSON

(On Recommendation of the Louisiana State Law Institute)

FAMILY LAW: Provides for mental health evaluations in divorce and child custody proceedings

1 AN ACT

2 To amend and reenact R.S. 9:327(B), 331, 355.15, and 365, relative to mental health
3 evaluations in divorce and child custody proceedings; to provide for the
4 qualifications of certain mental health professionals; to prohibit ex parte
5 communication; to provide for definitions; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 9:327(B), 331, 355.15, and 365 are hereby amended and reenacted
8 to read as follows:

9 §327. Determination of domestic abuse for spousal support

10 * * *

11 B. In the absence of a criminal conviction, the court may order an evaluation
12 of both parties that may be used to assist the court in determining the existence and
13 nature of the alleged domestic abuse. The evaluation shall be conducted by an
14 independent, court-appointed, licensed mental health professional who ~~is an expert~~
15 has experience in the field of domestic abuse. The licensed mental health
16 professional shall have no family, financial, or prior medical relationship with either
17 party or their attorneys of record. The licensed mental health professional shall
18 provide the court and the parties with a written report of his findings.

19 * * *

1 §331. Custody or visitation proceeding; evaluation by licensed mental health
 2 professional

3 A. The court may order an evaluation of a party or the child in a custody or
 4 visitation proceeding for good cause shown. The evaluation shall be made by a
 5 licensed mental health professional selected by the parties or by the court. The court
 6 may render judgment for costs of the evaluation, or any part thereof, against any
 7 party or parties, as it may consider equitable.

8 B. The court may order a party or the child to submit to and cooperate in the
 9 evaluation, testing, or interview by the licensed mental health professional. The
 10 licensed mental health professional shall provide the court and the parties with a
 11 written report. The licensed mental health professional shall serve as the witness of
 12 the court, subject to cross-examination by a party.

13 C. "Licensed mental health professional" as used in this Chapter means a
 14 person who possesses at least a master's degree and who is licensed in counseling,
 15 social work, psychology, marriage and family counseling, or exempt from licensing
 16 requirements pursuant to R.S. 37:1113 and R.S. 37:1121.

17 D. When a licensed mental health professional has been appointed by the
 18 court, there shall be no ex parte communication by the litigants or their attorneys
 19 with the licensed mental health professional unless authorized by law or court order
 20 or agreed to by the parties. All oral communication with the licensed mental health
 21 professional shall be by teleconference or meeting in which each party to the
 22 proceeding participates either through the party's attorney or as a self-represented
 23 litigant. All written communication or correspondence to the licensed mental health
 24 professional, along with any attachments thereto, shall be provided
 25 contemporaneously to all parties to the litigation or their attorneys of record.

26 * * *

1 §355.15. Mental health expert; appointment

2 The court, on motion of either party or on its own motion, may appoint an
3 independent, licensed mental health professional as an expert to render a report to
4 assist the court in determining the best interest of the child.

5 * * *

6 §365. Qualification of licensed mental health professional

7 Any licensed mental health professional appointed by the court to conduct
8 a custody evaluation in a case where family violence is an issue shall have current
9 and demonstrable training and experience working with perpetrators and victims of
10 family violence.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 272 Reengrossed

2022 Regular Session

Jefferson

Abstract: Provides for mental health evaluations in divorce and child custody proceedings.

Present law (R.S. 9:327) allows a court to order a mental health evaluation of the parties when determining an award of final spousal support.

Proposed law requires the appointed mental health professional to be licensed.

Present law (R.S. 9:331) authorizes the court to order an evaluation of a party, conducted by a mental health professional, during a child custody or visitation proceeding.

Proposed law requires the mental health professional to be licensed.

Proposed law defines "licensed mental health professional" as person who possesses at least a master's degree and who is licensed in counseling, social work, psychology, marriage and family counseling, or is exempt from licensing requirements pursuant to present law.

Proposed law prohibits ex parte communications with the licensed mental health professional unless authorized by law, approved by the court, or agreed to by the parties.

Present law (R.S. 9:355.15) allows the court to appoint a mental health expert to assist the court in determining whether it is in the best interest of a child to allow a parent to relocate the residence of the child.

Proposed law requires the mental health expert to be a licensed professional.

Present law (R.S. 9:365) requires mental health professionals who conduct custody evaluations in family violence case to have experience relative to family violence.

Proposed law requires the mental health professional to be licensed.

(Amends R.S. 9:327(B), 331, 355.15, and 365)

Summary of Amendments Adopted by House

The House Floor Amendments to the engrossed bill:

1. Include persons exempt from licensing requirements pursuant to present law in the definition of "licensed mental health professional".