

We can't agree on a parenting plan. So how will the court make a custody order?

Parents in family court need to have a plan that shows how their child will be cared for after they separate. When parents can't agree on a parenting plan on their own or with the help of a mediator, the judge will make a decision about child custody at a hearing. The judge may order a child custody evaluation to assist in this process. A parent can also ask for an evaluation. This information sheet provides general information in cases where the judge appoints a child custody evaluator.

What is a child custody evaluation?

It is an investigation and analysis of the health, safety, welfare, and best interest of the child. In cases where the court has determined there is an allegation of child sexual abuse, state law requires that the evaluator conduct a detailed investigation if the court is considering permanent child custody or visitation orders. The evaluation is usually completed by a licensed psychologist, marriage and family therapist, clinical social worker, or psychiatrist. The evaluator may be a private professional, a court employee, or a professional under contract with the court.

What kind of evaluation will be done?

The evaluator will follow the court order by investigating and making recommendations that address the issues raised in your case. For example, the court might order the evaluator to make a recommendation about these and other issues:

- *Legal custody*: Who makes major decisions about the child's health, education, and welfare;
- *Physical custody*: Whom the child lives with;
- *Parenting plan or visitation*: The schedule of when the child spends time with each parent;
- *Supervised visitation*: Whether visitation should be supervised and, if so, by what type of program and for how long;
- *Safety issues*: The protection needs of the child in cases involving allegations of domestic violence or child sexual abuse.
- *Child custody modification*: Whether an existing child custody order should be changed.

What if there has been domestic violence or a protective order?

The evaluator must consider any history of domestic violence before interviewing the parents or the child. The parties may request separate interviews with the evaluator. *Give the evaluator copies of any restraining or protective orders.*

For help, call the National Domestic Violence Hotline at 1-800-799-7233 (TDD: 1-800-787-3224) or call 211 (if available in your area).

- *Counseling*: If, and for how long, either parent should be required to attend parenting, coparenting, domestic violence, substance abuse, rehabilitation, or other programs.

What will the evaluator do?

The evaluator will conduct a full or limited-scope investigation. He or she may do all the following as part of the investigation:

- Review documents related to custody, including local police reports and juvenile court records;
- Review the child's medical, dental, mental health, and other health-care records and school and educational records;
- Observe parent-child interaction and interview parents, the child, the child's family members, and others who have had contact with the child;
- Interview professionals who have provided care for the child; and
- Consult with other experts.

Will the evaluator speak with our child?

Depending on the child's age and maturity, the evaluator may consider observing and talking with your child.

How long will the evaluation take?

This varies depending on the kinds of issues the evaluator must investigate. The evaluator will give you a written explanation of the process, which will describe the time frame for gathering and analyzing information for the evaluation.

What do I need to do after the court orders the evaluation?

1. Follow the court order about initial contact with the evaluator.
2. Promptly provide documents and information to the evaluator and to the other party at the same time.
3. If needed, sign release forms to allow the evaluator access to documents and the child's care providers.
4. Fully cooperate with the evaluation.

Will I have to pay for the evaluation?

Fees and costs for the evaluation are often paid by the parents; however, sometimes evaluations are paid for by the courts. Your order should say who is responsible for paying for the evaluation.

What happens after the evaluator completes the investigation?

If the court orders it, the evaluator may prepare a verbal or written report about the issues investigated in your case. The report may include recommendations about child custody and visitation. If the court orders the evaluator to file a written, confidential report about the evaluation, you or your attorney and any attorney appointed for the child will receive a copy of the confidential report 10 days before any hearing about custody of the child. The court may consider the report and receive it as evidence. The report will go in the confidential portion of the court's file.

Is the report confidential, or can I share it with others?

The child custody evaluation report is confidential. You must not make an unwarranted disclosure of the contents of the child custody evaluation report. By law, a court can order a fine for an unwarranted disclosure of the child custody evaluation report in an amount that is large enough to prevent the person from disclosing information in the future. The fine can include an order to pay the other party's attorney fees or costs or both.

What if I disagree with the evaluator's report?

You may object to the evaluator's report and request a hearing to explain your concerns to the court. If you do not have an attorney, you may wish to get legal help with this matter. Read the local rules of the family

law court in your county to find out how to request a hearing.

What if I have an issue about how the evaluation was conducted?

- Discuss your concern with the evaluator or the evaluator's supervisor to try to resolve the issue.
- Contact the clerk of the court to find out the court's procedures for making and responding to complaints about an evaluator.
- Follow any complaint procedures posted in the evaluator's office.
- Submit your complaint to the court so the court can respond to your concern.
- Contact your court's self-help center or facilitator program for more information.
- Consult with an attorney about raising your concern as part of your case. See information below about where to find legal help.

Does my court have special rules or forms?

Courts in most counties have local rules and forms for cases involving child custody evaluations. Courts generally provide online access to their local rules and forms. See www.courtinfo.ca.gov/rules/localrules/htm. You may also contact the family law facilitator or self-help center at the superior court in your county.

Where can I get more information about child custody evaluations?

1. Visit the California Courts Online Self-Help Center Web site: www.courtinfo.ca.gov/selfhelp.
2. Ask at your local law library or public library.
3. Read Family Code sections 3110–3118 and 3025.5.
4. Read rules 5.220 and 5.225 of the California Rules of Court.

Where can I get information or legal advice?

1. Talk to your lawyer if you have one.
2. Contact the family law facilitator or self-help center for referrals to local legal services providers and lawyer referral services.
3. Find a lawyer through your local bar association or the State Bar of California at <http://calbar.ca.gov>. Or call the Lawyer Referral Service at 866-442-2529 or 415-538-2250.
4. Seek free and low-cost legal help (if you qualify): www.lawhelpcalifornia.org.