

Appendix A

State-by-State Survey Related to Forensic Evaluators

	Right To Access Report, Notes, Data of Forensic Evaluators	Standards for the Reports of Forensic Evaluators	Selection, Training, Qualifications of Forensic Evaluators
Alabama	<ul style="list-style-type: none"> None found 	<ul style="list-style-type: none"> None found 	<ul style="list-style-type: none"> None found
Alaska	<ul style="list-style-type: none"> “[D]ocuments and records in the possession of the custody investigator are discoverable under Civil Rule 30(b)(5) and Civil Rule 34 as though the custody investigator were a party to the action” ALASKA R. CIV. P. 90.6(h) (2011) Report is “confidential”, defined in an Alaska Administrative Bulletin as allowing access by parties and their counsel. ALASKA R. CIV. P. 90.6(d)(3), Alaska Admin. Bulletin No. 48, Standard 6.2.F. (1990) 	<ul style="list-style-type: none"> Reports are deemed admitted into evidence upon filing. ALASKA R. CIV. P. 90.6(d)(2). The Rules of Civil Procedure outlines the usual scope of an investigation, but judges have authority to limit the scope. ALASKA R. CIV. P. 90.6(4)(e). 	<ul style="list-style-type: none"> Custody investigators must have domestic violence training to be selected to work on a DV case. ALASKA R. CIV. P. 90.6(b)(1)(D). Parties may request from investigator a written summary of their background and qualifications. ALASKA R. CIV. P. 90.6(b)(2).
Arizona	<ul style="list-style-type: none"> Report must be made available to counsel ten days prior to the hearing. ARIZ. REV. STAT. § 25-406(G) (2011). Names of persons consulted for the report must be made available. ARIZ. REV. STAT. § 25-406(G). Parties have right to call investigator or persons consulted to be cross-examined. ARIZ. REV. STAT. § 25-406(G). 	<ul style="list-style-type: none"> None found 	<ul style="list-style-type: none"> Person writing report has to certify that he / she meets the statutory training requirements. ARIZ. REV. STAT. § 25-406(C). Training requirements include 6 hours of initial training in DV and 4 hours every 2 years thereafter. ARIZ. REV. STAT. § 25-406(C).
Arkansas	<ul style="list-style-type: none"> Underlying data must be disclosed if ordered by the court or upon cross examination. ARK. CODE ANN. §705 (2011). 	<ul style="list-style-type: none"> None found 	<ul style="list-style-type: none"> None found
California	<ul style="list-style-type: none"> Report must be filed with the court and served 10 days before any hearing on parties or counsel and counsel for the child. CAL. FAM. CODE § 3111 (2011). Courts have held that parties have a right to cross examine the person who created the report. <i>See Wheeler v. Wheeler</i>, 34 Cal. App. 3d 239, 242 (Cal. Ct. App. 1973). 	<ul style="list-style-type: none"> The report must explain the processes used to gather information, and the purpose of the evaluation. CAL. CT. RULE 5.220 (2011). 	<ul style="list-style-type: none"> Child custody evaluators must be trained according to standards established by the Judicial Council. CAL. FAM. CODE § 3110.5(b)(2). Evaluators must complete 16 hours of domestic violence training within the first year of their appointment, and 4 years for each subsequent year. CA ST

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Colorado	<ul style="list-style-type: none"> Follows UMDA §405, codified at COLO. REV. STAT. § 14-10-116.5 (2011), including additional provisions. Court may order an evaluation, performed by a Child and Family Investigator (CFI). COLO. REV. STAT. §14-10-116.5 (1)(2011). 	<ul style="list-style-type: none"> Court must set forth in writing specific duties of CFI. COLO. REV. STAT. §14-10-116.5(1). Report must describe procedures employed during evaluation; provide a report of data collected, an explanation of any limitations in the evaluations. COLO. REV. STAT. §14-10-127(7). CFI must make independent and informed recommendations to court. COLO. REV. STAT. §14-10-127(7). Chief Justice Directive set out guidelines to regulate the content and scope of forensic reports, pursuant to COLO. REV. STAT. §14-10-116.5. Standards 9-18, CFD 04-08. 	<ul style="list-style-type: none"> CFI must be a mental health professional, attorney or individual with “appropriate training.” COLO. REV. STAT. §14-10-116.5(2). CFI must have knowledge about divorce, parental responsibilities, child and adult psychology. COLO. REV. STAT. §14-10-127(5). CFI must have legal and social understanding of divorce cases, and regularly update their training. Standard 6, CFD 04-08. New Child Family Investigators must complete 40 hours of training in relevant areas. Standard 6, CFD 04-08.
Connecticut	<ul style="list-style-type: none"> Parties must have “reasonable opportunity” to examine any such reports ordered. CONN. GEN. STAT. § 46b-7 (2011). 	<ul style="list-style-type: none"> None found 	<ul style="list-style-type: none"> None found
Delaware	<ul style="list-style-type: none"> If the report ordered by the court, it must be in writing and be made available to counsel and parties upon “good cause shown.” DEL. CODE ANN. tit. 13§ 724(b)(2011). The report is otherwise confidential, and only open to inspection upon court order. DEL. CODE ANN. tit. 13§ 724(b). If the report is requested by opposing party, the requesting party must deliver a “detailed written report of the examiner setting out the findings, including results of all tests made, diagnoses and conclusions, together with like reports of all earlier examinations of the same condition.” Del. Fam. Ct. Civ. R. 35(b)(1) (2011). 	<ul style="list-style-type: none"> None found 	<ul style="list-style-type: none"> Established the Delaware Child Protection Accountability Commission whose duty, <i>inter alia</i> is to “develop and provide to staff” of court staff and law enforcement. DEL. CODE. ANN. tit.16 § 912(4).

