

Legal Services Offices

Statewide Legal Services: (Entry point for the legal services network in Connecticut). **860-344-0380** Central CT area or **1-800-453-3320**.

Other Legal Services Programs:

Hartford, Hartford County:

Greater Hartford Legal Aid

999 Asylum Avenue
Hartford, CT 06105
(860) 541-5000
FAX: (860) 541-5050

Greater New Haven Area:

New Haven Legal Assistance Association, Inc.

426 State Street
New Haven, CT 06510
(203) 946-4811
TDD: (203) 946-4811
FAX: (203) 498-9271

This pamphlet was produced by the Legal Assistance Resource Center of CT in cooperation with Connecticut Legal Services, Greater Hartford Legal Aid, New Haven Legal Assistance Association, and Statewide Legal Services.

The information in this pamphlet is based on the laws in CT as of December 2009. We hope that the information is helpful. It is not intended as legal advice for an individual situation. If you need further help and have not done so already, please call Statewide Legal Services (see above) or contact an attorney.

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Throughout Connecticut:

Connecticut Legal Services:

Administrative Office: (860) 344-0447

Offices:

211 State Street
Bridgeport, CT 06604
(203) 336-3851

16 Main Street
New Britain, CT 06051
(860) 225-8678

153 Williams Street
New London, CT 06320
(860) 447-0323

20 Summer Street
Stamford, CT 06901
(203) 348-9216

85 Central Avenue
Waterbury, CT 06702
(203) 756-8074

872 Main Street
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(860) 456-1761

AIDS Legal Network for Connecticut

999 Asylum Avenue
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(860) 541-5027 or 1-888-380-3646

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Custody Disputes

What to Expect from the Family Relations Office During a Custody Evaluation



The Role of Family Relations

When custody of minor children is disputed, the Family Relations Office (sometimes called the Family Services Office) first tries to mediate and help the people involved reach an agreement. If mediation does not work, the court often wants a study done by the Family Relations Office before it decides who should have custody. (Or, the court may appoint a "Guardian ad Litem" or an attorney for the child who will investigate and make a recommendation to the court about what is in the best interests of the child. For more information, see the Legal Aid pamphlet, *Getting a Lawyer Appointed for Your Child*).



A custody study is time consuming and would be best for all concerned to avoid it, so the court prefers that custody disputes be resolved through mediation whenever possible. Mediation is not appropriate for all families (for example, if there is a history of domestic violence). This booklet describes the process when mediation has not worked.

A counselor from the Family Relations Office will examine the facts and make a recommendation to the court. The court will generally follow the counselor's recommendation. *Note: The person doing the study may be called a "Counselor" or "Officer"*.

If you do not agree with the recommendation, you may challenge (contest) it. To successfully challenge the recommendation, you will have to convince the court that the counselor's recommendation is wrong.

The Family Relations Office publishes guidelines which its counselors use to make a recommendation about who should have custody. Please read this list of guidelines on Page 5.

How a Custody Evaluation Is Done

A custody evaluation takes about four to five months to complete. The counselor will be impartial and will look at the parenting abilities and parent-child relationships of both parents. He or she may evaluate a family situation by interviewing each parent and the child(ren) in the family. The counselor then writes a report for the judge, making recommendations about custody and visitation.

- The counselor first meets with both parents together, when possible, to give each the opportunity to express his or her concerns. After this first meeting, most meetings with the counselor will be with only one parent at a time so that each parent can more freely talk about concerns and say why she or he believes she/he should have custody.
- It is very important that you keep all scheduled appointments with the counselor. (Or, at least call to reschedule if you cannot keep it). You should always bring requested information to your appointments.
- The counselor will get a detailed family history from you. You will be asked for three references. These references will be called and asked about you as a parent. The references can be family, friends, school teachers, baby-sitters, or anyone else you believe can comment on your parenting skills.
- You will also be asked to complete authorization forms for the release of confidential information for each of your child's doctors, dentists, school, day care providers, leaders of extra-curricular activities that your child is a part of (for example, Boy or Girls Scouts or religious groups), etc..
- If your physical, emotional or mental health has been called into question, the counselor will also ask for written permission to speak with your providers and obtain records, if necessary. The counselor will talk to each of these providers and obtain written records as necessary.

