

# Family Law Toolkit for Survivors

## The Domestic Violence & Mental Health Collaboration Project

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### Family Law Evaluations

If you will be seeking custody of your child or children, or are already involved in a custody case,

*and*

You think it is possible that you and the other party will not come to an agreement about the parenting plan (custody agreement),

Then we recommend that you read this handout.

*I worked with a survivor who had developed Post Traumatic Stress Disorder and Depression as a result of being abused by her husband. During her dissolution, the court ordered her to undergo a mental health evaluation. I was concerned that the trauma she experienced was going to be used against her. The survivor asked the court to order a parenting evaluation instead to focus on her parenting skills. The court agreed and the parenting evaluator correctly identified the domestic violence. Thanks to the evaluator's recommendations, the court granted the survivor primary custody of her children and ordered her abusive partner to participate in parenting classes and a batterer intervention program.*

- A domestic violence advocate

### Contents

- [Comparing Parenting and Mental Health Evaluations](#)
- [Arguments to Make When Asking the Court to Order a Parenting Evaluation](#)
- [Arguments to Make When Asking the Court Not to Order a Mental Health Evaluation](#)
- [Narrowing the Scope of a Court-Ordered Mental Health Evaluation](#)
- [King County Mental Health Agencies that DO NOT Offer Mental Health Evaluations](#)
- [King County Mental Health Agencies that Offer Mental Health Evaluations](#)

If you and your children’s other parent cannot agree on a parenting plan<sup>1</sup>, then the court will come to a decision for you. The court will make parenting plan decisions based on what the court believes to be in the best interests of the children.<sup>2</sup> The court may rely upon evaluators to provide recommendations about the children’s best interests. This handout focuses on two common types of court-ordered evaluations: parenting evaluations and mental health evaluations.

### **What is a Parenting Evaluation?**

In order to decide on the parenting plan, the court may order a parenting evaluation to learn more about the best interests of the children involved. The court can appoint an evaluator of its own choosing or the court can approve an evaluator proposed by either party. In King County, the evaluator may be an employee of Family Court Services, a volunteer from the Family Law Court Appointed Special Advocate (CASA) program, or an independent Guardian ad Litem (GAL) or private parenting evaluator.<sup>3</sup> The scope of the parenting evaluation is determined by the court, but it typically involves:

- The completion of questionnaires by both parents;
- Separate interviews with both parents, relevant professionals (such as school staff), and witnesses;
- Observations of parent-child interactions; and
- A review of relevant records (criminal, medical, mental health, etc.)

Depending on the children’s developmental level, the evaluator might interview them.

### **What is a Mental Health Evaluation?**

Mental health evaluations typically are conducted to determine treatment needs. However, in the context of a family law case, mental health evaluations are ordered to determine if a person’s time with their children should be limited. A parenting evaluator may conduct a mental health evaluation if their profession and expertise enables them to do so. A mental health evaluation in a family law case typically involves:

- A review of mental health and substance abuse treatment records;
- An interview with the person being evaluated; and
- Psychological testing (even though the tests used are typically not designed to evaluate parenting).

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<sup>1</sup> “Parenting plan” is the legal term for a child custody agreement. The plan specifies how time is allocated with the children, who has decision-making authority regarding education, medical matters, religion, etc., and the process for settling disagreements between the parents.

<sup>2</sup> “Best interests of the children” is a legal concept. Our [Parenting Resources](#) handout explains this concept and provides information about how you can strengthen your parenting skills.

<sup>3</sup> For a comparison of the different types of evaluators, see our [Parenting Evaluators Comparison Chart](#).

<b>Comparing Parenting and Mental Health Evaluations</b>	
<b>Parenting Evaluations</b>	<b>Mental Health Evaluations</b>
Both parents are typically evaluated	Often only one parent is evaluated
Focus is on determining the best interests of the children	Focus is on the parent’s mental health
Provide recommendations related to the bests interests of the children	Provide recommendations related to one aspect of the best interests of the children – the mental health of one parent
Typically includes review of criminal history, Child Protective Service reports, domestic violence, and family law matters May also include review of health, mental health, and substance abuse records	Typically includes review of only mental health records
Relatively easy to obtain	Can be challenging to find an evaluator
Free/Sliding Scale options may be available depending on income and capacity of evaluators	Can be expensive
Evaluators may have received training on the connections between domestic violence, trauma, substance abuse, and mental health	Evaluators are less likely to have received training on domestic violence and its connections with trauma, substance abuse, and mental health
<b>Domestic violence survivors’ experiences with both types of evaluations vary significantly. The knowledge, experience, and qualifications of evaluators vary widely.</b>	

Many domestic violence survivors have mental health concerns due to the abuse and trauma they have experienced. Others may have had mental health concerns that worsened because of the domestic violence. Some survivors are resilient to the emotional impacts of the domestic violence, but have abusive partners who are able to convince others that they are mentally ill. Unfortunately, this is a common abusive tactic.

