



BFLG'S TIPS FOR YOUR PARENTING ASSESSMENT

In some cases, when parents of minor children separate, they cannot agree on a parenting schedule. In these cases, it is common that each parent has a different view of what is in the children's best interest. One parent may believe that the children will primarily reside with that parent and only visit the other parent – for a few weeknights or afternoons or on the weekends. The other parent may believe that the children are best served by living equally with each parent.

Another common topic of disagreement is which parent will have final decision-making authority over the issues of the children's healthcare, education or religion.

If you fall into this situation, you may be a candidate for a Parenting Assessment, once called a Custody & Access Assessment.

In Ontario, a comprehensive Parenting Assessment is provided by a private clinical expert such as a social worker, psychologist or psychiatrist pursuant to section 30 of the Children's Law Reform Act which states:

"The court before which an application is brought for a parenting order or contact order with respect to a child, by order, may appoint a person who has technical or professional skill to assess and report to the court on the needs of the child and the ability and willingness of the parties or any of them to satisfy the needs of the child."

These assessments are expensive.

What does a private parenting assessor do?

The Assessor is required to review all past medical, criminal, educational and clinical records for the parents and children. Then the Assessor conducts meetings and observation sessions with each parent, then with the children, and then with the parents and children together. Then the Assessor interviews the other professionals and family members that possess relevant knowledge of the children's needs. Then the Assessor must carefully consider all of the evidence and formulate a set of recommendations for a parenting schedule and parenting plan.

A Parenting Assessment can cost between \$10,000 and \$100,000 depending on the level of complexity and conflict, the family's medical and mental health history, number of interviews, number of witnesses to be interviewed, number of observation sessions, the volume of records, the overall time allotment and length of the expert report that is drafted by the Assessor.

What does the Children's Lawyer do?

Although it is not the same as a Parenting Assessment, in Ontario, a parenting dispute in Family Court can result in a judge referring the case to the Office of the Children's Lawyer for a Clinical Investigation pursuant to section 112 of the Courts of Justice Act which states:

"In a proceeding under the Divorce Act (Canada) or the Children's Law Reform Act in which a question concerning decision-making responsibility, parenting time or contact with respect to a child is before the court, the Children's Lawyer may:

(a) cause an investigation to be made on all matters concerning decision-making responsibility, parenting time or contact with respect to the child;

(b) cause an investigation to be made on matters specified by the court related to decision-making responsibility, parenting time or contact with respect to the child; or

(c) meet with the child to determine the child's views and preferences with respect to matters that may include decision-making responsibility, parenting time or contact."

The Office of the Children's Lawyer is a department of the Ministry of the Attorney General. It is staffed by lawyers and social workers. In family law matters, this department becomes involved in child welfare and contested parenting cases. Child welfare cases involve cases by a Children's Aid Society against parents where there is an allegation that the children are in need of state protection. In these cases, this department may provide legal representation to such children. Parenting cases involve cases by one parent against the other parent regarding the parenting schedule. In these cases, this department may provide legal representation by a lawyer or a Clinical Investigation by a social worker. In a Clinical Investigation, the social worker will conduct an examination of the children's needs and provide a summary report including recommendations for a parenting schedule.

A Clinical Investigation is not a substitute for a Parenting Assessment, but is sometimes used by the courts to gain a more informed understanding of the nature of the case and the challenges faced by the family. If a judge orders a Clinical Investigation, and if this department accepts the referral, then there is no cost to the parents for this service – and that is why it is attractive to some families.

If you are a separated parent and are unable to reach an agreement with your former spouse on a parenting schedule and/or decision-making for the children, then you may want to consider a Parenting Assessment or, at least, a Clinical Investigation.

When do judges order a private Parenting Assessment?

Ontario case-law has evolved to recognize the importance and guidance provided by Parenting Assessments but, even so, not every case qualifies for one. Here are the questions that judges ask before agreeing to order the parents and children to undergo a Parenting Assessment:

1. What was the parenting relationship like before separation?
2. Did the parents function adequately before separation?
3. Did the dysfunction arise after separation?
4. Are the parents unable to make any decision about the children's needs (education, religion, health and activities) without court intervention?

