

## **INFORMATION ABOUT THE CUSTODY EVALUATION PROCESS**

As you know, you have been ordered by the Court to participate in a custody evaluation and Dr. Michele Killough Nelson has been appointed by the Court as the neutral evaluator. The following information describes the process of a custody evaluation with Dr. Nelson and provides guidance about what you can expect and how you can assist.

### *Why does my family need a custody evaluation?*

Deciding on the living arrangements for one's children and/or who has the right to make various decisions about the children is often the most difficult part of a divorce or the ending of a relationship between the parents. Custody evaluations are typically ordered when the Court wants more information about the parents, children, and overall situation to be able to make the best decisions possible for the children. Sometimes custody evaluations are ordered during the separation period, and sometimes the evaluations are ordered after the parents have been divorced for some time.

### *How much will a custody evaluation cost?*

The retainer for each adult to be evaluated is \$2000. Since Dr. Nelson is typically asked to evaluate the parents, the total retainer is usually \$4000. Dr. Nelson's hourly rate is \$175. The total cost of most evaluations ranges from \$3500 to \$6500, depending on the complexity of the case, the number of children involved, and a variety of other issues. If the total cost of the evaluation is below the retainers paid by the clients, then the difference will be refunded. If the total cost of the evaluation is above the retainers paid by the clients, then the parents will be billed the difference and expected to pay the balance before the final court date.

### *How is the billing done?*

Regardless of who is paying for the evaluation, an itemized bill will be produced at the end of the assessment and available to both parties. If the parties are ordered to split the cost of the evaluation, Dr. Nelson will bill each party for any in person or phone interview time with them. Dr. Nelson will also review documents provided by both parties, interview collateral witnesses, request documents on her own as appropriate, and consult with other professionals involved in the case as appropriate. In general, if the information is provided by one parent then that parent will be billed for the time incurred by Dr. Nelson to review it. However, if the information pertains directly to the children (*e.g.*, children's school or medical records, interviews with guidance counselors or children's therapists, *etc.*), then those charges will be equally divided between the parents. Time to analyze the data and write the report is also generally equally divided between the parents, and there is a fee for the psychological testing to cover the cost of the forms and the scoring. Finally, if testimony is required, then Dr. Nelson will bill the same hourly rate of \$175 for her preparation time and time in court.

### *How many times will I meet with Dr. Nelson?*

In general, you should expect to meet with Dr. Nelson at least four times.

*First appointment:* Unless there is a court order barring contact between the parties petitioning for custody or one parent lives out of state, Dr. Nelson prefers to have the first meeting with the parties together. This appointment will last approximately one hour. During this time, Dr. Nelson will explain the evaluation process in detail and answer any questions or concerns specific to your overall case. You will also complete basic paperwork. Although it is sometimes uncomfortable to have both parties present, it also ensures that everyone is receiving the same information and usually resolves issues which might impede the evaluation (*e.g.*, making sure children are available for the parent/child observations, deciding who will provide what records, *etc.*) in an efficient manner. This is not a time to raise grievances with each other or ask for an intervention to change the current situation. Appropriate behavior is expected by both parties. If the parties are barred from having contact or there are other practical issues which make it impossible for them to meet together, then this appointment will be done individually.

*Second appointment:* The second appointment will be conducted individually and last approximately three hours. During that time, Dr. Nelson will guide the parent through an interview that covers information relevant to the assessment process. The goal of this interview is to ensure that when the interview is done, the parent feels that s/he has been able to fully express his/her personal story and perspective. Typically, the parent will also take a variety of psychological tests. Dr. Nelson will determine which tests to administer at least in part based on information learned during the first and second appointments and paperwork completed by the parents. It is suggested that the parent pack a lunch as he/she can expect to be at Dr. Nelson's office for most of the day. There are numerous restaurants nearby if the parent wants to take a break between the interview and testing.

*Third appointment:* The third appointment is generally the parent/child(ren) observation and typically takes place at Dr. Nelson's office. The length of this appointment varies depending on the age of the children, with younger children typically requiring a shorter appointment. In addition to observing each parent with the children, generally Dr. Nelson also interviews the children individually, thereby giving Dr. Nelson the opportunity to meet with the children individually twice. Dr. Nelson will tell you in the first appointment how she explains her role to the children.

*Fourth appointment:* For many people, this is the final appointment. By this time, Dr. Nelson should have had a chance to talk to many people about this case, review records, meet with the children, review the psychological test data, and compare information from the parents. This appointment is typically used for Dr. Nelson to try to resolve discrepancies in the data, engage in specific questioning about issues of concern, provide and get feedback, and determine what else is needed to finish the evaluation.