Your abusive partner might try to convince the court that you are an unfit parent due to mental illness (whether or not you have mental health concerns). Washington State law says that the court can order parenting plan restrictions based on mental illness, but only if the mental illness is long-term *and* it interferes with parenting.

If the court thinks that your mental health is an issue, the court might order you to have a mental health evaluation. The court may want a report from a mental health evaluator in order to figure out what is in the best interests of your children.

We have heard from many survivors that have been court-ordered to go through mental health evaluations that the evaluations did not accurately reflect their parenting abilities. Many survivors have said that evaluators also did not take into account the domestic violence or the other parent's abusive and coercive behaviors.

Mental health evaluations frequently include psychological tests that were not designed to evaluate parenting or to take into consideration domestic violence. For example, survivors are often described as being paranoid after taking the Minnesota Multiphasic Personality Inventory 2 (MMPI2), a very common psychological test. When survivors answer "true" to questions about whether they think someone is out to get them, then the scoring assumes that they are paranoid. The test was not designed to take into consideration the possibility that the person does actually have someone who is trying to harm them. The evaluator can consider this when issuing their recommendations to the court, but the evaluator may not have screened for domestic violence or realized the connection between mental health concerns and domestic violence.

### **Choosing a Parenting Evaluation Over a Mental Health Evaluation**

If you think the court might order you to undergo a mental health evaluation, we suggest that you ask the court to order a parenting evaluation instead. While parenting evaluations can be problematic for some domestic violence survivors, mental health evaluations tend to be worse.

There are also situations where you may want to ask for a parenting evaluation even if you do not think the court will order you to undergo a mental health evaluation. For example, if you have concerns about the other party's parenting and think the evaluation will work in your favor.

We recommend consulting with a domestic violence advocate and an attorney about your options, if possible.

## Arguments to Make When Asking the Court to Order a Parenting Evaluation

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*If the court asks you to do a mental health evaluation, you can ask the court to order a parenting evaluation instead of a mental health evaluation. Here are some arguments you can use for this purpose. We recommend that you put these into your own words.*

1. Parenting evaluations are better designed to provide the information the court needs. They are intended to focus on evaluating parenting to determine the best interests of the children rather than just on the mental health of one of the parents.
2. Parenting evaluations focus on overall parenting including mental health, not just mental health.
3. Parenting evaluations consider the strengths and weaknesses of both parties.
4. Parenting evaluations are better suited for situations involving domestic violence.
5. Parenting evaluations are more accessible for people who have low incomes since free and sliding scale options are available.

If you will be going through a parenting evaluation, you may want to read [Washington Law Help's "Working with GALs and Parenting Evaluators: Tips for Parents in Family Law Cases."](#)

## Arguments to Make When Asking the Court *Not* to Order a Mental Health Evaluation

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*If you have decided to ask the court not to order a mental health evaluation, here are some arguments you can use. We recommend that you put these into your own words.*

1. Mental Health Evaluations are only about the mental health of one party, and therefore do not provide all of the relevant information about the best interests of the children that the court needs to make parenting plan decisions.
2. Mental Health Evaluations for family law matters do not have a clear, uniform standard.
  - Typically, evaluators are trained to assess mental health for treatment purposes (for example, therapy), not for legal purposes (such as parenting plan recommendations).
  - Depending on the training and the theoretical orientation of the evaluator, mental health evaluations may vary widely.
3. Mental Health Evaluations can be difficult to obtain.
  - There is no registry of qualified mental health evaluators for family law matters.
  - Only a few mental health organizations or clinics are willing to conduct court-ordered mental health evaluations for family law purposes.
  - Court-ordered evaluations for family law matters can be expensive. We are not aware of any free options for this.
  - People who are ordered to be evaluated may have difficulty finding a mental health evaluator who speaks their language,<sup>4</sup> and who is knowledgeable about domestic violence and their culture.<sup>5</sup>

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<sup>4</sup> For information about interpretation, see our [Language and Disability Access](#) handout.

<sup>5</sup> Mental health service providers have ethical obligations that may prevent them from conducting an evaluation when they do not speak the same language as the person or have expertise in that person's culture.

