

Preparing for Your Custody Evaluation

When parents divorce, the divorce decree must establish plans for child custody, visitation/access and child support. Many parents use mediation or get assistance from their attorney in working out plans for the children. The custody settlement or parenting agreement is then submitted to the court for approval.

When parents are unable to resolve disputes about child custody, a trial will be held and the judge will decide the issues. Prior to the trial, the judge may require the family to participate in a child custody evaluation. A custody evaluation provides information about the family to help the parents and the judge reach a decision that will be in the best interests of the children. Custody evaluations may also be used in post-decree cases, when parenting disputes arise after the initial divorce has been granted.

This brochure is intended to help you understand the custody evaluation process. This information can help you better participate in this important process.

Q: What is a custody evaluation?

A: A custody evaluation is:

- An assessment of the needs of your children and each parent's ability to meet those needs.
- Directed toward helping your family make a positive adjustment to divorce.
- Attentive to past events, present resources and future needs of the family.
- Concerned with the strengths and weaknesses of both parents.
- Focused on the "best interests" of children.

A custody evaluation **does not**:

- Determine fault or blame for your divorce.
- Take one parent's side against the other.

Q: What happens in a custody evaluation?

A: **Interviews:** A child custody evaluation will consist of a series of interviews. You should expect to talk to the evaluator alone and with the other parent. Separate individual interviews will give you the opportunity to present your issues and concerns about the children and the other parent. Conferences with both parents, when determined by the evaluator to be appropriate, allow the evaluator the opportunity to assess parents' capacity to work together.

The evaluator may also schedule an interview with you and the children. This may take place in the evaluator's office or it may occur in your home. Spending time with you and your children will allow the evaluator to observe the relationships between family members. The evaluator may interview other people in the children's lives, including stepparents or domestic partners.

Information gathering: The evaluator may request your written consent to obtain school and health records, social service and police information, and any other documents that contribute to a complete understanding of the family. The evaluator may wish to talk with some of these people in order to understand how others see the issues. The evaluator may also ask both parents to complete a detailed questionnaire asking about you and your relationship with your children and the other parent.

Written tests and psychological evaluation: Psychological testing may be required when information about each parent's emotional and mental status would be helpful to the judge. A psychological evaluation is conducted by a qualified psychologist. The psychologist will want to talk with each parent and may administer several paper and pencil tests. You can ask the evaluator to tell you more about the kind of psychological evaluation that is being requested.

Both parents participate: A thorough evaluation requires that both parents be involved in the process. Be cautious of taking the children to your own separate evaluator. Courts may consider these evaluations to be incomplete. One-sided evaluations may be a duplication of time and money and may subject your children to added stress.

Q: Who is the custody evaluator?

A: Custody evaluators in private practice are usually licensed psychologists or mental health professionals with other credentials. Custody evaluators in court-connected programs are usually counselors or mental health professionals. In addition to their mental health training, custody evaluators should be familiar with the laws in your jurisdiction, have expertise in the divorce process and its effects on families, and have an understanding of child development issues and the needs of children. You should be comfortable with the evaluator and feel free to ask questions about their qualifications, training and experience.

Q: How can I prepare for the evaluation?

A: Cooperate with the evaluator. The evaluator is there to help your family and to help the judge figure out what will be in the best interests of the children.

- Separate your marriage problems from your parenting concerns. You may still have a lot of hurt and angry feelings toward the other parent but marital issues may not be relevant to child custody issues.
- Do not look at the custody evaluation process as a win/lose situation. This is a good time to try to put the past behind you and focus on the future.
- Plan to be open and honest with the evaluator.
- The evaluator can be an information resource. Ask about reading material, parent education classes, counseling and other help.
- Consult with your attorney as needed throughout the evaluation process.
- Keep your appointments.
- Organize school and health records, and other information that the evaluator asks to review.
- Make notes of the questions you want to ask.

Q: Will the children be interviewed?

A: Custody evaluators regularly interview and observe children. It is best if this is done in a comfortable and non-threatening environment. The evaluator understands that children may be experiencing a range of feelings about the divorce. Depending upon the ages of the children, the evaluator may have the children participate in structured play, draw pictures or tell stories in order to express their feelings.

Parents often want to know, "Will the evaluator ask my children where they want to live?" Children's thoughts, feelings and experiences are important. However, the evaluator will not ask children to choose between parents. This would not be fair to the children and only keeps them in the middle of your dispute.

Q: What happens to the information?

A: Most custody evaluators will prepare a written report of their assessment. The report is intended to give the judge a clear picture of the family and to provide information about how the children's needs can best be addressed. The evaluator's report may submit specific recommendations to the judge. An evaluator should not make a recommendation unless both parents have been interviewed.

Court rules vary as to who has access to the report. The report may be available to both parents or it may be restricted to the judge and attorneys. In most jurisdictions the report is considered a confidential document and can be ordered sealed by the court.

If the case goes to trial, the judge or the lawyers may ask the evaluator to be present to explain the report and its findings.

Q: How much does a custody evaluation cost?

A: If the evaluation is being conducted by a court-connected program, the fees for the evaluation are determined by the court's policy. You can inquire about fees from the program administrator. Private evaluators usually charge by the hour. The fee for an evaluation by a psychologist can be several thousands of dollars. Additional fees may be charged if the evaluator appears in court. The full fee or a substantial retainer may be required before the evaluation begins.

The fee for an evaluation may be divided between the parents, or one party may be required to pay the complete fee. Ask your attorney or the judge about your responsibility to pay for the evaluation.

Q: What if we reach an agreement during the evaluation?

A: The evaluation process can often help parents agree on parenting arrangements. Inform the evaluator immediately if you and the other parent reach an agreement. The evaluator can assist in preparing an agreement for review by your attorneys that may be submitted to the court. If a settlement is reached, the trial will be unnecessary.

Q: What does "best interests" mean?

A: Most courts require that child custody decisions use the "best interests" standard. Defining this term is a complex matter and definitions vary. However, "best interests" generally takes into consideration that:

- Your children have the right to love both parents and to have access to each parent without interference.
- All children benefit from an absence of conflict between their parents. Children do better if parents cooperate and work together.
- Children need to be safe, secure and protected from physical, emotional and sexual abuse.

- Children of different ages have different needs. Two-year old children do not need the same parenting arrangements as 12-year-old children. The custody evaluator will consider your children's specific needs as well as their adjustment to home, school and their social environment.
- Children need continuity. Parenting schedules should be followed so that children can depend on and look forward to time with each parent.
- Children do best when parents support a relationship with the other parent. Don't ask your children to choose between you and the other parent.

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