

JUDICIAL COUNCIL OF CALIFORNIA

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INVITATION TO COMMENT

W22-03

Title

Family Law: Changes to Child Custody
Evaluation Rule and Forms

Action Requested

Review and submit comments by January 21,
2022

Proposed Rules, Forms, Standards, or Statutes

Amend rule 5.220; revise forms FL-327, FL-
327(A), FL-328, and FL-329

Proposed Effective Date

September 1, 2022

Proposed by

Family and Juvenile Law Advisory
Committee
Hon. Stephanie E. Hulsey, Cochair
Hon. Amy M. Pellman, Cochair

Contact

Gabrielle D. Selden, 415-865-8085
gabrielle.selden@jud.ca.gov
Gregory Tanaka, 415-865-7671
gregory.tanaka@jud.ca.gov

Executive Summary and Origin

The Family and Juvenile Law Advisory Committee proposes amending one rule and revising four forms relating to child custody evaluations and reports. The proposed revisions are needed to clarify the differences in the statutory requirements for child custody evaluations that are conducted under Family Code section 3111 and Family Code section 3118.¹ The committee proposes other technical changes to make the language in the rule and forms consistent with each other.

Background

Effective January 1, 2021, the Judicial Council adopted *Confidential Child Custody Evaluation Report* (form FL-329) to serve as the standardized template for all information necessary to provide a full and complete analysis of a child custody evaluation involving serious allegations of child sexual abuse or child abuse under section 3118.² The Judicial Council also amended rule 5.220 of the California Rules of Court to differentiate between the requirements for child custody evaluations conducted under section 3111 and those under section 3118.

¹ All further statutory references are to the Family Code.

² The report is found at: <https://jcc.legistar.com/View.ashx?M=F&ID=8771124&GUID=146EBAE9-AD1F-4DD3-ACC0-CA59E7F6E939>.

Following the Judicial Council’s adoption of form FL-329, and after further review of section 3111 and rule 5.220, the committee circulated proposed changes to *Notice Regarding Confidentiality of Child Custody Evaluation Report* (form FL-328) in the spring 2021 invitation to comment cycle³ to reflect the amendments to rule 5.220 by requiring the cover sheet to be attached to child custody evaluations reports conducted under section 3111⁴ as well as those conducted under section 3118.⁵

Specifically, the prior invitation to comment sought to revise form FL-328 to:

- List the persons or agencies that are permitted to access child custody evaluation reports involving serious allegations of child sexual abuse or child abuse under section 3118.
- State that an unwarranted disclosure of the section 3118 report—like reports conducted under section 3111—could subject the person who made an unwarranted disclosure to fines and penalties.
- Include a file-stamp box on the form to help courts process the child custody evaluation report and focus attention on the confidentiality of the report attached to the cover sheet. (The committee also sought specific comment about whether a file-stamp box would help improve existing court procedures for filing the reports compared to the current version of form FL-328, which does not include one.)

Following the comment period for the proposal, the committee concluded against recommending the changes in the first two bullet points regarding access and disclosure under section 3118. Ultimately, the committee determined that the proposed changes could be inconsistent with section 3118, and that other options should be considered instead of relying on one form to serve as a notice for two completely different child custody evaluation reports.

While section 3111 provides that *all* child custody evaluation reports are confidential and includes language prohibiting an unwarranted disclosure of the report, section 3118 does not specifically include any language about unwarranted disclosures. Further, the two statutes were written very differently with respect to those persons or agencies that are authorized to access the child custody evaluator’s report and recommendations.

For example, section 3111(b) provides:

The report shall not be made available other than as provided in subdivision (a)⁶ or Section 3025.5, or as described in Section 204 of the Welfare and Institutions

³ This invitation to comment is found at: <https://www.courts.ca.gov/documents/spr21-09.pdf>.

⁴ Section 3111 is found at: https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=3111&lawCode=FAM.

⁵ Section 3118 is found at: https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=3118&lawCode=FAM.

⁶ Section 3111(a) provides, in pertinent part, that the child custody evaluation “shall be filed with the clerk of the court in which the custody hearing will be conducted and served on the parties or their attorneys, and any other counsel appointed for the child pursuant to Section 3150.”

Code or Section 1514.5 of the Probate Code. Any information obtained from access to a juvenile court case file, as defined in subdivision (e) of Section 827 of the Welfare and Institutions Code, is confidential and shall only be disseminated as provided by paragraph (4) of subdivision (a) of Section 827 of the Welfare and Institutions Code.

