

1 **Rule 4-903. Uniform custody evaluations.**

2 **Intent:**

3 To establish uniform guidelines for the performance of custody evaluations.

4 **Applicability:**

5 This rule shall apply to the district and juvenile courts.

6 **Statement of the Rule:**

7 (1) Custody evaluations shall be performed by professionals who have specific training in
8 child development, and who are licensed by the Utah Department of Occupational and
9 Professional Licensing as either a: ~~(a) Licensed Clinical Social Worker, (b) Licensed
10 Psychologist, (c) Licensed Physician who is board certified in psychiatry, or (d) Licensed
11 Marriage and Family Therapist.~~

12 (1)(A) Licensed Clinical Social Worker;

13 (1)(B) Licensed Psychologist;

14 (1)(C) Licensed Physician who is board certified in psychiatry;

15 (1)(D) Licensed Marriage and Family Therapist; or

16 (1)(E) Licensed Clinical Mental Health Counselor.

17 (2) Every motion or stipulation for the performance of a custody evaluation shall include:

18 (2)(A) the name, address, and telephone number of each evaluator nominated, or the
19 evaluator agreed upon;

20 (2)(B) the anticipated dates of commencement and completion of the evaluation and
21 the estimated cost of the evaluation;

22 (2)(C) specific factors, if any, to be addressed in the evaluation.

23 (3) Every order requiring the performance of a custody evaluation shall:

24 (3)(A) require the parties to cooperate as requested by the evaluator;

25 (3)(B) restrict disclosure of the evaluation's findings or recommendations and privileged
26 information obtained except in the context of the subject litigation or other
27 proceedings as deemed necessary by the court;

28 (3)(C) assign responsibility for payment from the beginning of the evaluation through
29 the custody evaluation conference, as well as the costs of the written report if
30 requested;

31 (3)(D) specify dates for commencement and completion of the evaluation;

- 32 (3)(E) specify any additional factors to be addressed in the evaluation;
- 33 (3)(F) require the evaluator to provide written notice to the court, counsel and parties
34 within five business days of completion (of information-gathering) or termination
35 of the evaluation and, if terminated, the reason;
- 36 (3)(G) require counsel and parties to complete a custody evaluation conference with the
37 court and the evaluator within 45 days of notice of completion (of information
38 gathering) or termination unless otherwise directed by the court so that evaluator
39 may issue a verbal report; and
- 40 (3)(H) require that any party wanting a written custody evaluation report give written
41 notice to the evaluator within 45 days after the custody evaluation conference.
- 42 (4) The purpose of the custody evaluation will be to provide the court with information it can
43 use to make decisions regarding custody and parenting time arrangements that are in the
44 child's best interest. Unless otherwise specified in the order, evaluators must consider and
45 respond to each of the following custody factors set forth in statute:
- 46 ~~(4)(A) the developmental needs of the child (including, but not limited to, physical,~~
47 ~~emotional, educational, medical and any special needs), and the parents'~~
48 ~~demonstrated understanding of, responsiveness to, and ability to meet, those~~
49 ~~needs.~~
- 50 ~~(4)(B) the stated wishes and concerns of each child, taking into consideration the child's~~
51 ~~cognitive ability and emotional maturity.~~
- 52 ~~(4)(C) the relative benefit of keeping siblings together;~~
- 53 ~~(4)(D) the relative strength of the child's bond with the prospective custodians, meaning~~
54 ~~the depth, quality and nature of the relationship between a prospective custodian~~
55 ~~and child;~~
- 56 ~~(4)(E) previous parenting arrangements where the child has been happy and well~~
57 ~~adjusted;~~
- 58 ~~(4)(F) factors relating to the prospective custodians' character and their capacity and~~
59 ~~willingness to function as parents, including:~~
- 60 ~~(4)(F)(i) parenting skills~~
- 61 ~~(4)(F)(ii) co-parenting skills (including, but not limited to, the ability to facilitate~~
62 ~~the child's relationship with the other parent, and to appropriately~~
63 ~~communicate with the other parent);~~
- 64 ~~(4)(F)(iii) moral character;~~
- 65 ~~(4)(F)(iv) emotional stability;~~

66 ~~(4)(F)(v) — duration and depth of desire for custody and parent time;~~
67 ~~(4)(F)(vi) — ability to provide personal rather than surrogate care;~~
68 ~~(4)(F)(vii) — significant impairment of ability to function as a parent through drug~~
69 ~~abuse, excessive drinking or other causes;~~
70 ~~(4)(F)(viii) — reasons for having relinquished custody or parent time in the past;~~
71 ~~(4)(F)(ix) — religious compatibility with the child;~~
72 ~~(4)(F)(x) — the child's interaction and relationship with the child's step-parent(s),~~
73 ~~extended family members, and/or any other person who may~~
74 ~~significantly affect the child's best interest;~~
75 ~~(4)(F)(xi) — financial responsibility;~~
76 ~~(4)(F)(xii) — evidence of abuse of the subject child, another child, or spouse;~~
77 ~~(4)(G) — factors affecting a determination for joint legal and/or physical custody as set~~
78 ~~forth in Utah Code 30-3-10.2; and~~
79 ~~(4)(H) — any other factors deemed important by the evaluator, the parties, or the court.~~

- 80 (5) In cases in which specific areas of concern exist such as domestic violence, sexual
81 abuse, substance abuse, mental illness, and the evaluator does not possess specialized
82 training or experience in the area(s) of concern, the evaluator shall consult with those
83 having specialized training or experience. The assessment shall take into consideration
84 the potential danger posed to the child's custodian and the child(ren).
- 85 (6) In cases in which psychological testing is employed as a component of the evaluation, it
86 shall be conducted by a licensed psychologist who is trained in the use of the tests
87 administered, and adheres to the ethical standards for the use and interpretation of
88 psychological tests in the jurisdiction in which he or she is licensed to practice. If
89 psychological testing is conducted with adults and/or children, it shall be done with
90 knowledge of the limits of the testing and should be viewed within the context of
91 information gained from clinical interviews and other available data. Conclusions drawn
92 from psychological testing should take into account the inherent stresses associated with
93 divorce and custody disputes.