

RULE 12.363. EVALUATION OF MINOR CHILD

(a) Appointment of Expert.

(1) The court, on motion of any party or the court's own motion, may appoint an expert for an examination, evaluation, testing, or interview of any minor child. The parties may agree on the particular expert to be appointed, subject to approval by the court. If the parties have agreed, they shall submit an order including the name, address, telephone number, area of expertise, and professional qualifications of the expert. If there has been a determination of the need for the appointment of an expert and the parties cannot agree on the selection of the expert, the court shall appoint an expert.

(2) After the examination, evaluation, or investigation, any party may file a motion for an additional expert examination, evaluation, interview, testing, or investigation by another expert. The court upon hearing may permit the additional examination, evaluation, testing, or interview only on a showing of good cause and only upon a finding that further examinations, testing, interviews, or evaluations would be in the best interests of the minor child.

(3) Any order entered under this rule shall specify the issues to be addressed by the expert.

(4) Any order entered under this rule may require that all interviews of the child be recorded and the tapes be maintained as part of the expert's file.

(5) The order appointing the expert shall include an initial allocation of responsibility for payment.

(6) A copy of the order of appointment shall be provided immediately to the expert by the court unless otherwise directed by the court. The order shall direct the parties to contact the expert appointed by the court to establish an appointment schedule to facilitate timely completion of the evaluation.

(b) Providing of Reports.

(1) Unless otherwise ordered, the expert shall prepare and provide a written report to each party and the guardian ad litem, if appointed, a reasonable time before any evidentiary hearing on the matter at issue. The expert also shall send written notice to the court that the report has been completed and that a copy of the written report has been provided to each party and the guardian ad litem, if appointed. In any event, the written report shall be prepared and provided no later than 30 days before trial or 75 days from the order of appointment, unless the time is extended by order of the court. The expert shall not send a copy of the report to the court unless the parties and their attorneys have agreed in writing

that the report will be considered by the court and filed in the court files as provided in subdivision (e).

(2) On motion of any party, the court may order the expert to produce the expert's complete file to another expert at the initial cost of the requesting party, for review by such expert, who may testify.

(c) Testimony of Other Experts. Any other expert who has treated, tested, interviewed, examined, or evaluated a child may testify only if the court determines that good cause exists to permit the testimony. The fact that no notice of such treatment, testing, interview, examination, or evaluation of a child was given to both parents shall be considered by the court as a basis for preventing such testimony.

(d) Communications with Court by Expert. No expert may communicate with the court without prior notice to the parties, who shall be afforded the opportunity to be present and heard during any such communication between the expert and the court. A request for communication with the court may be informally conveyed by letter or telephone. Further communication with the court, which may be conducted informally, shall be done only with notice to the parties.

(e) Use of Evidence. An expert appointed by the court shall be subject to the same examination as a privately retained expert and the court shall not entertain any presumption in favor of the appointed expert's findings. Any finding or report by an expert appointed by the court may be entered into evidence on the court's own motion or the motion of any party in a manner consistent with the rules of evidence, subject to cross-examination by the parties. Any report filed with the court shall be in compliance with Florida Rule of Judicial Administration 2.425. The report shall not be filed in the court file unless or until it is properly admitted into evidence and considered by the court. The court shall consider whether the report should be sealed as provided by Florida Rule of Judicial Administration 2.420.

(f) Limitation of Scope. This rule shall not apply to parenting coordinators or social investigators.

Committee Note

1997 Adoption. This rule should be interpreted to discourage subjecting children to multiple interviews, testing, and evaluations, without good cause shown. The court should consider the best interests of the child in permitting evaluations, testing, or interviews of the child. The parties should cooperate in choosing a mental health professional or individual to perform this function to lessen the need for multiple evaluations.

This rule is not intended to prevent additional mental health professionals who have not treated, interviewed, or evaluated the child from testifying concerning review of the data produced pursuant to this rule.

This rule is not intended to prevent a mental health professional who has engaged in long-term treatment of the child from testifying about the minor child.