In contrast, section 3118(b)(6) specifies that “this report may not be made available other than as provided by this subdivision.” However, it does not include as clear and extensive a list of those persons and agencies who may access the report as section 3111. The only guidance in this regard is provided in the following language:

The evaluator or investigator shall...[f]ile a confidential written report with the clerk of the court in which the custody hearing will be conducted and which shall be served on the parties or their attorneys at least 10 days prior to the hearing. On and after January 1, 2021, this report shall be made on the form adopted pursuant to subdivision (i). This report may not be made available other than as provided in this subdivision. (§ 3118(b)(6).)

It is clear from the above language that the clerk of the court, the parties, and the parties’ attorneys can access the report. Section 3118, however, fails to incorporate the provisions of Family Code section 3150,⁷ which authorize the child’s attorney access to child custody evaluation reports by requiring compliance with rule 5.242(i)(13)⁸ of the California Rules of Court.

As circulated for comment, the proposed changes to form FL-328 would have expanded the list of persons eligible to access the report under section 3118 to include attorneys appointed to represent the child under Family Code section 3150, family court judicial officers, and family court employees. Those who commented on the proposal also requested changes to the list. However, the committee determined that the proposed changes could conflict with the statute. Given the specificity of the legislative language, the committee concluded that the proposed changes should best be addressed by statute.

Therefore, following public comment and further discussion with the committee and staff, the committee deferred the spring proposal to the winter cycle with directions to propose changes to rule 5.220 and the other forms in this proposal to correctly reflect the language in sections 3111 and 3118. This would include (1) changing the titles to forms FL-328 and FL-329 to highlight that form FL-328 is required for section 3111 child custody evaluations, and form FL-329 is to be used only in section 3118 child custody evaluations; (2) amending rule 5.220 and revising forms FL-327, FL-327(A), FL-328, and form FL-329 to reflect the revised forms titles, and deleting provisions that require form FL-328 to be used as the confidential cover sheet for child

⁷ Section 3150 is found at:

https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=3150&lawCode=FAM.

⁸ Cal. Rules of Court, rule 5.242 is found at: www.courts.ca.gov/cms/rules/index.cfm?title=five&linkid=rule5_242.

custody evaluation reports involving serious allegations of child sexual abuse or child abuse under section 3118; and (3) other changes to the above forms as described in the following section.

The Proposal

Rule 5.220. Court-ordered child custody evaluations

The committee proposes amendments to rule 5.220(g) to reflect changes in the titles of forms FL-328 and FL-329 and strike the requirement to attach form FL-328 to reports under Family Code section 3118. Specifically:

- Section (g)(1)(B) would be revised to provide that the evaluator who was appointed to conduct a child custody evaluation under Family Code section 3111 must attach *Notice Regarding Confidentiality of Child Custody Evaluation Report Under Family Code Section 3111* (form FL-328) as the cover page of the report;
- Section (g)(2)(C), which requires form FL-328 to be attached as the cover page of the report completed under section 3118, would be completely stricken from the rule; and
- Section (g)(2) would be revised to reflect the proposed revised title of form FL-329 (*Confidential Child Custody Evaluation Report Under Family Code section 3118*).

These proposed changes would make the rule consistent with the proposed changes to the titles of the forms, as well as the proposed new procedures for filing reports under sections 3111 and 3118.

Order Appointing Child Custody Evaluator (form FL-327)

Item 6 would be revised to reflect the proposed revised title of form FL-329. The title of item 7 would be revised to “Required Notice for Family Code section 3111 Evaluations” and the contents simplified to specify that form FL-328 must be attached as the cover page for child custody evaluations under section 3111. These changes will help to distinguish the requirements for evaluations completed under sections 3111 and 3118.

Attachment to Order Appointing Child Custody Evaluator (form FL-327(A))

This form would be revised in item 3a to reflect the proposed revised title of form FL-329.

Notice Regarding Confidentiality of Child Custody Evaluation (form FL-328)

The committee considered not making changes to the form because it currently does not reference child custody evaluations involving serious allegations of child sexual abuse. However, in light of the public comments received in the previous spring cycle about other proposed changes to the form, and a change that is mandated by statute (as noted below), the committee decided to circulate the form to:

- Include a file-stamp box on the form to help courts process the child custody evaluation with the required cover sheet attached as the first page;
- Make the form gender neutral by replacing the reference to “his or her evaluation” in the first sentence of the form with “the evaluation”;

- Make overall design and content changes as noted below; and
- Change the title to *Notice Regarding Confidentiality of Child Custody Evaluation Under Family Code section 3111*.

Mandated changes

The committee proposes that the form reflect statutory changes regarding access to child custody evaluation reports. Effective January 1, 2015, Assembly Bill 1843 (Stats. 2014, ch. 283) amended Family Code section 3025.5.⁹ In pertinent part, it added subsection (b) to Family Code section 3025.5 to authorize the disclosure of confidential information in the child custody evaluator’s report (completed under Fam. Code, § 3111) to the licensing entity of a child custody evaluator. The amendments also detail the manner in which the licensing entity is authorized to use the confidential information disclosed to it.¹⁰ The form would reflect this change by adding “the agency responsible for licensing and disciplining the child custody evaluator” to the list of those who may access the report by law.