## Narrowing the Scope of a Court-Ordered Mental Health Evaluation

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If the court orders a mental health evaluation, you can ask the court to limit what the evaluation can include.

Without a narrow court order, mental health evaluators can choose which tests and procedures to include in the evaluation and may charge you for each one. Without specific instructions from the court, the evaluator's report may not focus on answering the relevant questions.

In order for the court to find that a parent's time or decision-making needs to be limited because of mental illness, the mental illness must be both long-term and interfere with parenting. Therefore, you can ask the court to direct the evaluator to focus on these questions only:

- Do you have a long-term mental illness?
- Does that mental illness interfere with your parenting?

Many people use the terms "mental health evaluation" and "psychological testing" interchangeably. However, psychological testing is an optional part of a mental health evaluation. Mental health evaluations can consist only of a mental health interview and a mental health records review, if that is applicable.

You can ask the court to exclude psychological tests because the tests are not likely to be able to provide the court with information about whether your mental illness is long-term and interferes with your parenting.

You can ask the court to order the evaluator to only:

- Conduct an interview with you and
- Review your mental health treatment records (if you have any)

We are not aware of psychological tests that:

- Can **predict parenting ability**

This is known in research terms as predictive validity. Predictive validity means the test is able to predict the behavior it is being used to predict. In this case, can it actually predict parenting ability?

***and***

- That have been **researched on people who have experienced domestic violence**

This is known in research terms as norming. This means that the test has been administered to the population in question (for example, domestic violence survivors) and that research has shown that the test results can accurately be applied to this group.

***and***

- That have been **researched on people who share your cultural identity.**

Cultural identity refers to the factors that make up your sense of self (race, ethnicity, religion, class, etc.) If a psychological test was normed primarily on White college sophomores in the U.S., and you have a different cultural identity (for example, if you are an immigrant who is a person of color), then the test may not be an appropriate fit for you.

Psychological tests are not generally normed on multiple culturally-specific populations. However, the court may not be aware of this.

You can ask the court to order that the mental health evaluation be conducted by someone who is:

- Knowledgeable about your culture
- Fluent in your primary language<sup>6</sup>
- Knowledgeable about domestic violence

The court may not know that mental health evaluators are not required to undergo domestic violence training, and that mental health evaluations are not designed to consider domestic violence. If you can, you should try to select an evaluator who is knowledgeable about domestic violence, and who can articulate an understanding of the impact domestic violence or trauma may have on the results of a mental health evaluation.

You should also be aware that you can ask the evaluator to send you their report directly. If you have concerns about the report, you can discuss your options with an attorney or an advocate prior to submitting it to the court.

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<sup>6</sup> It is not considered ethical for a mental health evaluator to evaluate someone or test someone in a language in which they are not both fluent.



## **Mental Health Organizations in King County That DO NOT Offer Court-Ordered Mental Health Evaluations for Family Law Cases**

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*In order to save you time, we contacted mental health agencies in King County and asked them if they conduct court-ordered mental health evaluations for family law cases. The agencies listed below will evaluate someone's mental health if they are seeking mental health treatment from the agency, but do not do evaluations for the purpose of a family law case.*

*The court may assume that mental health evaluations are free or are easy to obtain. The courts may not realize that the following organizations do not offer this service:*

- Asian Counseling and Referral Service
- Catholic Community Services
- Community House Mental Health Center
- Community Psychiatric Clinic
- Consejo Counseling and Referral Service
- Downtown Emergency Service Center
- Evergreen Health
- Good Samaritan Behavioral Health
- Harborview Outpatient Mental Health
- Jewish Family Service
- Navos
- Ryther
- SeaMar Community Health Center
- Seattle Counseling Service
- Sound Mental Health
- Therapeutic Health Services
- Valley Cities Counseling
- Wellspring Family Services

## **Mental Health Organizations and Clinics in King County That Offer Court-Ordered Mental Health Evaluations for Family Law Cases**

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*This list contains information about organizations and clinics only. There are some private providers who offer court-ordered mental health evaluations as well.*

*This list is provided for informational purposes only and is NOT an endorsement. While we are providing this information to save you time, we want you to know that it is rare for mental health evaluations to be useful or appropriate in understanding parenting.*

*If you will be hiring someone to evaluate your mental health for your family law case, we recommend you make this choice carefully.*

### ***Questions to consider when selecting a mental health evaluator include:***

1. What is the educational level and experience of the evaluator?
2. Is it possible to speak directly to the person conducting the evaluation before scheduling it?
3. What is the evaluator's training and experience regarding domestic violence?
4. What does the evaluation entail?
5. Is psychological testing done during the evaluation? If so, why?
6. What sources of information are used in the evaluation?
7. How much does the evaluation cost?
8. Where and when will the report be sent?