The parent is welcome to schedule other interviews, either in person or by phone, as necessary. Dr. Nelson may also initiate other appointments at her discretion, such as announced or unannounced home visits.

*When do I get a copy of the report?*

The court order determines who gets a copy of the report. Typically the report is provided to the attorneys of record (each parent's attorney, the guardian *ad litem*) and the Court. It is up to your attorney to decide how he/she will share it with you. If you are proceeding *pro se*, meaning that you are representing yourself, then Dr. Nelson will ask the Court to determine how the report should be shared with you.

*What if I want to talk to Dr. Nelson about the report after I read it?*

If you want to talk to Dr. Nelson after you have read the report, please call her office to set up a phone or in person appointment. Given how emotional custody evaluation processes are and the strong responses people often have after reading the report, it is Dr. Nelson's policy that the appointment to discuss the report will not occur for at least 48 hours after the parent has read it. If you have additional information you want Dr. Nelson to review or if you want to ask Dr. Nelson to rethink something in the report, please contact her to ensure this happens. If the new information or discussion leads Dr. Nelson to draw different conclusions than she did originally, she will submit an addendum to the original report.

*What type of information would be helpful to provide to Dr. Nelson?*

Information provided to Dr. Nelson is considered discoverable, meaning that both sides have access to it. Therefore, please do not provide her with anything you want to keep confidential. Also, it may be helpful to talk with your attorney prior to providing Dr. Nelson with information as your attorney may have a preference for what you include. Finally, you may want to consider purchasing an inexpensive three ring binder in which to organize the information. Information which is commonly provided to Dr. Nelson and is often helpful includes the following:

*Phone list:* Dr. Nelson would like to interview people in your life who can help her understand more about you, your parenting, your coparenting, and your children. She is less interested in interviewing people who will speak negatively about your estranged spouse than she is in learning about you as a parent. Most people provide 3 to 7 names total. It is fine to have some family members on the list, but it is preferable to have people from other areas of your life as well. Further, please only include people who have direct observations of your parenting and/or coparenting behaviors. For example, if your best friend lives in Minnesota and you talk to him/her daily but only see him/her once a year, it is unlikely such a person would be of much help to Dr. Nelson. Overall, the people with whom Dr. Nelson speaks will be asked to limit their comments to what they have observed directly, not what they have heard from you or others. The general structure of the list should include the people's names and phone numbers, a brief paragraph about the role this person has in your life, and why it is important for Dr. Nelson to speak with him/her. It is also often helpful to propose specific questions for Dr. Nelson to ask. Please advise the people on your list in advance that Dr. Nelson will be calling them; otherwise, many people are hesitant to speak to her. Occasionally someone from your list will want to meet with Dr. Nelson in person rather than speak by

phone. If this is the case, please talk about this in advance with Dr. Nelson.

*Legal records:* If there are court related documents which will help Dr. Nelson understand the history of your case, your current position, or other concerns about your case, please include these. Such documents could include but are not limited to: transcripts of hearings, depositions, interrogatories, court orders, the Divorce Decree, and other legal filings.

*E-mails:* Often parents want Dr. Nelson to review e-mail correspondence between them and/or them and other parties. If that is the case for you, please remember the following: (1) it is easier if entire e-mail strings are included rather than just selected ones from a series and (2) it will be helpful for Dr. Nelson if you give a brief, written description of why the e-mail is important and what you hope Dr. Nelson will gain from reading it.

*Records:* If you have any records which will be of help to Dr. Nelson, such as mental health, school, or medical records for yourself or your children, please feel free to provide them unless directed otherwise by the Court.

*Personal statements, personal notes, and time lines:* If you feel it will be helpful for you and/or Dr. Nelson to organize your thoughts in writing, please feel free to do so. However, please keep in mind that the other side has the right to access this information.

*Phone recordings:* As long as the recordings are legally obtained, Dr. Nelson will be happy to review them. For example, phone messages on a voice mail or answering machine are usually legal whereas audiotaped phone calls are often not. Please consult with your attorney prior to giving these to Dr. Nelson to ensure that you do not provide her with information which was illegally obtained.

*What if I am concerned that the other party will present well and Dr. Nelson will be unable to see through this?*

This is a common concern raised in custody evaluations. Dr. Nelson is less interested in whether people present well and more interested in how they parent and coparent on a daily basis. Therefore, she will utilize multiple methods of gathering information and listen to both parents' perspectives of the situation.

*Is the information I discuss with Dr. Nelson confidential?*

The information you discuss with Dr. Nelson is not confidential because this is a court ordered evaluation, so you may not discuss anything with her "off the record." Specifically, in her capacity as the Court's expert, Dr. Nelson may need to share information with the Court or the attorneys involved in your case. Dr. Nelson is also a mandated reporter to the Department of Social Services for issues pertaining to child abuse and neglect. Finally, you will likely be asked to sign forms which allow her to discuss information with mental health and/or educational professionals involved in your case.