Design and organization changes

The committee proposes other changes regarding the form’s design and organization to improve readability and comprehension. The proposed changes include using a plain-language form layout for the notice, shortening and revising the language in some sections to allow room for a file-stamp box, and expanding language in other sections to better explain legal terms.

For example, the committee proposes deleting, in the first entry on the form, the phrase, “If directed by the court,” from the sentence, “If directed by the court, the child custody evaluator must file a written, confidential report of the evaluation.” The phrase is not needed in cases in which form FL-328 is used because the court has already directed that the evaluator file a written report of the evaluation.

In addition, the entries for “Monetary Sanctions” and “Attorney’s Fees and Costs” would be moved under the heading “Potential Consequences for the Unwarranted Disclosure of the Report” to avoid redundancy.

⁹ Assem. Bill 1843: https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201320140AB1843.

¹⁰ Section 3025.5(b) provides: “Confidential information contained in a report prepared pursuant to Section 3111 that is disclosed to the licensing entity of a child custody evaluator pursuant to subdivision (a) shall remain confidential and shall only be used for purposes of investigating allegations of unprofessional conduct by the child custody evaluator, or in a criminal, civil, or administrative proceeding involving the child custody evaluator. All confidential information, including, but not limited to, the identity of any minors, shall retain their confidential nature in a criminal, civil, or administrative proceeding resulting from the investigation of unprofessional conduct and shall be sealed at the conclusion of the proceeding and shall not subsequently be released. Names that are confidential shall be listed in attachments separate from the general pleadings. If the confidential information does not result in a criminal, civil, or administrative proceeding, it shall be sealed after the licensing entity decides that no further action will be taken in the matter of suspected licensing violations.”

Further, prompted by the recommendations of the Elkins Family Law Task Force to “assess the usability or readability of family law forms...”,¹¹ the committee proposes to revise the language in the section titled “Unwarranted Disclosure of the Report” to better explain the definition of “unwarranted disclosure” and other terms such as “recklessly or maliciously,” and further directs the form user to read the section below to understand who can receive the report. The committee proposes that the section be revised as follows:

You must not make an “unwarranted disclosure” of the child custody evaluation report. [¶] A disclosure of a child custody evaluation report is unwarranted if it is done either recklessly or maliciously and is not in the best interest of the child. This means that you must not misuse or intentionally give the confidential report to someone who is not allowed to have it. The only people who are allowed to access each type of report are listed below.

The committee also considered changing the description of the Attorney Fees and Costs section by revising the current language in the first paragraph to align with the language of Family Code section 3111(d).¹² The code section allows the court to penalize or refrain from penalizing the person found to have made an unwarranted disclosure of the child custody evaluation report.

As to this area of form FL-328, the committee seeks specific comment on whether the language should be revised to include or exclude language in section 3111(d) as follows:

- The proposed language to continue to *include* the reference to section 3111(d) would appear as follows: “The sanction may also include reasonable attorney’s fees, costs incurred, or both, unless the court finds that the person who disclosed the report was justified in doing so or that ordering the person to pay fees and costs would cause an unreasonable financial burden.”
- Whereas, the proposal to exclude references to section 3111(d) would shorten this section of the form to: “The sanction may also include reasonable attorney’s fees, costs incurred, or both.”

The issue raised in the committee is whether including language on the form from section 3111(d) would undermine the confidential nature of the report by causing a recipient of the evaluation report to believe that they can freely disclose the report as long as they felt justified in doing so. It could also make them believe that the court would not penalize them for an unwarranted disclosure, especially if they would not have the ability to pay fees and costs under the statute anyway. This issue is balanced against the goal of the form itself, which is to provide general information to the parties and the court about the requirements and general content of section 3111.

¹¹ Recommendation V.A.1(f) on page 91 of the *Elkins Family Law Task Force Final Report and Recommendations* is found at <http://www.courts.ca.gov/documents/elkins-finalreport.pdf>.

¹² Section 3111(d) provides, in pertinent part, that “[t]he court shall not impose a sanction pursuant to this subdivision that imposes an unreasonable financial burden on the party against whom the sanction is imposed.”

As relates to the overall proposed revisions to form FL-328, they are intended to make the form more user-friendly and easier for self-represented litigants to understand. They reflect the plain-language principles used in Judicial Council domestic violence forms, such as simplifying language, explaining legal concepts, eliminating unnecessary repetition, providing more white space on each page, minimizing the use of italicized font, using rounded boxes for instructions, and reorganizing content.

