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OTHER COURT-ORDERED SERVICES

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OTHER COURT-ORDERED SERVICES

7.1 Introduction

The court may direct the LDSS to provide supervised visitation, mediation services or to conduct an investigation pursuant to ([§16.1-278.15](#)) in adjudicating matters involving a child whose custody, visitation, or support is in controversy or requires determination.

Custody investigation means a court ordered method of gathering information related to the parents and a child whose custody, visitation or support is in controversy or requires determination.

Supervised visitation means supervision of visits between children and family by a court appointed representative. There are no standardized procedures or formats for conducting supervised visitation. The local court will advise the agency on any preferred procedures or formats.

Mediation is a court ordered service used in custody disputes. It is a means for the parties to work out arrangements regarding custody and visitation between themselves in a non adversarial way. Providing mediation services requires specific training for the mediator.

7.2 Legal Citations

The Code of Virginia in Chapter 11, entitled Juvenile and Domestic Relations District Courts, §§ [16.1-241](#) and [16.1-273](#) through [16.1-278.15](#) and Chapter 6.1, entitled Custody and Visitation Arrangements for Minor Children, §§ [20.124.1](#) through [20.124.6](#) provide guidance on conducting other court ordered services.

7.3 Guidelines for custody investigations

7.3.1 Purpose

The goal of the custody investigation is to help the court determine the living and visitation arrangement that will enable the child to establish a meaningful relationship with either parents or the parties in the custody dispute.

7.3.2 Basic assumptions

Custody investigations are guided by the principals of objectivity, competence, and thoroughness.

Whenever possible, custody investigations are limited to addressing issues that remain unresolved after the disputing parties have had the opportunity to resolve contested issues by mediation. Thus, the scope and depth of the custody investigation will vary depending on the degree to which the parties have been able to come to some agreement.

Information reported to court is always validated by supported documentation.

The Code of Virginia in §§ [16.1-278.15](#) and [20-124.3](#) allows the judge to consider the following factors if presented by the parties:

- The child's age and physical and mental condition, with due consideration to the child's changing developmental needs
- The age and physical and mental condition of each parent.
- The relationship existing between each parent and the child, with due consideration given to the positive involvement with the child's life and the ability to accurately assess and meet the emotional, intellectual and physical needs of the child.
- The needs of the child, with due consideration given to other important relationships of the child, including but not limited to siblings, peers, and extended family members.
- The role which each parent has played and will play in the future, in the upbringing and care of the child.
- The propensity of each parent to actively support the child's contact and relationship with the other parent, including whether a parent has unreasonably denied the other parent access to or visitation with the child.
- The relative willingness and demonstrated ability of each parent to maintain a close and continuing relationship with the child, and the ability of each parent to cooperate in and resolve disputes regarding matters affecting the child.
- The reasonable preference of the child, if the child is deemed by the court to be of reasonable intelligence, understanding and age and experience to express a preference.

- Any history of “family abuse” as that term is defined in §16.1-228, specifically any act involving violence, force or threat including, but not limited to an forceful detention, which results in bodily injury or placed one in reasonable apprehension of bodily injury and which is committed by a person against such person’s family or household member, or any history of sexual abuse. If the court in its finding determines a history of family abuse or sexual abuse, the court may disregard information pertaining to bullet six.

7.3.3 Qualifications of worker conducting a custody investigation

To ensure the highest level of competence and accountability, workers conducting custody investigations should have training that is current on issues related to the effect of custody disputes on children and appropriate techniques for interviewing children and families.

7.3.4 Consistency in gathering information

When all parties reside in the same jurisdiction, one worker should complete the assessment of both parents and the child. When one or more parties reside in another jurisdiction, the worker may request a courtesy assist from that locality. The worker should consult with the professional staff in the other jurisdiction to ensure that all parties are asked for the same information in the same format.

7.3.5 Questionnaires

If the worker plans to use questionnaires to ensure that comparable information is obtained from the parents, the worker should be aware that some parents may not understand, may be intimidated or put off by lengthy questionnaires, surveys, and forms. The worker should utilize good judgment when using these materials and should not rely on them as a primary source of information.

Any questionnaire used should be reevaluated periodically to ensure that issues addressed and language used are current and appropriate.

