

1 **Rule 16.22. Custody Evaluations**

2 (a) **Applicability; Motion; Notice.**

3 (1) This rule governs custody evaluations in family law actions.

4 (2) Upon motion, or on its own, and after notice to all parties, a court may  
5 for good cause order a custody evaluation.

6 (3) The court may specify the individuals to be examined or permit the  
7 examiner to do so.

8 (b) **Order.**

9 (1) **In General.** The order must specify the time, place, manner,  
10 conditions, and scope of the examination, as well as the person or persons who will  
11 perform it.

12 (2) **Examiner; Location.** The examiner must be suitably licensed or  
13 certified. The examination must take place in an appropriate professional setting  
14 and in the judicial district in which the case is pending, unless the court orders the  
15 examination to occur in a different location.

16 (3) **Persons Examined.** The court may require a party to produce for  
17 examination a person who is in the party's custody or under the party's legal control.

18 (4) **Costs.** The court may assign the cost of the examination in its  
19 discretion and may redistribute those costs as appropriate.

20 (5) **Modification.** The court, for good cause, may alter the provisions of  
21 this Rule.

22 (c) **Recording.** A custody evaluation may only be recorded by the examiner,  
23 who must inform the parties if the examiner elects to record the examination. The  
24 examiner must keep the recording confidential. On motion, and for good cause, the

1 court may order that a copy of the recording, if made, be provided to the court and  
2 placed under seal, be provided to the parties subject to appropriate restrictions upon  
3 its release and use, or both.

4 (d) **Observers.** The parties may not have an observer present at a custody  
5 evaluation.

6 (e) **Examiner's Report.**

7 (1) **Providing the Report to the Court.** A custody evaluation report  
8 must be provided to the court and placed under seal. The court must notify all parties  
9 when it receives the report. Any party may review the report in court.

10 (2) **Providing the Report to the Parties' Attorneys.** A parties'  
11 attorney may obtain a copy of the report, which the attorney must keep confidential  
12 and may not disseminate without court order. The attorney's client may review the  
13 report in the attorney's possession, but the attorney must not provide a copy to his  
14 or her client.

15 (3) **Dissemination of the Report.** On motion, and for good cause, the  
16 court may permit dissemination of the report, which must include appropriate  
17 restrictions on its release and use.

18 (4) **Contents.** The examiner's report must be in writing and must set  
19 out in detail the examiner's findings, including diagnoses, conclusions, and the  
20 results of any tests.

21 (5) **Request by the Moving Party.** After delivering the reports, the  
22 party who moved for the examination may request—and is entitled to receive—from  
23 any party, like reports of all earlier or later examinations of the same condition,  
24 which are in the possession of that party. But those reports need not be delivered by

1 a party with custody or control of the person examined if the party shows that it  
2 could not obtain them. Any reports in the care or custody of a court, as specified in  
3 this rule, must be sought from that court. The grant of either review or receipt of  
4 those reports is subject to the court's discretion and the conditions in this Rule.

5 (6) **Scope.** This rule does not preclude obtaining an examiner's report  
6 or deposing an examiner under other rules, unless excluded by this rule.

7 (f) **Stipulations.** The parties may, by stipulation approved by the court, agree  
8 upon the custody evaluation, the conditions or limitations of the evaluation, and the  
9 examiner. This rule applies to any examinations agreed to by stipulation, unless the  
10 court approves a stipulation stating otherwise.

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12 **Advisory Committee Note—2018 Amendment**  
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