Confidential Child Custody Evaluation Report (form FL-329)

The committee proposes changing the title of the form to *Confidential Child Custody Evaluation Report Under Family Code section 3118*. In addition, the committee proposes adding a new first page to this form to serve as a built-in cover sheet for the mandated report template.

The new first page would include a notice about the confidentiality of the report, as well as specific language from section 3118 about service requirements and access to the report. Making these changes to the first page, instead of listing them as part of the form FL-328 coversheet (and requiring form FL-328 to be attached to form FL-329), would streamline the process for filing the report and better ensure that the access provisions for section 3118 reports are not confused with those for reports under section 3111. Finally, in light of the above proposed changes, the current notice box would be deleted in its entirety to avoid redundancy.

Alternatives Considered

The committee considered proposing changes only to rule 5.220 and form FL-328; however, on further review, the committee determined that changes to the other forms are needed to complete the proposal. The committee also considered proposing revisions to *Child Custody Information Sheet* (form FL-329-INFO)¹³ to distinguish between child custody evaluations completed under section 3111 and those completed under 3118. However, the committee determined that no changes are needed to the form based on the changes proposed to the rule and other forms in the present cycle. This is because form FL-329-INFO is written in a very general manner, includes no references to forms, and already includes a description on the second page that the evaluator may be appointed to investigate and make recommendations about safety issues, including the protection needs of the child in cases involving allegations of domestic violence and child sexual abuse.

Fiscal and Operational Impacts

The impact to the courts includes costs to copy the new and revised forms, as well as the cost to educate court-connected child custody evaluators about the changes to the rule and forms in the proposal. Courts may also need to update their case management systems and create new docket codes due to the new file-stamp area on form FL-328, which must remain attached to the child custody evaluator's report under Family Code section 3111.

¹³ Form FL-329-INFO can be found at: <https://www.courts.ca.gov/documents/fl329info.pdf>.

Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?
- Regarding form FL-328, should the paragraph about “Attorney’s Fees & Costs” on form FL-328 be changed as provided below to (a) *exclude* or (b) *include* language from Family Code section 3111(d) that authorizes the court to *not* penalize a party who made an unwarranted disclosure of a child custody evaluation report in certain situations. (*Please explain your choice*):
 - (a) The sanction may also include reasonable attorney’s fees, costs incurred, or both.
 - (b) The sanction may also include reasonable attorney’s fees, costs incurred, or both, unless the court finds that the person who disclosed the report was justified in doing so or that ordering the person to pay fees and costs would cause an unreasonable financial burden.
- Regarding form FL-329, should it be revised so that the first page includes a notice about confidentiality, the service requirements of the report, and the limitations on access to the report, instead of requiring the evaluator to attach a separate coversheet to the report similar to form FL-328?

The advisory committee also seeks comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so, please quantify.
- What would the implementation requirements be for courts? For example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems.
- Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

Attachments and Links

1. Cal. Rules of Court, rule 5.220, at page 9
2. Forms FL-327, FL-327(A), FL-328, and FL-329, at pages 10–22
3. Link A: Fam. Code, § 3111,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=FAM§ionNum=3111
4. Link B: Fam. Code, § 3118,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=FAM§ionNum=3118

Rule 5.220 of the California Rules of Court would be amended, effective September 1, 2022, to read:

1 **Rule 5.220. Court-ordered child custody evaluations**

2
3 (a)–(f) * * *

4
5 (g) **Confidential written report; requirements**

6
7 (1) *Family Code section 3111 evaluations.* An evaluator appointed under Family
8 Code section 3111 must do all of the following:

9
10 (A) File and serve a report on the parties or their attorneys and any attorney
11 appointed for the child under Family Code section 3150; and

12
13 (B) Attach a *Notice Regarding Confidentiality of Child Custody Evaluation*
14 *Report Under Family Code Section 3111* (form FL-328) as the first
15 page of the child custody evaluation report when a court-ordered child
16 custody evaluation report is filed with the clerk of the court and served
17 on the parties or their attorneys, and any counsel appointed for the
18 child, to inform them of the confidential nature of the report and the
19 potential consequences for the unwarranted disclosure of the report.

20
21 (2) *Family Code section 3118 evaluations.* An evaluator appointed to conduct a
22 child custody evaluation, investigation, or assessment based on (1) a serious
23 allegation of child sexual abuse; or (2) an allegation of child abuse under
24 Family Code section 3118 must do all of the following:

25
26 (A) Provide a full and complete analysis of the allegations raised in the
27 proceeding and address the health, safety, welfare, and best interests of
28 the child, as ordered by the court; and

29
30 (B) Complete, file, and serve *Confidential Child Custody Evaluation*
31 *Report Under Family Code Section 3118* (form FL-329) on the parties
32 or their attorneys and any attorney appointed for the child under Family
33 Code section 3150.

