

Home Studies and Forensic Evaluations in Custody Cases

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Home studies

The court can order a “social services evaluation,” commonly known as a home study. SCR-Dom.Rel. 404. Home studies are performed upon court order, free of charge, by the Court Social Services Division of D.C. Superior Court (Family Court/Juvenile Services Division) (CSS). The job title of the staff who conducts the home studies is “probation officer.” Some home study officers may be social workers, others are not. Completion of a home study can take between four to eight weeks, depending on current staffing, caseload, and the parties’ responsiveness and availability.

Judges may order home studies *sua sponte* or upon motion. Judges will often grant requests for home studies based on oral motions. Home studies are typically ordered for both the plaintiff’s and the defendant’s homes, if for no other reason than to ensure that the parties feel that the process is even-handed, but occasionally a judge will decide to order a home study of only one home. The person conducting the home study will typically meet with and interview each parent in her/his home, will usually want an opportunity to see the child in both home environments, and may want to interview the child. CSS will customarily do a basic D.C. criminal court records check on the parties and may do one on any other adults living in the home. Occasionally, CSS will also interview other individuals who play a significant role in the child’s life, particularly if they live in the home. CSS will contact the parties directly to schedule meetings and home visits.

At this time, CSS will not do home studies of homes located in outside of D.C. This can pose a particular problem if a forensic evaluation has been ordered (see below).

A report will be produced that often includes a recommendation regarding the custody arrangement. CSS typically sends the report to the judge and counsel can then request a copy from chambers or at the next hearing; however, the home study officer may be willing to provide a copy of the report directly to counsel. The report is not part of the public court file.

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Forensic evaluations

The Assessment Center (formerly known as Youth Forensic Services Division) is a division of the D.C. Department of Behavioral Health. The Assessment Center performs court-ordered psychological and psychiatric evaluations of adults and children, free of charge, in Family Court cases, including custody, neglect and juvenile criminal cases. Judges may order evaluations *sua sponte* or upon motion. Judges will often grant requests for evaluations based on oral motions.

The Assessment Center requires a court order that the evaluation be performed. A home study by Court Social Services Division is usually required before an evaluation will be scheduled. If a home study is not available for a party, the Assessment Center may accept a submission by the GAL containing background information. As with home studies, the court will typically order both parties to be evaluated.

The amount of time needed to complete the evaluation varies depending on staffing levels of the offices, the caseload, and the responsiveness and availability of the parties, and the number of appointments needed for the particular case, but the average time is four weeks.

The evaluation will be done by a psychologist or a psychiatrist. The court order can specify a psychiatric evaluation, a psychological evaluation, or both, or can leave that decision to the Assessment Center. Usually only the individuals specifically named in the order will be seen so if you want the child included in the evaluation, be sure that is stated in the order, or you can include a provision leaving that decision to the Assessment Center's discretion. In general, the Assessment Center's preference is to see both parties as well as the child (unless the child is extremely young). Assessment Center evaluations typically consist of review of the home study and any other background materials that are provided (they will usually accept materials and information from the parties/counsel), clinical interviews of each parent (and the child if the child is included in the order), psychological testing (if a psychologist is doing the evaluation or if a psychiatrist requests it), and possibly some observation of the adult-child interaction. A custody evaluation, in theory, can encompass an assessment of the parent's overall mental and emotional status, judgment, and parenting ability, as well as the child's mental and emotional status, the child's relationship with each party (bonding/attachment), and the child's emotional needs. Thus, a forensic evaluation may be appropriate even when there is no allegation that a parent is suffering from a mental or emotional disorder. The court order can indicate any particular issues or questions the court would like the evaluator to explore, or the order can simply order that evaluation(s) be conducted (the evaluator will know that the evaluation is for the purposes of a custody case).

After the Assessment Center receives the court order and the home study, it will contact the parties directly to schedule appointments.

The evaluator will produce a report of the evaluation and will usually make recommendations regarding custody arrangements, and may make recommendations regarding services for the parties or child. The report is usually sent to the judge; if counsel cannot obtain a copy directly from the Assessment Center, it can be obtained by contacting the judge's chambers. The report

is not part of the public court file. The evaluator is available to testify but will not do so without a subpoena. It is advisable to address scheduling issues with the Assessment Center and the court well in advance if you are planning on calling the evaluator as a witness. Judges are usually reasonably flexible, within reasonable and practical limits, in connection with accommodating the evaluator's schedule.

The Assessment Center is located at 300 Indiana Avenue, N.W., Room 4023, Washington, D.C. 20001, 724-4377, 724-2383 (fax). Debbie Allen is the clinic coordinator. There are also staff social workers who coordinate the evaluations and are the staff that counsel most typically interact with. It may also be possible to communicate directly with the psychologist/psychiatrist doing the evaluation. Some of the evaluators may be on staff; others are contract providers and not full-time staff.

Related issues

- Parties can request the court to order home studies and forensic evaluations. Judges also may order them *sua sponte*.
- You can contact the home study office or the Assessment Center to get an up-to-date estimate of how long the home study or evaluation is likely to take.
- The status of these reports vis-à-vis the record – are they automatically in evidence or must they be formally introduced into evidence – is an issue that has not been resolved. On the one hand, there appears to be no law explicitly providing that these reports automatically become a part of the record – become evidence – and if the evaluations are analogized to examinations ordered under the rules of discovery (SCR-Domestic Relations 35), then it could be argued that the reports should not automatically become a part of the record. Similarly, a written report is hearsay, may contain additional hearsay, and there may also be issues relating to the admissibility of opinions or information contained in the report. On the other hand, there is an implication that because the court can order the reports, they become a part of the record and the court can consider them in making a decision.

It is difficult to predict how any given judge will handle this issue; a particular judge may not even be consistent from case to case. It is fairly clear that in practice, judges read the reports prior to trial, and also often rely on them (whether explicitly or *sub silentio*) at least insofar as making *pendente lite* decisions. For purposes of trial, some judges seem to assume that the reports are automatically part of the evidentiary record. Some judges indicate that they have read the reports but that they are not automatically part of the record at trial and thus will not be considered in making a decision unless formally admitted into evidence. Sometimes a judge may inquire of counsel/the parties whether they will stipulate to the reports being entered into evidence or whether they will require that the document be formally admitted by a party (e.g., the author be called as a witness or, if counsel is going to attempt to admit the report as a business record, a "records custodian" be called as a witness). Or a judge may assume that, if no one is raising an issue, the parties are in essence stipulating as to the admissibility of the report. Counsel/parties are always free to raise the issue of the status of the reports.

Ziegler v. Ziegler, 304 A.2d 13 (D.C. 1973), held that it is reversible error for the court not to permit cross-examination of the author of a home study.