**Alternative Counseling** - [www.alternativecounseling.com](http://www.alternativecounseling.com)

(425) 251-1933; 19435 68<sup>th</sup> Ave South, S-109, Kent, WA 98032

(425) 776-6414; 22727 Highway 99, Suite 212, Edmonds, WA 98026

\$300 plus \$75 for each collateral contact necessary

They offer mental health care, chemical dependency treatment, and a batterer intervention program.

**Qualifications:** Evaluators complete domestic violence training through the YWCA.

**Language Access:** Evaluations are available with clinicians that speak Russian.

**Format:** Evaluations consist of one approximately 2 ½-hour session. The evaluation includes a half hour of intake paperwork, the Structured Clinical Interview for the DSM (SCID) diagnostic assessment, a brief chemical dependency screening, and a bio-psycho-social history. They do not perform any psychological tests.

**Records:** For domestic violence assessments, mental health records would be reviewed (for an additional charge). Evaluators also review any related police reports.

**Timeframe:** There is usually no waiting list. The report is typically available a week after the evaluation.

**Antioch Community Counseling Clinic** - [www.antiochseattle.edu/clinic](http://www.antiochseattle.edu/clinic)

(206) 268-4840; 2326 6<sup>th</sup> Ave, Seattle WA 98121

Sliding scale based on income. Low end = \$500 for those making less than \$30,000/year

This is a university-based teaching clinic staffed by students.

**Qualifications:** PsyD students, supervised by licensed mental health professionals, conduct the evaluations. Some evaluators may have had domestic violence training, but it is not required.

**Language Access:** Bilingual evaluators are not consistently available.

**Format:** Evaluations can vary greatly depending on what the client states they need. Typically, an initial 2-hour session includes a thorough psychosocial history. Psychological tests may be administered later.

**Records:** If you have mental health records, the evaluator may ask you to sign a release so they can be reviewed. This is not required.

**Timeframe:** Typically, evaluations can be done 4 to 8 weeks from the time of request.

**Associated Behavioral Health** - [www.abhc.com](http://www.abhc.com)

(800) 858-6702; 1800 112<sup>th</sup> Ave NE, Suite 150, Bellevue WA 98004  
\$1500

They offer mental health care and chemical dependency treatment. Evaluations are offered at the Bellevue location only.

**Qualifications:** All evaluators are both licensed psychologists and chemical dependency professionals. They do not receive formal domestic violence training.

**Language Access:** No bilingual evaluators are available.

**Format:** They consist of a 1 ½ hour bio-psycho-social intake session, two psychological battery tests (provider does not disclose which ones), a follow up interview, and a report.

**Records:** Mental health records will be reviewed upon request. Up to one hour of review is included in the \$1500 fee. Additional review, or review with collateral contacts, is available for an additional charge.

**Timeframe:** There is usually no waiting list. The evaluation process takes 2 to 3 weeks.

**Pioneer Human Services** - <http://pioneerhumanservices.org>

(206) 470-3856; 1100 Virginia Street, Suite 210, Seattle WA 98101  
\$300

This is an entrepreneurial human services organization that primarily serves people overcoming substance abuse and criminal histories.

**Qualifications:** Evaluations are conducted by licensed clinicians or licensed clinical social workers. Some evaluators may have had domestic violence training, but it is not required.

**Language Access:** They have a Spanish-speaking evaluator.

**Format:** The person being evaluated will be mailed a questionnaire to complete prior to their appointment. The content of the evaluation will vary depending on the evaluator, but the appointment typically is for 1 to 2 hours.

**Records:** Evaluators typically ask clients to sign releases for police reports and mental health records.

**Timeframe:** Appointments are usually available within 1 to 2 weeks of calling. Reports are sent approximately a week after the evaluation is conducted.

Inclusion in this handout is not an endorsement. We encourage you to evaluate if the services and the providers are the right fit for you and to verify that the information listed is still accurate. The content of this handout is current as of the time of publication, but may have since changed. If you are not sure where to start, we recommend discussing your options with a domestic violence advocate.

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This is one piece of the Family Law Toolkit for Survivors developed by the Domestic Violence and Mental Health Collaboration Project of the Coalition Ending Gender-Based Violence. It can be found in its entirety at <http://endgv.org/toolkits/family-law-toolkit-for-domestic-violence-survivors/>. This project is supported by Grant No. 2014-FW-AX-K010 awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions, and recommendations expressed in this publication are those of the authors and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.