34
35 ~~(C) Attach *Notice Regarding Confidentiality of Child Custody Evaluation*~~
36 ~~*Report* (form FL-328) as the first page of the child custody evaluation~~
37 ~~report in (B) to inform the parties or their attorneys of the confidential~~
38 ~~nature of the report and the potential consequences for the unwarranted~~
39 ~~disclosure of the report.~~

40
41 (h)–(k) * * *

PARTY WITHOUT ATTORNEY <i>or</i> ATTORNEY STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (<i>name</i>):	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council 11.29.21
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT/PARTY:	
ORDER APPOINTING CHILD CUSTODY EVALUATOR	CASE NUMBER:

THE COURT ORDERS AS FOLLOWS:

1. The court appoints:

- a. a local court-connected child custody evaluation service (*specify*):
- b. a private child custody evaluator (*specify*):
- c. family court services
- d. other (*specify*):

in this matter to perform (*check one*):

- e. a full child custody evaluation
- f. a partial child custody evaluation

under the statutory authority of:

- g. Family Code section 3111.
- h. Family Code section 3118.

(You must attach Additional Orders for Child Custody Evaluations Under Family Code Section 3118 (form FL-327(A)).

- i. Evidence Code section 730.
- j. Chapter 15 (commencing with section 2032.010) of title 4, part 4 of the Code of Civil Procedure.

2. The names and dates of birth of the children are (*specify*):

[. See attachment.](#)

Name

Date of birth

3. The purpose and scope of the evaluation is (*specify*):

[. See attachment.](#)

PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT/PARTY:	CASE NUMBER:
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**ADDITIONAL ORDERS REGARDING CHILD CUSTODY EVALUATIONS
UNDER FAMILY CODE SECTION 3118**

(Attachment to *Order Appointing Child Custody Evaluator* (form FL-327))

1. MANDATORY CONSIDERATIONS (Family Code section 3118(f))

The court has considered the best interests of the child and finds that:

- a. No temporary orders are needed to limit, suspend, or deny visitation (parenting time) with the parent against whom the allegations have been made.
- b. Temporary orders are needed and will issue or have issued in accordance with Family Code section 3011 that:
 - (1) limit visitation (parenting time) with the parent against whom allegations have been made to situations in which a third party specified by the court is present.
 - (2) suspend visitation (parenting time) with the parent against whom the allegations have been made.
 - (3) deny visitation (parenting time) with the parent against whom the allegations have been made.

2. MINIMUM REQUIREMENTS OF THE EVALUATION (Family Code section 3118(b))

The child custody evaluator, at a minimum, must do all of the following:

- a. **Consult with the agency providing child welfare services.**
Consult about the allegations of child sexual abuse, and obtain recommendations from these professionals regarding the child's safety and the child's need for protection.
- b. **Review and summarize the child welfare services agency file.**
 - (1) The evaluator must not photocopy any document contained in the child welfare services agency file.
 - (2) A summary of the information in the file, including statements made by the children and the parents, and the recommendations made or anticipated to be made by the child welfare services agency to the juvenile court, may be recorded.
 - (3) The evaluator must not record the identity of the party who reported the information in (2).
 - (4) Keep in a separate file any notes summarizing the child welfare services agency information and release them to either party only by court order.
- c. **Consult with law enforcement.**
Consult with law enforcement about the allegations of child sexual abuse and obtain recommendations from those professionals regarding the child's safety and the child's need for protection.
- d. **Obtain information from a law enforcement investigator.**
Obtain from this professional all available information obtained from criminal background checks of the parents and any suspected perpetrator that is not a parent, including information regarding child abuse, domestic violence, or substance abuse.
- e. **Review the results of any multidisciplinary child interview team (MDIT) interview.**
- f. **Interview the child or request an MDIT interview of the child if:**
 - (1) The MDIT is not available or was not completed;
 - (2) The evaluator believes the MDIT is inadequate for purposes of the evaluation; or
 - (3) A repeated interview of the child cannot be avoided. The evaluator must, wherever possible, avoid repeated interviews of the child.
- g. **Request a forensic medical examination of the child.**
Request the examination from the appropriate agency or include in the required report a written statement about why the examination is not needed.
- h. **Do not disclose the identity of any person making a report of suspected child abuse.**
Do not disclose any information about the identity of any person making a report of suspected child abuse in accordance with Penal Code section 11167(d).

3. CONFIDENTIAL WRITTEN REPORT (Family Code section 3118(b)(6) and (d))

The child custody evaluator must:

- a. **Complete Confidential Child Custody Evaluation Report Under Family Code Section 3118** (form FL-329)
- b. File the completed report with the clerk of the court in which the child custody hearing will be conducted; and
- c. Serve the completed report on the parties or their attorneys and any attorney for the child at least 10 days before the hearing.

PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	CASE NUMBER:
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4. **JUVENILE COURT RECORDS** (Family Code section 3118(a) and (g))

The child custody evaluator must:

- a. Have access to all juvenile court records pertaining to the child who is the subject of the evaluation.
- b. Keep confidential any juvenile court records or information gained from those records.
- c. Only release the records described above in b as specified in Family Code section 3111(b).
- d. Suspend the evaluation if a petition is filed to declare the child a dependent child of the juvenile court under Welfare and Institutions Code section 300.
- e. Make available to the juvenile court all information the evaluator gathered if a petition is filed as described above in d.

5. **ORDER FOR FURTHER EVALUATION** (Family Code section 3118(e))

The court orders further evaluation beyond the minimum requirements to determine the safety needs of the child as follows:

For your protection and privacy, please press the Clear This Form button after you have printed the form.

Print this form

Save this form

Clear this form

**Notice Regarding Confidentiality
of Child Custody Evaluation Report
Under Family Code Section 3111**

Clerk stamps date here when form is filed.

**Draft - Not
approved by the
Judicial Council
v. 11/29/2021**

Case name:

▶ At least 10 days before any hearing regarding custody of the child, the evaluator must (1) file the report with the clerk of the court, and (2) serve it on the parties or their attorneys and counsel appointed for the child.

▶ **This form must be attached as the first page of the child custody evaluation report.**

▶ **The child custody evaluation report is private and confidential. It MUST NOT become part of the public court file.**

Case Number:

THE ATTACHED CHILD CUSTODY EVALUATION REPORT IS CONFIDENTIAL

<p>Unwarranted disclosure of the report</p>	<p>You must not make an "unwarranted disclosure" of the child custody evaluation report.</p> <p>A disclosure of the child custody evaluation report is unwarranted if it is done either recklessly or maliciously and is not in the best interest of the child. This means that you must not misuse or intentionally give the confidential report to someone who is not allowed to have it. The only people who are allowed access to the report are listed below.</p>				
<p>Possible sanctions for an unwarranted disclosure of the report</p>	<table border="1"> <tr> <td data-bbox="435 1014 699 1129"> <p>Monetary Sanctions:</p> </td> <td data-bbox="699 1014 1523 1129"> <p>The court may order that the person who made an unwarranted disclosure of the report pay a sanction (a fine) in an amount that is large enough to discourage future disclosures.</p> </td> </tr> <tr> <td data-bbox="435 1144 699 1287"> <p>Attorney Fees & Costs:</p> </td> <td data-bbox="699 1144 1523 1287"> <p>The fine may also include reasonable attorney fees, costs incurred, or both, unless the court finds that the person who disclosed the report was justified in doing so or that ordering the person to pay fees and costs would cause an unreasonable financial burden.</p> </td> </tr> </table>	<p>Monetary Sanctions:</p>	<p>The court may order that the person who made an unwarranted disclosure of the report pay a sanction (a fine) in an amount that is large enough to discourage future disclosures.</p>	<p>Attorney Fees & Costs:</p>	<p>The fine may also include reasonable attorney fees, costs incurred, or both, unless the court finds that the person who disclosed the report was justified in doing so or that ordering the person to pay fees and costs would cause an unreasonable financial burden.</p>
<p>Monetary Sanctions:</p>	<p>The court may order that the person who made an unwarranted disclosure of the report pay a sanction (a fine) in an amount that is large enough to discourage future disclosures.</p>				
<p>Attorney Fees & Costs:</p>	<p>The fine may also include reasonable attorney fees, costs incurred, or both, unless the court finds that the person who disclosed the report was justified in doing so or that ordering the person to pay fees and costs would cause an unreasonable financial burden.</p>				
<p>Access to report</p>	<p>Reports conducted under section 3111 may be made available to only the following:</p> <ol style="list-style-type: none"> ① The parties, their attorneys, and attorneys from whom the parties seek legal representation. ② Any attorney appointed to represent the child under Family Code section 3150. ③ Court professionals who would receive it directly from the evaluator or the court to do their job, including: <ul style="list-style-type: none"> • Family court judicial officers • Family court employees • Family law facilitators • Juvenile court judicial officers • Juvenile probation officers • Child protective services • Probate court judicial officers • Guardianship investigators • Law enforcement officers ④ The agency responsible for licensing and disciplining the child custody evaluator. ⑤ Others, but only by court order. 				
<p>Information</p>	<p>For information about child custody evaluations,</p> <ul style="list-style-type: none"> • Read <i>Child Custody Evaluation Information Sheet</i> (form FL-329-INFO) • Go to: https://selfhelp.courts.ca.gov/child-custody/evaluations. 				

