

“Preparing for your Custody Evaluation”

Introduction

When parents divorce, the divorce decree must establish plans for child custody, visitation/access and child support. Many parents use mediation or their attorneys to help them work out plans for the children. The custody settlement or parenting agreement is then submitted to the court for approval. When parents are not able 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 judge reach a decision which will be in the best interest of the children.

While it is best if parents can reach an agreement about custody, this brochure is intended to help you understand the custody evaluation process. This information can help you better participate in this important process.

What is a Custody Evaluation?

A child custody evaluation is:

- * an objective assessment of the needs of your children and each parents ability to meet those needs.
- * concerned with the strengths and weaknesses of both parents.
- * directed toward helping your family make a positive adjustment to divorce,
- * attentive to past events, present resources and future needs of the family.
- * 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.

What Happens in a Custody Evaluation?

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. An individual, private appointment will give you the opportunity to present your issues and concerns about the children and the other parent. Conferences with both parents allow the evaluator the opportunity to assess parents capacity to work together. The evaluator may also schedule an interview with you and your children. This may take place either in the evaluators office or in your own home. Conferences with you and you children will allow the evaluator to observe the relationships between family members.

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 any subject your children to added stress.

Near the end of the evaluation, the evaluator may ask to meet with you to discuss the findings and conclusions. Parents may find this information helpful in reaching an agreement regarding plans for

the children.

INFORMATION GATHERING:

The evaluator may request your written consent to obtain school and health records, social service and police information and any other documents which contribute to a complete understanding of the family. The evaluator may wish to talk to some of these people in order to understand how others see the issues.

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 trained psychologist. The psychologist will want to talk to each parent and may administer several paper and pencil exercises. You can ask the evaluator to tell you more about the kind of psychological evaluation that is being requested.

Who is the Custody Evaluator?

The child custody evaluator is usually a mental health professional who is employed by the court, a professional in private practice or employed by an agency contracted to provide evaluation services for the court. Evaluators have been trained in the divorce process and its effects on families, as well as child development issues and the needs of children.

The custody evaluator's job is to assist the court in determining legal and physical custody of the children. The evaluator will make an objective assessment of the needs of the children and will not be an advocate for either parent.

How Can I Prepare for the Evaluation?

- * cooperate with the evaluator. He or she is there to help your family and the judge figure out what will be in the best interest 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.
- * don't look at the custody evaluation process as a win/lose situation. This is a good time to try and put the past behind you and focus on the future.
- * parents can help their children by being open and honest with the evaluator.
- * the evaluator can be a resource of information. Ask about reading material, parent education classes, counseling and other help.
- * keep your appointments.
- * organize school, health and other information that you think will be helpful.
- * make notes of the questions you want to ask.

Will Children be Interviewed?

Custody evaluators regularly interview and observe children. It is best if this can be done in a comfortable and non-threatening environment. The evaluator understands that the 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 talk about 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.

What Happens to the Information?

Most custody evaluators will prepare a written report of their assessment. 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. 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 be best addressed. Most evaluators will not make recommendations unless they have seen both parents or have incorporated an evaluation from another professional who has seen the other parent when one parent is living too far away to participate in the evaluation. Court rules vary as to who has access to the report. The report may be available to both parents or may be restricted to the judge and attorneys. In most jurisdictions it is considered a confidential document and can be ordered sealed by the court.

What Does a Custody Evaluation Cost?

Ask your attorney or the judge about your responsibility to pay for the evaluation. Costs vary from region to region. Court-connected services may charge a flat fee or may charge by the hour. The fee is usually divided between the parents. Part or all of this may be required in advance. Private evaluators usually charge by the hour and may require that the full fee or a substantial deposit be paid before the evaluation begins.

What if we Reach an Agreement?

Inform the evaluator as soon as possible if you and the other parent reach an agreement. The custody evaluation can be stopped and the trial will be unnecessary.

What Does the “Best Interest” mean?

Most courts require that the child custody decisions use the “best interest” standard. Defining this term is a complex matter and definitions may vary. However, “best interests” generally means that:

- * you 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. A two year old child may not need the same schedule as a ten year old child. The custody evaluator will consider your childrens specific needs as well as their adjustment at home, school and 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.