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District of Columbia	<ul style="list-style-type: none"> None found 	<ul style="list-style-type: none"> None found 	<ul style="list-style-type: none"> None found
Florida	<ul style="list-style-type: none"> None found. 	<ul style="list-style-type: none"> The psychologist who has accepted an appointment for a custody evaluation must include an evaluation of the parents, of the children, and their inter-dynamics. FLA. ADMIN. CODE §64B19-18.007 (e) (2011). Written report must disclose statement of facts on which the recommendations are based. FLA. STAT. ANN. § 61.20(1) (LexisNexis 2011). 	<ul style="list-style-type: none"> Investigation must be performed by qualified court staff, a child placing agency, a psychologist, a family therapist, a clinical social worker, or a mental health counselor FLA. ADMIN. CODE ANN. r. 64B19-18.008 (2008). Psychologists performing forensic evaluations must be licensed by the state board and comply with APA guidelines. FLA. ADMIN. CODE ANN. r. 64B19-18.007 (2004).
Georgia	<ul style="list-style-type: none"> None found. 	<ul style="list-style-type: none"> None found 	<ul style="list-style-type: none"> None found
Hawaii	<ul style="list-style-type: none"> The report “shall” be made available to the parties prior to hearing. HAW. REV. STAT. § 571-46(4) (2011). 	<ul style="list-style-type: none"> None found, but legislation proposed. 	<ul style="list-style-type: none"> Enabling legislation provides that the Court “shall define the requirements to be a court-appointed child custody evaluator, the standards of practice, ethics, policies, and procedures required of court-appointed child.” HAW. REV. STAT. § 571-46(4). <ul style="list-style-type: none"> Proposed legislation seeks to establish a registry of child custody evaluators, requiring them to declare themselves each year, and establishes a board to which evaluators will have to report, and which will establish mandatory standards upon child custody evaluators appointed by the court. 2011 Haw. Sess. Laws 958 (S.B. NO. 958 S.D.2 H.D.1, Senate 26th Legislature, 2011).
Idaho	<ul style="list-style-type: none"> None found 	<ul style="list-style-type: none"> None found 	<ul style="list-style-type: none"> None found
Illinois	<ul style="list-style-type: none"> Follows UMDA §405 (codified at 750 ILL. COMP. STAT. ANN. 5/605 (2012)). 	<ul style="list-style-type: none"> Follows UMDA §405, codified at 750 ILL. COMP. STAT. ANN. 5/605(b). 	<ul style="list-style-type: none"> “The investigation and report may be made by a child welfare agency approved by the Department of Children and Family Services, but shall not be made by that Department unless the court determines either that there is no child welfare agency available or

