

INFORMATION ABOUT THE CUSTODY EVALUATION PROCESS

Updated March 2017

The following information describes the process of a custody evaluation with Dr. Michele Killough Nelson and provides guidance about what you can expect and how you can assist. Please note that Dr. Nelson will only accept cases in which she is agreed upon or appointed as a neutral evaluator. She does not take privately retained cases.

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. Regardless of the specific situation, the basic issue is that the parents cannot agree on a schedule for the children and the Court has been involved to make this decision for them.

How much will a custody evaluation cost?

Dr. Nelson's hourly rate is \$275. A retainer fee is due by the first appointment and is based upon the number of children involved in the custody dispute. The retainer for EACH ADULT to be evaluated is \$4,500 for 1 child; \$5,000 per adult for 2 children, and \$6,000 per adult for 3 or more children. The typical total cost of most evaluations ranges from \$6000 to \$12,000, depending on the complexity of the case, the number and ages of the children involved, and a variety of other issues. For example, a family with one young, healthy child, only a few records, and less complex issues will generally be significantly less expensive than an evaluation involving three teenage children, significant records, and complex issues. If the total cost of the evaluation is below the retainer paid by the client, then the difference will be refunded. If the total cost of the evaluation is greater than the retainer paid by the client, then the client will be billed the difference and expected to pay the balance before the final court date. If you have questions about this, please contact Bobbie Harvey at (804) 739-4669. She is typically in the office Monday through Thursday from 7 a.m. to 3 p.m. Insurance does not cover the cost of this evaluation since it is for the Court's purpose and not for treatment purposes.

How is the billing done?

An itemized bill will be produced at the end of the assessment and is generally 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, phone, and/or other correspondence 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, consultations with the guardian *ad litem*, *etc.*), then those charges will be equally divided between the parents, regardless of who provides the data or the names for these collateral interviews. Time to analyze the data and write the report is also typically equally divided between the parents, and this is a *significant* part of the total cost. There is a fee for the psychological testing to cover the cost of the forms and the scoring.

Does it put me at a disadvantage if the other party is ordered to pay for the evaluation and I am paying nothing or only a small percent of the assessment?

No. The Court makes this determination and the retainer is collected up front, so Dr. Nelson is not beholden in any way to produce an opinion favorable to the party who is paying for the evaluation. Further, unless the Order says otherwise, both parties have access to the bill.

What if I have been ordered to pay all or most of the bill and the other party runs up the cost in what I feel is an unreasonable way?

In this case, you may want to consider consulting your attorney about approaching the Court to reapportion the bill. The bill will be laid out so that you and the Court can see the costs associated with both parents' parts of the evaluation process.

If I want Dr. Nelson to testify, is that covered in the retainer for the evaluation? Will she automatically come to court?

No. Unless the Order for the custody evaluation says otherwise, Dr. Nelson requires a subpoena to come to court. You are encouraged to consider subpoenaing her early in the process, even if you are unsure you want her to testify, because if another subpoena for your date arrives first, Dr. Nelson has to honor the other one. If you do subpoena her, there is a separate retainer of \$1,375 for her court appearance; if court is more than 60 miles from her office, payment for travel time will also be required in advance. The \$1,375 covers Dr. Nelson's preparation time for testimony plus her time in court. If you cancel the subpoena 3 business days or more in advance (*e.g.*, you settle the case, you decide you do not want Dr. Nelson to testify, the parties agreed that Dr. Nelson's report will be entered into evidence without her present, *etc.*), then Dr. Nelson will refund the \$1,375 to you in full. If you cancel with less than 72 business hours of notice, Dr. Nelson will keep the \$1,375 as it is difficult for her to book other income generating activity with such little notice.

How many times will I meet with Dr. Nelson?

In general, you should expect to meet with Dr. Nelson at least three times. However, it is also not uncommon to have additional meetings, requested either by Dr. Nelson or the client.

First appointment: This appointment will be conducted individually and it will last approximately three and a half hours with Dr. Nelson. 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 it 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 following the time spent with Dr. Nelson. The testing process usually takes three or more hours. Dr. Nelson will determine which tests to administer. The tests may be different for each parent, depending on the issues of concern. 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.

Second appointment: The second appointment is generally the parent/child(ren) observation and typically takes place at Dr. Nelson's office. The length of this appointment varies depending upon the ages of the children, with younger children sometimes requiring a shorter appointment. In addition to observing each parent with the child(ren), Dr. Nelson also usually interviews the child(ren) individually, thereby giving Dr. Nelson the opportunity to meet with the child(ren) individually twice. There are times when a parent/child(ren) observation is not appropriate (e.g., if a protective order is in place), so decisions about this are made on a case by case basis.