*Why do I have to take psychological tests? Will my children have to as well?*

It is the standard of practice of custody evaluators to administer psychological tests during the course of the evaluation. The specific tests will be chosen by Dr. Nelson. The parents may or may not take the same tests; sometimes parents have different issues which require different tests. For a variety of reasons, it is rare for Dr. Nelson to administer psychological tests to children involved in a custody case.

*Will Dr. Nelson give me feedback during the evaluation process or suggest that we make changes before the court date?*

Each case is different and in general recommendations are not made until the assessment is completed. However, sometimes Dr. Nelson may suggest that an issue be addressed by a parent prior to completion of the assessment. These issues may include substance abuse, mental illness, anger management, or coparenting behaviors which are obviously detrimental to the child(ren).

*Is Dr. Nelson going to provide counseling to us either before or after the evaluation?*

Dr. Nelson is a Clinical Psychologist who is licensed to diagnose and treat psychiatric disorders, but her practice involves exclusively court related evaluations. She will not provide treatment to anyone she has previously assessed or is currently assessing as this would be a conflict of interest. She is also not a mediator and will not provide mediation services in an attempt to settle your case, although she may provide recommendations or feedback if attorneys consult with her on a matter the parties are attempting to settle. Finally, it should be noted that you and your family are considered Dr. Nelson's clients, not her patients.

*What if Dr. Nelson's report and opinions are not in my favor?*

It is often the case that one parent is less happy with the results of the evaluation than the other, and often both parents are not entirely satisfied with the outcome. If Dr. Nelson's report is not in your favor, you have many options and are encouraged to consult your attorney to discuss these. As noted above, you may also contact Dr. Nelson to discuss your concerns.

*Does the judge always follow Dr. Nelson's recommendations?*

No. The Court is the trier and finder of fact and you or the other side may either present additional information which Dr. Nelson did not have or the Court may review Dr. Nelson's report and her conclusions and disagree with them.

*Do we need a guardian ad litem for the children in addition to Dr. Nelson?*

The guardian *ad litem* is an attorney whose role it is to advocate for what is in the child(ren)'s best interest and for the child(ren)'s wishes. Dr. Nelson is not an advocate for anyone, but a neutral evaluator. In some cases it is helpful to have both and in other cases it is unnecessary. If there is a guardian *ad litem*, typically Dr. Nelson will consult with this person throughout the process and may divide some of the work to make the process more cost effective and time efficient.

*What are Dr. Nelson's qualifications and experience?*

Dr. Nelson completed her Bachelor's degree at the University of North Carolina at Chapel Hill, her Master's degree and Doctorate in Clinical Psychology at Purdue University, and her internship and post doctoral fellowship at Virginia Commonwealth University Health System/Medical College of Virginia Hospitals. She was an Assistant Professor of Psychiatry in the division of Consultation/Liaison Psychiatry at MCV for three years before joining Forensic Psychology Associates, P.C., in 1996. Dr. Nelson administers a wide variety of court ordered and related civil and criminal evaluations including but not limited to assessments of: competency, sanity, custody, relocation, parental capacity, termination of parental rights, testamentary capacity, and the need for guardianship and conservatorship. With regard to custody evaluations, Dr. Nelson began doing these in 1998 and has completed hundreds of such assessments. She has been qualified as an expert in the areas of Clinical Psychology, Child Development, and Child Custody in courts throughout the Commonwealth of Virginia. Dr. Nelson also frequently speaks on issues pertaining to custody evaluations at a wide variety of continuing education seminars for attorneys and judges as well as doing guest lectures for law students and psychiatry residents. Finally, she is a supervisor for graduate and post doctoral students in Clinical Psychology at Virginia Commonwealth University and the Virginia Treatment Center for Children who want experience administering custody evaluations as part of their graduate experience.

*Is there anything else I should know or ask?*

Dr. Nelson understands that this is a highly emotional, personal, and difficult time for you and your family and that it may initially be difficult for you to organize the information or ensure you have given her all relevant information. Dr. Nelson is committed to doing an objective, thorough assessment and will let you know if there is additional information she needs. If there is information you want to discuss with her outside of the appointments, feel free to call her office at 739-4669 to make a phone appointment with her. You are also encouraged to e-mail her information; if you do this, please e-mail it to her assistant, Lisa, at [lfitzhugh@psylaw.com](mailto:lfitzhugh@psylaw.com) as Lisa will ensure that Dr. Nelson gets the information in a timely fashion and that it is attached to your chart in our database for Dr. Nelson's easy reference.