5. Is the relationship between the parents so unhealthy that one or both parents is/are unable to identify the best interests of the children and act on it?
 6. Do the parents have a mutual disregard for the other parent's ability to parent?
 7. Do the parents blame each other for the dysfunction each describes?
 8. Is there a clinical diagnosis that might impact on the parenting capacity of one or both parents?
 9. Is there a clinical diagnosis with respect to any of the children in the family?
 10. Is a child fragile, vulnerable or have special needs?
 11. What are the ages of the children at separation and at the time of the request for the Parenting Assessment?
 12. Is a child manifesting behaviour that requires clinical examination?
 13. Is there an alternative to a Parenting Assessment?
 14. Are there other challenges in the family that require clinical examination?
 15. Is there a request for relocation that will affect the children's relationship with one of both parents?
 16. What is the estimated cost for a Parenting Assessment and can the parents afford it?
 17. Will the Parenting Assessment cause delay that is not in the best interests of the children?
 18. Is a Parenting Assessment in the best interests of the child?
- [Glick v. Cale, 2013 ONSC 893 (CanLII)]

Do you have any tips?

If you are proceeding with a Parenting Assessment , here are 8 tips for benefitting from such a process:

TIP 1: Be on time, polite and positive. Your Assessor will be observing your personal commitment to the process, your punctuality and your responsiveness. Be attentive, participatory and helpful. The Assessor is observing all your behaviour – not just your parenting skills. So be alert.

TIP 2: Do your homework. Bill Eddy's resources on high-conflict relationships, divorcing a spouse with a personality disorder and BIFF communications (Brief, Informative, Firm & Friendly) are of enormous value. Share with the Assessor your post-separation education and adoption of such resources. This will elevate your status in the assessment and bode well for you in the process.

TIP 3: Be thorough in your intake process. Use your Intake Form as the opportunity to tell your family's story, especially why you believe your desired outcome is in the children's best interests. Organize your Intake Form using headings such as Family History, Mental Health, Abuse & Violence, Addictions, Past Co-Parenting, Current Challenges, etc.

TIP 4: Know the evidence – in your favour and against you. Your Assessor will have received plenty of evidence from other professionals and agencies to develop an understanding of your family. Be aware of what that may be and what information about you, your spouse and your children are contained in those records. Ensure your story is consistent with the other sources of information so that you are found to be credible.

TIP 5: Be balanced. Avoid appearing to be motivated by your own self-interests and not your children's best interests. Prepare a detailed proposal for a parenting schedule with an explanation as to why this plan is in your children's interests. Show the Assessor that you are prepared to support the children's relationship with the other parent to the extent that it is healthy for the children.

TIP 6: Do not diagnose the other parent. Provide evidence of behavioural patterns, but do not offer a mental health diagnosis. Providing examples of violent, dysregulated, erratic or harming behaviour by the other parent will provide the necessary evidence to permit the Assessor to formulate a parenting schedule that meets the safety and therapeutic needs of the children and insulates them from troubling behaviour. In some cases, the Assessor may refer the parents or children to a psychologist for evaluation.

TIP 7: Be honest, authentic and vulnerable. Present the Assessor with the real you. If you have a troubled past, admit it and let the Assessor know how you have managed your struggles and what supports that you have gathered to strengthen you. Denying past misconduct will cause the Assessor to be concerned that you may be placing the children at risk. Some parents have a history of abuse, addictions, alcoholism or mental health struggles. Parents who own their challenges and know how to seek out help are considered responsible. If you have made mistakes in the past, begin counselling, participate in group therapy and consult with your family physician for referrals. These professionals may be your champion in the assessment.

TIP 8: Treat your Assessor as a judge. In the vast majority of cases, judges will defer to the Assessor's recommendations. This makes your Assessor an important decision-maker in your case. So be cautious and deliberate with your answers and presentation.

You love your children. You want the very best for them. You do not want your divorce to result in a loss of your close relationship with your children. The assessment is a process that will uncover and examine the facts of your family and make recommendations to the judge for your post-separation family life, parenting schedule, supports and how to overcome future disputes. Using an Assessor to resolve the issue of parenting through divorce is a wise move that can provide helpful advice and guidance. Just make sure to follow these tips to cause a positive outcome.

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