The worker may ask the parents to complete a questionnaire in advance of a home visit to help both the parents and the worker prepare for the visit.

7.3.6 Authorization for release of information

The parents or legal guardian should sign authorizations for release of information from schools, past or present counselors, substance abuse counselors, etc., as appropriate to the situation.

The parents or legal guardian should be told that the information obtained will be made available to the court and to counsel through the court. The clerk of court shall furnish a copy of such report to all attorneys representing parties in the matter before

the court **no later than 72 hours**, and in cases of child custody **15 days**, prior to the scheduled court hearing.

When various sources are asked for information and the parents or legal guardian sign an authorization to release the information as presented, the worker should inform the source that the information will be made available to the court.

7.3.7 Information from observations

The worker should visit both parties' homes to determine if the environment is sanitary and safe; to observe how comfortable the child is in the home; and to observe the interaction between child and parent/caretaker and any other members of the household.

When a child spends a large part of the time in a setting other than the home (for example, in school, day care, or with a baby-sitter), the worker should visit that setting to observe the child's level of comfort and interaction with others, etc.

7.3.8 Conducting interviews

The worker should always interview the involved parties face-to-face. The same questions should be asked to both parties regardless of the interview tool utilized.

The worker should personally interview those knowledgeable about the child's situation (such as teachers, school administrators, day care workers, baby sitters, neighbors, the child's physicians, and others, as applicable).

The worker should interview the child alone to obtain the child's perception of each parent/party to the dispute, about daily events in the home, and, when applicable, the child's relationship with siblings and extended family members.

- Preferences of the child should be explored, but the child should never be asked to choose between parents or caretakers.
- Children's comments should be sent separately from the regular report to the court for the judge's review and discretionary use.

7.3.9 Court and department records

The worker should review all records concerning the child and the family that are available through the court, the LDSS and other involved agencies.

7.3.10 Record checks

The worker should secure a check of the Child Protective Services Registry and report the findings to the court.

A copy of the client's criminal record should be obtained through the Virginia State Police for inclusion in the report to the court. How this record is obtained may be done using LDSS practice for securing criminal records checks.

7.3.11 Letters of reference

Three letters of reference shall be requested. The individuals providing the references should be made aware their responses will be attached to the report sent to the court.

7.3.12 Worker's assessment

The worker should offer an informed assessment of each parent's behavior as perceived through personal interviews, written records, and third-party observations. Such assessment should consider each parent's:

- Level of cooperation with the investigation.
- Stability in the work and home environment.
- Style of interpersonal interactions including discipline.
- Ability to promote a positive relationship between the child and the other parent and family members.

Unless there is a formal psychological evaluation by an appropriately licensed practitioner, the worker's report should not include a psychological assessment component.

7.3.13 Referral for further assessment

When a custody investigation reveals evidence of substance abuse, mental health problems, dysfunctional family behaviors, or other problems that the worker cannot immediately assess, the worker should recommend to the court that the family, parent, or child be referred to an appropriate third party for expert assessment. The worker should also recommend that the assessment of all parties be completed by the same provider.

7.3.14 Preparing the information for the court

The format for the report to the court may be left up to the locality and dependent on the format requested by that localities' judicial district.

If the worker has made use of questionnaires, checklists, etc. that are not part of the local format, the worker should make these materials available, upon request, to the court.

Information included in the report should be comprehensive and easy to read.

7.3.15 Options for recommendations

If the court requests a worker to make a recommendation, the worker should consider recommending joint legal custody absent any convincing evidence to the contrary. If joint legal custody is not recommended, the worker should specifically state why this custody arrangement is not appropriate to the specific child and family situation. Other recommendations that may be made, as appropriate, are:

- Sole custody with visitation.
- Sole custody with visitation denied.
- Sole custody with supervised visitation.
- Court determines custody.

7.3.16 Fees for services

The Code of Virginia allows fees to be assessed for custody investigations and supervised visitation. When the court directs the appropriate LDSS to conduct supervised visitation or directs the LDSS to conduct an investigation pursuant to [§ 16.1-273](#) or to provide mediation services in matters involving a child's custody, visitation, or support, the court shall assess a fee against the petitioner, the respondent or both, in accordance with fee schedules established by the LDSS when that agency performs the service. The amount of the fee is determined by the locality in accordance with [§ 16.1-274](#).