



NEW YORK STATE SENATOR

Pete Harckham

Harckham Introduces Bill to Safeguard Families in Child Custody Cases

PETE HARCKHAM March 22, 2022

| ISSUE: **SENATOR HARCKHAM. SD40, CHILD CUSTODY AND LEGAL CUSTODIANS, FAMILY COURT, FAMILY ISSUES**



Albany, NY – New York State Senator Pete Harckham has introduced legislation that will help safeguard families in child custody cases. The new bill ([S.8578](#)) essentially prohibits child custody evaluators who have been terminated for cause from appearing as an expert witness in family court custody and visitation proceedings.

“We need to do all we can to protect our families and children, especially in custody cases that will impact their lives in both the short- and long-term,” said Harckham. “My legislation will ensure that forensic evaluators maintain a level of professionalism and trustworthiness when it comes to advocating what’s

best in custody cases.”

Forensic custody evaluations are in-depth analyses used by courts as evidence to help to determine child custody and parenting time. In 2021, New York’s Blue-Ribbon Commission on Forensic Child Custody Evaluations investigated the state court system’s use of forensic child custody evaluators after hearing from stakeholders who reported negative experiences. The commission’s [report](#) concluded that there is no consistent approach statewide regarding who may act as a forensic custody evaluator, how evaluators should conduct these child custody evaluations, or whether incompetent or unethical evaluations may be subject to review.

Over the last five years, New York has lost 20 children who were murdered by their own parent while they were going through a divorce, child custody proceedings or separation. Additionally, there have been reports of children being placed back in care with parents who are not fit to have custody or visitation.

Harckham stressed that it is vital that forensic child custody evaluators are strictly defined by law and using best practices. His bill will ensure that forensic child custody evaluators cannot be used in court as an expert witness nor will their forensic reports be admissible when they have been removed from a previous position or had their license revoked.

“Family Court proceedings center on issues of greatest importance to New York’s families—those relating to the safety and well-being of children,” said Joan Gerhardt, director of public policy and advocacy at the New York State Coalition Against Domestic Violence (NYSCADV). “Within that framework, forensic child custody evaluators play a critical role in describing the family’s needs to the court. When someone has been terminated for cause from serving as a child custody evaluator, it goes without saying that this person should no longer be able to provide testimony to the court, and any report they have produced should not be relied upon. NYSCADV thanks Senator Harckham for introducing this bill to ensure courts’ decisions are based on high-quality, sound principles and practice.”

“The foremost criteria for any forensic custody evaluator must be the safety and well-being of the child,” said CarlLa Horton, executive director of Hope’s Door. “We commend Senator Peter Harckham for conferring with domestic violence advocates on this critical issue and then moving forward to introduce legislation that will prohibit a forensic custody evaluator from appearing as an expert witness or submitting reports after being terminated for cause. Children must come first, and those who would speak on their behalf must be above reproach. Being terminated for cause is reason enough to prohibit such evaluators from rendering decisions that impact the safety of children.”

Jacqueline Franchetti, child advocate and founder of Kyra’s Champions, said, “Forensic evaluators are akin to the wild, wild west. It’s horrifying to see cases where forensic evaluators who have been the subject of meritorious complaints and / or have been removed from the Panel of Forensic Custody

Evaluators now are testifying against the parent who sought the evaluator's removal. Senator Harckham is a champion for our children and all victims of New York's badly broken divorce / family court system. Bad evaluators put children in dangerous, even lethal, situations. This common-sense measure provides an additional layer of protection for our children."

RELATED LEGISLATION

2021-S8578

- Introduced

- ◦ In Committee Assembly
 - In Committee Senate

- ◦ On Floor Calendar Assembly
 - On Floor Calendar Senate

- ◦ Passed Assembly
 - Passed Senate

- Delivered to Governor

- Signed By Governor

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Prohibits certain forensic child custody evaluators from appearing as an expert witness in family court

March 16, 2022

In Assembly Committee

Sponsored by **Pete Harckham**

Do you support this bill?