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Indiana	<ul style="list-style-type: none"> • None found 	<ul style="list-style-type: none"> • None found 	<ul style="list-style-type: none"> • None found
Iowa	<ul style="list-style-type: none"> • None found 	<ul style="list-style-type: none"> • None found 	<ul style="list-style-type: none"> • None found
Kansas	<ul style="list-style-type: none"> • Follows UMDA § 405 (codified at KAN. STAT. ANN. §60-1615(c) (2011)). 	<ul style="list-style-type: none"> • Follows UMDA § 405 (codified at KAN. STAT. ANN. § 60-1615(b)). 	<ul style="list-style-type: none"> • The investigation and report may be made by court services officers or any consenting person or agency employed by the court for that purpose. The court may use the department of social and rehabilitation services to make the investigation and report if no other source is available for that purpose. KAN. STAT. ANN. § 60-1615(a).
Kentucky	<ul style="list-style-type: none"> • Follows UMDA § 405 (codified at KY. REV. STAT. ANN. §403.300(1)-(3) (2012)) • Rules of evidence may require the evaluator to disclose the facts underlying the report if the court so orders. KY. R. EVID. 705 (2011). 	<ul style="list-style-type: none"> • Follows UMDA § 405 (codified at KY. REV. STAT. ANN. § 403.300(2)). 	<ul style="list-style-type: none"> • None found
Louisiana	<ul style="list-style-type: none"> • Copy of report must be provided to the parties, and evaluator is subject to cross-examination. LA. REV. STAT. ANN. §9:331(B) (2011). 	<ul style="list-style-type: none"> • None statewide. 	<ul style="list-style-type: none"> • Must be mental health professional. LA. REV. STAT. ANN. § 9:331(A). • Must have current and demonstrable training and experience working with perpetrators and victims of family violence.” LA. REV. STAT. ANN. § 9:365.
Maine	<ul style="list-style-type: none"> • The court “may request” the judicial department to conduct an evaluation into child custody. ME. REV. STAT. ANN. tit. 19, § 905 (2011). • Written report “shall” be submitted to the court and to counsel at least 3 days before the date of hearing. ME. REV. STAT. ANN. tit. 19, § 905. • Once custody reports have been submitted, 	<ul style="list-style-type: none"> • None found 	<ul style="list-style-type: none"> • None found
Maryland	<ul style="list-style-type: none"> • No statutes govern the right to access forensic evaluations. Case law affirms that parties have a due process right to access the report upon which custody determinations are based. <i>See</i> Denningham v. Denningham, 431 A.2d 755, 760 (Md. App. 1981). 	<ul style="list-style-type: none"> • None found. 	<ul style="list-style-type: none"> • None found.

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Massachusetts	<ul style="list-style-type: none"> The judge “may” appoint a guardian ad litem (GAL) to investigate the facts relating to custody in a pending proceeding. MASS. ANN. LAWS ch. 215, § 56A (LexisNexis 2011). The GAL is required to inform counsel and parties once the report is filed, and notify them of that the report is the property of the court, and may only be distributed upon court order. ALM Dom. Rel. Proc. 1-05 (LexisNexis, 2011) The GAL is required to retain any materials, documents, notes or records gathered during her investigation so that they may be available for trial and discovery. ALM Dom. Rel. Proc. 1-05. 	<ul style="list-style-type: none"> The GAL is required to adhere to the ethical guidelines and the applicable professional standards in her investigative function. ALM Dom. Rel. Proc. 1-05. 	<ul style="list-style-type: none"> The evaluation must be conducted in a fair and balanced manner. ALM Dom. Rel. Proc. 1-05. The GAL must provide each party with the opportunity to present relevant information. ALM Dom. Rel. Proc. 1-05. The report must include, <i>inter alia</i>, parenting history and a description of each parent’s parenting styles. ALM Dom. Rel. Proc. 1-05.
Michigan	<ul style="list-style-type: none"> Friends of the court perform evaluations. MICH. COMP. LAWS SERV. §552.503 (2011). All parties must have access to the report. MICH. COMP. LAWS SERV. § 552.507a(1). 	<ul style="list-style-type: none"> Parties must be “informed of whether a custody preference expressed by the child was considered, evaluated, and determined by the judge, referee, or employee of the friend of the court.” MICH. COMP. LAWS SERV. § 552.507a(2). 	<ul style="list-style-type: none"> Friends of the Court performing forensic evaluations are supervised by the Citizen’s Advisory Committee. MICH. COMP. LAWS SERV. § 552.504a (1)(c). Friends of the Court are appointed by judges and must have knowledge of a behavioral sciences field or family law or administration. MICH. COMP. LAWS SERV. §552.523(1), (3).
Minnesota	<ul style="list-style-type: none"> Follows UMDA (codified at MINN. STAT. §§ 518.002- 518.66 (2010)). “The expert may . . . be required to disclose the underlying facts or data on cross-examination.” MINN. CT. R. 705 (2011). 	<ul style="list-style-type: none"> State law amends UMDA, requiring that the report consider the best interests of the child. MINN. STAT. § 518.167(2)(b). 	<ul style="list-style-type: none"> None found
Mississippi	<ul style="list-style-type: none"> None found. 	<ul style="list-style-type: none"> None found. 	<ul style="list-style-type: none"> None found.
Missouri	<ul style="list-style-type: none"> Follows UMDA § 405 (codified at MO. REV. STAT. § 452.390(3) (2010)). 	<ul style="list-style-type: none"> Follows UMDA § 405 (codified at MO. REV. STAT. § 	<ul style="list-style-type: none"> Forensic evaluators are employees of the county welfare office, juvenile
Montana	<ul style="list-style-type: none"> Follows UMDA § 405 (codified at MONT. CODE ANN. § 40-4-215 (2011)). 	<ul style="list-style-type: none"> Follows UMDA § 405 (codified at MONT. CODE ANN. § 40-4-215). 	<ul style="list-style-type: none"> Within the court’s discretion. Evaluators can include the child’s guardian ad litem or representatives from the Department of Public Health and Human Services if the parties receive financial assistance or food stamps. MONT. CODE ANN. § 40-4-