<p>EVALUATOR: LICENSE NO. (if applicable):</p> <p>NAME:</p> <p>STREET ADDRESS:</p> <p>CITY: STATE: ZIP CODE:</p> <p>TELEPHONE NO.: FAX NO.:</p> <p>EMAIL ADDRESS:</p>	<p style="text-align: center;">FOR COURT USE ONLY</p> <p style="text-align: center;">CONFIDENTIAL</p> <p style="text-align: center;">DRAFT</p> <p style="text-align: center;">NOT APPROVED BY THE JUDICIAL COUNCIL</p> <p style="text-align: center;">11/29/21</p>
<p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</p> <p>STREET ADDRESS:</p> <p>MAILING ADDRESS:</p> <p>CITY AND ZIP CODE:</p> <p>BRANCH NAME:</p>	
<p>PETITIONER/PLAINTIFF:</p> <p>RESPONDENT/DEFENDANT:</p> <p>OTHER PARENT/PARTY:</p>	
<p style="text-align: center;">CONFIDENTIAL CHILD CUSTODY EVALUATION REPORT UNDER FAMILY CODE SECTION 3118</p>	<p>CASE NUMBER:</p>

NOTICE

This child custody evaluation report is private and confidential.

- ▶ **At least 10 days before any hearing regarding custody of the child, the evaluator must file the report with the clerk of the court, and serve it on the parties or their attorneys and counsel appointed for the child.**
- ▶ **The report may not be made available to anyone other than the parties or their attorneys, counsel appointed for the child, and the court.**

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1. The *Order Appointing Child Custody Evaluator* (form FL-327) filed on (date) _____ is attached (see Attachment 1).
2. The names and dates of birth of each child are (specify): Additional children are listed on Attachment 2.

Child's name

Date of birth

3. Dependency court orders

- a. There are no dependency court orders that might affect child custody.
- b. There are dependency court orders that might affect child custody, as follows: See Attachment 3b(1).

(1) Court (county, state) Case number Date order filed

- (2) Any dependency court orders or findings that might have a bearing on the child custody dispute in family court are summarized (specify): Below: See Attachment 3b(2).

4. Summary of child welfare agency investigations and recommendations

- a. The children listed in 2 and the children's parents are or have been the subject of a child abuse investigation (specify):
 Yes No (Skip b through f; go to item 5.)
- b. I consulted with the agencies providing child welfare services about the serious allegation of child sexual abuse or the allegation of child abuse, reviewed the child welfare agencies' files, and obtained recommendations from social workers about each child's safety and need for protection. (You must not photocopy any document contained in the child welfare services agency file.)
- c. The status or disposition of the investigation about the safety of each child is (specify): Below: See Attachment 4c.

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- d. The contact information for each social worker is (*specify*): See Attachment 4d.
- | | |
|--------------------|--------------------|
| Name: | Name: |
| Telephone No.: | Telephone No.: |
| Mailing Address: | Mailing Address: |
| City and Zip Code: | City and Zip Code: |
| Email address: | Email address: |
- e. A summary of all child welfare agency investigations about the safety of each child (including statements made by each child and the parents, information about child abuse, domestic violence, or substance abuse, and recommendations made or anticipated to be made regarding safety of each child) are (*specify*): Below: See Attachment 4e.

- f. Recommendations made or anticipated to be made by each social worker to the juvenile court about the safety and need for protection of each child are (*specify*): Not applicable to this case. Below: See Attachment 4f.

5. Summary of law enforcement investigation and recommendations

- a. I consulted with law enforcement about the serious allegation of child sexual abuse or the allegation of child abuse and obtained recommendations from these professionals about each child's safety and need for protection.
- b. Recommendations from each law enforcement professional about each child's safety and need for protection are summarized (*specify*): Below: See Attachment 5b.
- c. I obtained from a law enforcement investigator all available information obtained from criminal background checks of (*specify*): the parents any suspected perpetrator that is not a parent including information about child abuse, domestic violence, or substance abuse.
- d. A summary of the information obtained from each law enforcement investigator is (*specify*): Below: See Attachment 5d.

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6. Multidisciplinary and forensic examinations; interview of the child

a. Multidisciplinary interview team (MDIT) interviews

- (1) I reviewed the results of the MDIT interview.
- (2) I requested an MDIT interview because (*select one*):
 - (a) There was no MDIT interview of the child.
 - (b) I believe that the MDIT interview was inadequate for purposes of this investigation.
- (3) I interviewed each child because (*select one*):
 - (a) There was no MDIT interview of the child.
 - (b) I believe that the MDIT interview was inadequate for purposes of this investigation.
- (4) Whenever possible, I avoided repeated interviews of the child.
- (5) A summary of the MDIT my interview of each child is: Below: See Attachment 6a(5).

