

The Rundown on Custody Evaluations: A Q&A

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When a divorce involves children and a court-issued custody evaluation, the parents can understandably be uneasy about the process, what it will entail and how it will affect the outcome of the custody arrangement. The key to successfully navigating a custody evaluation is understanding how they work and having a strategy in place with your divorce attorney beforehand. Here are the most common questions my clients ask me about custody evaluations.

Q: What is a custody evaluation, and when are they used?

A: Custody evaluations are sometimes appointed in highly-contested divorces involving children; A custody evaluation is the legal process in which a court-appointed mental health expert (or chosen by the parties) evaluates a family and makes a custody recommendation to the court based on the child(ren)'s best interest. You should expect a series of interviews conducted both alone with the evaluator and with the evaluator and the other parent, and with you and your child(ren). In some cases, psychiatric testing for one or multiple family members will also be part of the process.

Q: What is the goal of the custody evaluation?

A: The goal of the custody evaluator is to gather data from the parties, witnesses, documents and the children themselves to ultimately render an opinion on physical custody (the visitation/access schedule of the children) as well as legal custody (decision-making authority for the children).

Q: What qualifications does a custody evaluator have?

A: For the most part, custody evaluators are trained mental health professionals. In some jurisdictions, the custody evaluators are psychologists, but it varies. In my local jurisdiction, the court evaluators are social workers.

While psychologists can do psychological testing during an evaluation, non-psychologist evaluators cannot. Most court evaluators are not licensed to conduct the psychological testing that is sometimes needed to help the family understand and address a parent or child's mental health issues. This is when it might be more beneficial to hire a private evaluator who can do the appropriate psychological testing, but private evaluators can be quite expensive.

Q: How much will it cost to get a custody evaluation?

A: Some courts have the resources available to appoint custody evaluators at no expense to the parties, which is the case in my jurisdiction. Otherwise, if the evaluation is being commissioned through a court-connected program, the fees will be determined by the court's policy. Private evaluators typically charge by the hour, and the fees can be significant.

Q: How much influence does the evaluator have over the judge's final decision?

A: It is my experience that the courts do not always follow the recommendations of the evaluators; however, the courts do like to hear what the evaluator learned from their observations, and the evaluator's perspective can certainly sway the judge in one

direction or the other.

Q: Should I request a custody evaluation?

A: This is a question that you should discuss with an experienced divorce or custody attorney. There is some strategy involved as to whether, or not, a custody evaluator makes sense for your specific situation, and your attorney can help you navigate that. For example, if you already have significant leverage and the judge is likely to rule in your favor already, adding another layer of complexity to the case with a custody evaluation may not be the best choice.

Q: What if I disagree with my ex-spouse on whether or not to get a custody evaluation?

A: If the parties do not agree on whether or not to get a custody evaluation, one side may file a motion requesting a court or private evaluator; the other side will likely oppose the motion, and the court will make the decision.

If you have any questions on this topic, please contact Sandra Brooks at sbrooks@offitkurman.com or 240.507.1716.