- ❑ The counselor will do a Connecticut Department of Children and Families and criminal background checks on each parent.
- ❑ The counselor will schedule an appointment to visit the home and talk to the children. You are expected to allow the counselor into your home to visit your child. You should prepare your child ahead of time for the meeting with the counselor, explaining to your child that the counselor wants to get to know him/her, but will not pressure the child to make a choice about which parent to live with. (An attorney for the child may be appointed by the court, and the counselor may also discuss the case with your child.)
- ❑ If you are represented by an attorney, you should keep him/her informed about the status of your evaluation. Talk to your attorney about any specific questions you have about the evaluation process or information that Family Relations requests.



After the Study Is Completed

After the Family Relations Office has completed its investigation, a meeting may be held with all parties and their attorneys to discuss the results. The counselor will explain what she/he will recommend to the court. You will get a written summary of what the counselor found and the recommendations as to a future parenting plan for the child/children. The counselor will give the parties two weeks to consider the recommendations and to make an agreement. **If an agreement is reached**, the court will be notified by the counselor. **If an agreement is not reached**, the counselor will write up his/her recommendations and submit them to the court. The counselor's written report can be introduced at trial and the counselor may be called as a witness by either side.

How Should I Act?

In dealing with Family Relations, you will want to show how you are a good parent. Before meeting with the counselor, think about and write down your strengths as a parent. A good way to start is by making a list of all the things you do with your child. Speak with your child's teacher so that you can accurately report how the child is doing in school. It is also a good idea to make sure that your child is up to date with physical and dental exams and vaccinations. You must have well thought out and practical answers to such questions as:

- *Who will take care of the children when you are at work? How will you handle school vacations?*
- *If the child gets sick during the day, will your schedule allow you to pick up the child at school and take care of him/her for the rest of the day? If not, how would you handle the situation?*
- *What custody and visitation arrangements do you believe is best for your child/children? Why?*

During a home visit the counselor will notice:

- *The amount of warmth and affection between you and your children,*
- *How you respond to their needs,*
- *How you discipline them,*
- *The cleanliness of the children and the home,*
- *How you respond to questions concerning the other parent.*

Try to be relaxed and natural.

If you have concerns about the ability of the other parent to care for the child, you should tell the counselor those concerns. If your spouse has an alcohol or drug problem, or has abused you, mention it. However, you hurt your case by saying unnecessary or untruthful things about the other parent -- it will hurt your credibility. Also, don't be more negative than the situation calls for. The counselor will be concerned about the well-being of the child if you are very hostile toward the other parent.

Family Relations Office Guidelines

The Family Relations counselor looks at the following things during a custody study:

1. The love, affection, and other emotional ties between each competing party and the child.
 2. The interaction and inter-relationship of the child with his/her parents, brothers and sisters, and any other person.
 3. The ability and willingness of each competing party to give the child love, affection, and guidance, and to see that the child continues his or her general education, including the development of his or her religion or creed, if applicable.
 4. The ability and willingness of each competing party to provide the child with food, clothing, medical, and other remedial care.
 5. The length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity.
 6. The permanence, as a family unit, of the existing or proposed custodial home.
 7. The moral fitness and mental and physical health of all persons involved.
 8. The home, school, and community adjustment of the child.
 9. The reasonable preference of the child if of sufficient age and maturity to express preference.
 10. The wishes of the parents or competing parties.
 11. Identification of the "psychological parent."
 12. The report shall not consider the conduct of a proposed custodian that does not affect his relationship to the child.
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*A sample Family Relations custody study is below.
This is not an actual report, but it should give you an idea of areas that might be covered.*

Sample Family Relations Custody Study

Marital and Court Status

Jane Doe and John Smith were married in Stamford, Connecticut January 16, 1994. They have four minor children, ages 15, 13, 11 and 8.

On August 6, 2004, Mrs. Smith started an action for divorce. On August 20, 2004, a temporary order was entered by Judge William Lewis giving Mr. Smith custody of his four children pending a study to be done by the Family Relations Office. Mrs. Smith was to see her children on both Saturday and Sunday from 10 a.m. until 5 p.m. each day.

Present Situation

Mr. Smith currently resides in the family home with his four children. The Smith children have lived with their father since their parent's separation during the summer of 2001.

The family home is a small three-bedroom apartment in Stamford. The Smith children are cared for in the afternoons after school by their oldest sister, Mary. Mrs. Smith is presently living in New York City with friends. She indicates that the current living arrangement is a temporary one. Her time with her children is spent at a friend's home in Stamford.

Mother

Jane Smith, age 31, was born and raised in Georgia. Her parents were divorced when she was young and she recalls that her mother was responsible for the care of herself and her two brothers. Mrs. Smith's family has remained in Georgia.

Mrs. Smith was married to her present husband when she was 16. According to Mrs. Smith, her husband physically abused her and intimidated her throughout their years together, often in front of the children. She claims that he kept her from ever having any friends or from going out on her own.