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Nebraska	<ul style="list-style-type: none"> No statewide rule. 	<ul style="list-style-type: none"> None found. 	<ul style="list-style-type: none"> None found.
Nevada	<ul style="list-style-type: none"> None found. 	<ul style="list-style-type: none"> Outlines general standards for fairness, lack of bias, disclosures. NEV. ADMIN. CODE § 641.207 (2011). The investigator must keep in mind the best interest of the child and aim at avoiding redundant evaluations. NEV. ADMIN. CODE § 641.207. 	<ul style="list-style-type: none"> Evaluators are psychologists who have not have had a prior relationship with the child or parent/guardian. NEV. ADMIN. CODE § 641.207(1)(c).
New Hampshire	<ul style="list-style-type: none"> None found. 	<ul style="list-style-type: none"> None found. 	<ul style="list-style-type: none"> None found.
New Jersey	<ul style="list-style-type: none"> Report must be made available to parties. No time frame specified. N.J. CT. R. 5:8-4 (2011). 	<ul style="list-style-type: none"> None found. 	<ul style="list-style-type: none"> None found.
New Mexico	<ul style="list-style-type: none"> None found. 	<ul style="list-style-type: none"> None found. 	<ul style="list-style-type: none"> None found.
New York	<ul style="list-style-type: none"> None statewide. 	<ul style="list-style-type: none"> None found. 	<ul style="list-style-type: none"> Forensic evaluations can be carried out at the New York City Department of Health, a county or state hospital if outside of New York City, a qualified private institution, or under the auspices of the Department of Mental Hygiene if the proceedings take place outside of New York City and a psychiatric evaluation is necessary. FAM. CT. ACT §251(a).
North Carolina	<ul style="list-style-type: none"> None found. 	<ul style="list-style-type: none"> None found. 	<ul style="list-style-type: none"> None found.
North Dakota	<ul style="list-style-type: none"> Custody investigators' reports and complete files of data must be made available to the parties at least 30 days before the hearing. N.D. CENT. CODE § 14-09-06.3 (2011). 	<ul style="list-style-type: none"> None found. 	<ul style="list-style-type: none"> None found.
Ohio	<ul style="list-style-type: none"> In custody / visitation proceedings, forensic reports must be made available to either the parties or counsel five days before trial; the investigator must sign the report and is subject to cross-examination. OHIO CIV. R. 75(D) (LexisNexis 2012). A judge may not consider the contents of the report unless parties or counsel receive 5 days prior written notification of the report and its availability for examination. 	<ul style="list-style-type: none"> None found. 	<ul style="list-style-type: none"> None specifically found. OHIO EVID. R. 702(B) (LexisNexis 2011) ("The witness is qualified as an expert by specialized knowledge, skill, experience, training, or education regarding the subject matter of the testimony . . .").