- (6) Written documentation of the MDIT my interview of each child is attached (see Attachment 6a(6)).
- (7) I obtained information about the presence of domestic violence or substance abuse in the family from (*specify*):
 the MDIT interview my interview with each child. A summary of the information is (*specify*):
 Below: See Attachment 6a(7).

b. Forensic examination of the child

- (1) I reviewed the forensic medical examinations of each child.
- (2) No forensic medical examination of the child or children was conducted, and (*select (a) or (b)*):
 - (a) I requested a forensic medical examination of each child.
 - (b) I did not request a forensic medication examination. The examination is not needed because (*explain*):
 Below: See Attachment 6b(2)(B).

- (3) A summary of the forensic medical examination of each child is (*specify*): Below: See Attachment 6b(3).

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(4) I obtained information about the presence of domestic violence or substance abuse in the family from this source.
 A summary of the information is (*specify*): Below: See Attachment 6b(4).

(5) A copy of all written forensic medical reports is included with this report. See Attachment 6b(5).

7. Documentation of other material interviews; relevant background material

a. I interviewed the parents.

(1) A summary of each interview is (*specify*): Below: See Attachment 7a(1).

(2) Written documentation of each interview is attached (see Attachment 7a(2)).

(3) I obtained information about the presence of domestic violence or substance abuse in the family from this source.
 A summary of the information is (*specify*): Below: see Attachment 7a(3).

b. Prior or currently treating therapists

(1) I interviewed each child's current therapist prior therapist treating for suspected child abuse.
 A summary of each interview (excluding any privileged communication) is Below: See Attachment 7b(1).

(2) I reviewed I obtained written reports from therapists treating each child for suspected child abuse.
 A summary of each report (excluding any privileged communication) is: Below: See Attachment 7b(2).

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- (3) All written reports from the therapists (excluding privileged communication) are attached (see Attachment 7b(3).)
- (4) I obtained information about the presence of domestic violence or substance abuse in the family from this source.
 A summary (excluding privileged communication) is (*specify*): Below: See Attachment 7b(4).

c. Medical personnel; other medical examinations

- (1) I interviewed other medical personnel who provided relevant information (*specify in summary*).
- (2) I reviewed I obtained all written results from other medical examinations or treatments that could help establish or disprove whether each child has been the victim of sexual abuse or other child abuse under Family Code section 3118.
- (3) A summary of each interview examination result is: Below: See Attachment 7c(3).

- (4) All written reports from the above medical examinations are attached (see Attachment 7c(4)).
- (5) I obtained information about the presence of domestic violence or substance abuse in the family from this source.
 A summary of the information is (*specify*): Below: See Attachment 7c(5).

d. Other professionals

- (1) I interviewed other professionals who provided relevant information (*specify in summary*).
- (2) I reviewed I obtained all written results from other professionals that could help establish or disprove whether the child has been the victim of sexual abuse or other child abuse under Family Code section 3118.
- (3) A summary of each interview examination result is: Below: See Attachment 7d(3).

- (4) All written reports from other professionals are attached (see Attachment 7d(4)).

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(5) I obtained information about the presence of domestic violence or substance abuse in the family from these sources.
 A summary of the information is (*specify*): Below: See Attachment 7d(5).

e. Other witnesses

(1) I interviewed other witnesses who provided relevant information (*specify in summary*).
 (2) A summary of each interview is (*specify*): Below: See Attachment 7e(2).

(3) Written documentation of each witness interviewed is attached (see Attachment 7e(3)).
 (4) I obtained information about the presence of domestic violence or substance abuse in the family from these sources.
 A summary of the information is (*specify*): Below: See Attachment 7e(4).

8. Victims of Crime Program

List which, if any, family members are known to have been deemed eligible for assistance from the Victims of Crime Program due to child abuse or domestic violence (*specify*): Below: See Attachment 8.

9. Limitations in the evaluation

Describe any limitations in the evaluation that result from unobtainable information, failure of a party to cooperate, or the circumstances of particular interviews. Below: See Attachment 9.

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10. **Other**

Additional information that I believe would be helpful to the court in determining the best interests of the child under Family Code section 3011 (*specify*): Below: See Attachment 10.

11. **My recommendations** regarding the therapeutic needs of each child and how to ensure the safety of each child are (*specify*):

Below: See Attachment 11.

12. **Summary of procedures**

I have summarized the data-gathering procedures, information sources, and time spent, and present all relevant information, including information that does not support the conclusions reached. Below: See Attachment 12.

13. Number of pages attached: _____

Date:

(NAME OF EVALUATOR)


SIGNATURE OF EVALUATOR