Mrs. Smith fears that her husband will attempt to turn her children against her. She fears that he restricts her children, particularly her oldest daughter, from leading a normal life, insisting that they remain within the home and keeping them from having friends. According to Mrs. Smith, before separation, she had always been the available parent for her children, always the one to participate in their school and sports activities and respond to their needs.

Mrs. Smith expresses a desire to return to the Stamford area. Her proposal, should she be granted custody, would be to move into the apartment where her husband now resides with the children and for Mr. Smith to vacate those premises. Mrs. Smith indicates that the only reason she moved temporarily to New York was because it was easier to find employment.

It is apparent that the loss of her children has been an emotionally painful experience for Mrs. Smith. It would also appear that she defines herself as a victim of her husband's intimidation. However, Mrs. Smith's description of the events leading to the loss of her children and her prolonged lack of contact with them leave one with questions regarding her credibility and the validity of the decisions and choices she has made.

Father

Thirty-four-year-old John Smith was born and raised in South Carolina, one of five children in what he describes as a close-knit family setting. He works as a furniture craftsman.

ii

Mr. Smith described himself as working hard to try to keep his family together and to be a good provider over the years. He is currently paying for all of his children to attend Catholic schools. In contrast, he views his wife as a woman who has never really grown up and who never really seemed to care about her family. He claims that she is currently residing in New York instead of near her children in Stamford because she is living with her current boyfriend.

Mr. Smith acknowledges that he did strike his wife on occasion, but only infrequently. He relates that their arguments were usually related to Mrs. Smith's use of physical punishment when disciplining their children. While he indicates that he is a strict parent, he does not believe in spanking his children and will speak to them about their behavior rather than hit them.

Mr. Smith is opposed to his wife's assuming custody. He views as an example of her lack of real concern for her children the fact that she has taken advantage of only about half of the visitation time with her children. Mrs. Smith states that she has not seen her children as often as possible because of the distance she must travel from New York and the cramped quarters of her friend's home in Stamford where the visits take place.

Children

All the children are presently attending Catholic School in Stamford. They are described by their school social worker and secretary as well-groomed and well-mannered children who exhibit no academic or emotional problems.

The Smith children appeared tense and anxious during their discussions in this counselor's office. Martha and Mary seemed to list the same complaints regarding their father's refusal to let

iii

them go out and be with friends. Martha was able to recall that her mother used to hit her.

John Jr. and James both were able to describe the positive qualities of each parent. When observed in their home, the children seemed relaxed and affectionate with their father.

Of all the children, 15-year-old Mary seemed to express the most urgent desire to be with her mother, stating that her father's restrictiveness and her household responsibilities were problems for her.

Evaluation

This is a custody dispute involving Mary, John Jr., James, and Martha Smith.

It is difficult to determine the actual nature of Mrs. Smith's parenting in either the past or the present. She was unable to provide substantial references to assist this counselor in making this determination. While her children seem to express some longing for her in varying degrees, they have not resided with her in over a year. Her description of the events that have kept her from being with her children is less than credible. For whatever reason, she has chosen to live in New York in a situation that has made it difficult for her to see her children on a frequent basis. While Mrs. Smith states that her children are very important to her, it would seem that she has not always acted accordingly and had been unable to establish the stable kind of life-style needed to provide for their needs.

Mr. Smith, on the other hand, did abuse his wife, even if it occurred only infrequently. However, a differentiation must be made between his functioning as a husband and his abilities as a father. Mr. Smith's concern for his children and sensitivity to their needs seems genuine. From all accounts, the children have

thrived during the past year in his care. Mr. Smith has established a stable life-style and seems fully capable of responding to the needs of his children.

Given the uncertain nature of Mrs. Smith's life-style and her ability to follow through in her care of her children and Mary's need to finish out the present school year, removal from her father's care at this time would not seem advisable.

Recommendation

It is the recommendation of this counselor that sole custody of the Smith children be with their father.

It is also recommended that Mrs. Smith have substantial contact with her children and that her time with them include the following:

1. Three weekly afternoons from 3 p.m. until 7 p.m.
2. Alternating weekends from Saturday noon until Sunday noon.

This visitation schedule is, of course, conditional on Mrs. Smith's establishing a local address.

It is also recommended that Mrs. Smith be given one month of vacation time with her children during the summer and that the parties alternate major holidays.

It is also recommended that the situation regarding custody of Mary be reviewed by the end of this school year.

Respectfully submitted,

Family Relations Counselor