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Oklahoma	<ul style="list-style-type: none"> Statutory provisions governing expert testimony generally likely apply. The underlying data and facts of expert testimony admissible only if court determines that their probative value outweigh prejudicial effect in jury evaluation of expert opinion; expert subject to cross-examination on underlying facts and data. OKLA. STAT. ANN. tit. 12, §§ 2702, 2703, 2705 (2012). 	<ul style="list-style-type: none"> None found. 	<ul style="list-style-type: none"> By statute, Oklahoma provides for procedures for parties to receive prior notification of a custody or visitation forensic evaluator, a copy of that person's resume, and an opportunity to file an objection within 15 days of the disclosure and to have a hearing on the issue of the appointment; parties are also entitled to discovery. OKLA. STAT. ANN. tit. 43, § 120.7.
Oregon	<ul style="list-style-type: none"> By statute, "[t]he investigative findings shall be offered as and subject to all rules of evidence." OR. REV. STAT. ANN. § 107.425(1) (2009). 	<ul style="list-style-type: none"> None found. 	<ul style="list-style-type: none"> Presiding judge of each judicial district must establish qualifications for experts and training and must take into consideration guidelines recommended by the statewide family law advisory committee. OR. REV. STAT. ANN. § 107.425(3)(d). Some but not all judicial districts have published rules related to forensic evaluators.
Pennsylvania	<ul style="list-style-type: none"> Reports, results of tests conducted, diagnoses and conclusions must be made available to the parties and guardian ad litem or counsel for the child. PA. R. CIV. P. 1915.8(b) (2012). The report must be delivered 20 to 30 days 	<ul style="list-style-type: none"> Pennsylvania courts make use of a uniform forensic evaluation court order. PA. R. CIV. P. 1915.18 (attached at Appendix D). 	<ul style="list-style-type: none"> None statewide. At least two counties keep official lists of approved evaluators. <i>See</i> PA. BERKS CTY. CIV. L.R. 1915.8(a) (2011), PA. DAUPHIN CTY. CIV. L.R. 1915.8(a) (2011).
Utah	<ul style="list-style-type: none"> Utah Court of Appeals found a right to receive the evaluator's report based on Utah Rule of Civil Procedure 35(b)(1) (Physical and Mental Examination of Persons), but did not extend this right to the evaluator's notes or underlying data. <i>Smith v. Smith</i>, 995 P.2d 14 (Utah Ct. App. 2009). 	<ul style="list-style-type: none"> A rule of judicial administration sets for factors to be considered in the report, including the child's preference, presence of siblings, desire of parent/s to gain custody, religious compatibility, etc. UT. R. J. ADMIN. 4-903(b) (West 2003). 	<ul style="list-style-type: none"> Forensic evaluators must be Licensed Clinical Social Workers, doctoral level psychologists, board-certified psychiatrists, or Licensed Marriage and Family Therapists. UT. R. J. ADMIN. 4-903(1). In cases involving domestic violence, evaluators who lack DV training must consult with other professionals possessing this expertise. UT. R. J. ADMIN. 4-903(6).

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Vermont	<ul style="list-style-type: none"> None found. 	<ul style="list-style-type: none"> None found. 	<ul style="list-style-type: none"> None found.
Virginia	<ul style="list-style-type: none"> None found. 	<ul style="list-style-type: none"> None found. 	<ul style="list-style-type: none"> None found.
Washington	<ul style="list-style-type: none"> Follows UMDA § 405 (codified at WASH. REV. CODE § 26.09.220(3) (2011)). 	<ul style="list-style-type: none"> Follows UMDA § 405 (codified at WASH. REV. CODE § 26.09.220(2)). 	<ul style="list-style-type: none"> Evaluators may include “the guardian ad litem, court-appointed special advocate, the staff of the juvenile court, or other professional service organization experienced in counseling children and families.” WASH. REV. CODE § 26.09.220(1). The court may appoint investigators to assist the family court. Appointments must be made by a majority vote of judges of the superior court. WASH. REV. CODE § 26.12.050.
West Virginia	<ul style="list-style-type: none"> By statute, court-ordered investigator must provide copy of report to counsel or unrepresented party 10 days prior to hearing and also make available underlying data and texts. W. VA. CODE § 48-9-301(c) (2011). 	<ul style="list-style-type: none"> An evaluator may consult with any individual having information about the child or the child’s custody arrangement; refer the child to a clinician for diagnosis; and obtain the child’s medical records without consent if the child is below the age of twelve. W. VA. CODE § 48-9-301(b). 	<ul style="list-style-type: none"> Qualified forensic evaluators include “the guardian ad litem, the staff of the court or other professional social service organization experienced in counseling children and families.” W. VA. CODE § 48-9-301(a).
Wisconsin	<ul style="list-style-type: none"> Evaluator must make the report available to the court and to parties at least 10 days prior to a proceeding. WIS. STAT. § 764.405(14)(b)(1) (2011). 	<ul style="list-style-type: none"> The investigation must consider the conditions of the child’s home, the performance of parental responsibilities, the presence of interspousal battery or domestic violence, and other factors relating to the best interests of the child. WIS. STAT. § 764.405(14)(a). The Court may only consider the report after it has properly been admitted into evidence. WIS. STAT. § 764.405(14)(b)(2). 	<ul style="list-style-type: none"> A Director of Family Court Services must hire staff to perform investigations, contract with outside organizations to perform investigation, and monitor the quality of study services. WIS. STAT. § 764.45(2)(c).

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Wyoming	<ul style="list-style-type: none">• The expert may be required to disclose the underlying facts of a report upon cross-examination or by court order. Wyo. R. EVID. 705 (West 2011).	<ul style="list-style-type: none">• None found.	<ul style="list-style-type: none">• None found.
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