Third 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 child(ren), review the psychological test data, and compare and contrast 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 determines who gets a copy of the report. Typically the Order states that the report should be 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 if and 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, Dr. Nelson's office is not responsible for making copies of your documents, so please do not give her original documents or things you want returned, unless you have discussed it with her in advance. 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. The better organized the material, the more efficient Dr. Nelson will be in reviewing it. Electronically submitted documents are discouraged as clients have typically not organized them well. Information that 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 highly unlikely that 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. Finally, if for whatever reason there are not people who know you as a parent, then please talk about this with Dr. Nelson so other plans can be made to get relevant information about you.

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

List of mental health professionals: Please provide a list of names and telephone numbers

of all mental health professionals (*i.e.*, individual counselors for yourself, children's counselors, marital therapists, previous evaluators, substance abuse specialists, pastoral counselors, inpatient psychiatric facilities, *etc.*) who have been involved with you and/or your family.

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

Records: If you have any records that 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 or your attorney.

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 generally 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 may not be. Please consult with your attorney prior to giving these to Dr. Nelson to ensure that you do not provide her with information that you obtained illegally.

Will Dr. Nelson do a home visit or school visit?

Dr. Nelson will make a decision about whether or not to do home or school visits on a case by case basis. There are cases in which Dr. Nelson does multiple home visits, announced and unannounced, and other cases where a home or school visit is determined to be unnecessary. If you want her to do a home visit, please let her know.

What should I tell my children about why they are seeing Dr. Nelson and what they should expect?

If your children are in counseling, then Dr. Nelson encourages you to talk about this with the therapist. Provided it is not indicated otherwise, you are welcome to share with them the basics of what Dr. Nelson will tell them herself. Specifically, Dr. Nelson tells children that they have come to see her because they are lucky, and they are lucky because they have two parents who love them very much. However, as they have probably noticed, their parents do not always agree on everything. Because their parents love them, though, they are working together with some other adults to figure out what is in their best interest, and Dr. Nelson is one of those adults. Dr. Nelson further explains that she is going to spend time having fun with the children

and each parent and provided that the children are old enough, which is at Dr. Nelson's discretion, she will talk with them individually.

What is Dr. Nelson going to talk about with my child(ren)?

Interviews differ markedly from child to child based on a variety of case specific issues. She will make it clear to the children that she is interested in learning about them and their family, but also that the decisions that are going to be made are adult decisions. The goal of the interview is to get information but also to create a comfortable, nonthreatening environment for the child. If a child does not wish to talk with Dr. Nelson, Dr. Nelson will ask to speak with the child anyway.

How should I prepare my child(ren) for the interview?

In general, children need little preparation by their parents for the interview. Most children are aware that their parents are in conflict and that there is a custody dispute about them. If your children are not aware of this, then please raise this issue in advance with Dr. Nelson. Please do not coach your children to provide Dr. Nelson with specific information, as this tends to cause anxiety for children. Similarly, please do not ask your children about the interview after it has concluded as this also tends to cause children to be anxious.

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 neither you nor anyone else may discuss anything with her "off the record." Specifically, in her capacity as the Court's expert, Dr. Nelson is expected to share relevant information with the Court about your case. Dr. Nelson is also a mandated reporter to the Child Protective Services for issues pertaining to child abuse and neglect. Finally, you will likely be asked to sign forms that 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 that 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 that 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 mental 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 that 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 will make its own ruling based on all of the information presented. You or the other side may either present additional information that Dr. Nelson did not have or the Court may review Dr. Nelson's report and her conclusions and disagree with all or part of them.

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

The guardian *ad litem* (GAL) is an attorney whose role 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 GAL, Dr. Nelson will typically consult with this person throughout the process and may divide some of the work to make the process more cost effective and time efficient. For example, if the GAL has done home visits and there are no issues with either home, then Dr. Nelson may choose not to do another home visit.

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 and parenting evaluations, Dr. Nelson began doing these in 1998 and has completed hundreds of such assessments. She has been repeatedly qualified as an expert in the areas of clinical psychology, child development, parenting issues, child custody evaluations, and other related issues in courts throughout the Commonwealth of Virginia. Dr. Nelson also frequently lectures on issues pertaining to custody evaluations at a wide variety of continuing education seminars for attorneys and judges, and she does guest lectures at a variety of universities.

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 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. Do not feel pressured to have all of the information ready for her by the first appointment. Most clients find it helpful to meet with Dr. Nelson first before providing the notebook as the interview often brings up things to include that you may not have thought of on your own. If there is information you want to discuss with her outside of the appointments, feel free to call her office at (804) 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, Jackie, at jaliceburg@psylaw.com and Jackie will ensure that Dr. Nelson gets the information in a timely fashion and that it is attached to your chart and/or in our database for Dr. Nelson's easy reference.