FAMILY LAW COURT SERVICES, HEARINGS, DISCOVERY, AND MORE!

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MVLS
MARYLAND VOLUNTEER LAWYERS SERVICE

OVERVIEW

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- Attorney for Children
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- Default

COURT SERVICES

- Parenting Seminars
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- Psychological Evaluation
- Substance Abuse Screening
- Custody Mediation versus Property Mediation
- Settlement/Pre-Trial Conference

PARENTING SEMINARS

Parenting seminars are intended to help the parties learn how to co-parent with one another, both during the course of the litigation and after and are not intended to instruct the parties on how to parent their children.

Parenting seminars are almost always ordered in contested custody matters and are often ordered at the time in which the scheduling conference notice is issued by the Court. Most, if not all, parenting seminars are online, and in some jurisdictions, the Court is automatically notifed if/when a party completes the seminar.

In high conflict custody cases (i.e., ones with frequent contested litigation), additional parenting seminars beyond the basics may be ordered by the Court.

CUSTODY EVALUATION

Custody and visitation–related assessments provide the court with important evidence in cases involving disputes over when a child spends time with each parent, and how major decisions for the child will be made. These assessments may include full custody evaluations, specific-issue evaluations, mental health evaluations, and home studies, depending on the issues presented in the case.

A custody evaluation is conducted by a licensed mental health professional to assist the court in determining appropriate legal and physical custody arrangements for minor children. The evaluator undertakes a comprehensive investigation, which may include interviews with the parents and child, psychological testing, home visits, collateral interviews with third parties such as teachers or medical providers, and review of relevant records, and then prepares a written report containing custody-related recommendations; the evaluator may also be called to testify at trial.

In some Maryland counties, the court offers access to a court-employed custody evaluator at a reduced cost, while other counties do not provide this service. Regardless of county resources, the parties may jointly retain, or the court may appoint, a private custody evaluator at the parties' expense.

PSYCHOLOGICAL EVALUATION

Psychological evaluations can be ordered by the Court or requested by either party if one or both party's or a minor child's mental health is called into question. In most instances, the psychological evaluator will prepare a written report and is available to testify in Court at the time of trial if necessary. The cost for the psychological evaluation can be paid by either party or shared jointly.

SUBSTANCE ABUSE SCREENING

·Substance abuse screenings can be ordered by the Court or requested by either party if one or both party has or has had a history of drug or alcohol abuse. In most instances, the substance abuse evaluator will prepare a written report and is available to testify in Court at the time of trial if necessary. In some counties, substance abuse screening is available to the parties free of cost, while other counties do not offer this service. In either situation, the parties can seek to hire a private expert to complete the substance abuse screening, either jointly or individually, at a cost to themselves.

MEDIATION

Custody mediation is oftentimes mandatory under Maryland law, unless there is an issue of domestic violence between the parents; however there does not need to be a protective order in place for domestic violence to exist. If appropriate, the parties will be ordered to attend two (2) 2-hour mediation sessions with a court approved and qualified mediator for a fee that is typically divided equally between the parties. Counsel for the parties do not have to attend child custody mediation.

Property mediation can be ordered by the Court at the time of the scheduling conference; however, unlike child custody mediation, property mediation is not mandatory, and both parties must agree to participate in this type of mediation. Counsel does not have to attend mediation, although the mediator (or a particular jurisdiction) may request that they do so. As with child custody mediation, the parties will be ordered to attend two (2) 2-hour mediation sessions with a court approved and qualified mediator for a fee that is typically divided equally between the parties. However, if counsel for the parties' attends property mediation, each party is generally responsible for the cost associated with their respective attorney.

SETTLEMENT/PRE -TRIAL CONFERENCE

The settlement/pre-trial conference is scheduled before a Judge or Magistrate and is an attempt to assist the parties in resolving any outstanding issues in their case. The parties and their respective counsel are required to attend. If at the end of the settlement/pre-trial conference the parties are unable to reach an agreement, the case will be scheduled for a merits hearing if it has not been previously scheduled.

HEARINGS

PENDENTE LITE **HEARING** **-** ·The *Pendente Lite* Hearing allows the Court to temporarily resolve certain issues (i.e. custody, child support, alimony, possession and use of the family home/property), and/or attorney's fees until a final hearing on all the issues in a case is held.

EXPEDITED HEARING **-** An expedited hearing is essentially a *pendente lite* hearing on a faster track. Not all jurisdictions allow for expedited hearings and it needs to be requested via separate motion. The moving party must show that delay will cause meaningful harm, prejudice, or irreparable consequences, even if the situation is not life-threatening.

EX PARTE **HEARING** **-** An *ex parte* hearing allows the court to act before the opposing party is heard, but only under very limited circumstances and only if the Maryland Rules regarding *ex parte* relief are strictly followed. The requesting party must show that providing notice would cause immediate and irreparable harm CHECK THE DCM IN YOUR JURISDICTION!

EMERGENCY HEARING **-** An emergency hearing focuses on imminent danger to a child, a party, or significant property interests. Unlike *ex parte* hearings, emergency hearings often involve notice to the other side when feasible, even on extremely short notice. CHECK THE DCM IN YOUR JURISDICTION

MOST COMMON DISCOVERY TOOLS IN FAMILY LAW

Discovery Tool	What It Is	Pros	Cons	Cost	Best Use
Interrogatories	Written questions answered under oath identifying facts, positions, and witnesses.	Low cost; locks in sworn statements; useful early.	Answers often evasive or attorney-crafted.	Low to moderate.	Establishing baseline facts and framing later discovery.
Requests for Production	Formal requests for documents or electronically stored information.	Essential for proving claims; relatively cost-effective.	Incomplete production and objections common.	Moderate.	Verifying financial and factual assertions.
Depositions	Live, sworn testimony taken outside of court.	Real-time follow-up; credibility testing; strong impeachment tool.	Expensive and time-intensive.	High.	High-conflict cases or credibility-driven issues.
Requests for Admissions	Written requests to admit or deny specific facts or document authenticity.	Low cost; narrows issues; unanswered requests deemed admitted.	Limited value if poorly drafted or overused.	Low.	Streamlining trial and eliminating undisputed facts.
Records Depositions / Subpoenas	Discovery directed to third parties for records or testimony.	Reliable evidence; bypasses uncooperative parties.	Privacy objections and procedural hurdles.	Variable.	Obtaining employment, financial, medical, or school records.

DISCOVERY DISPUTES

Stage	No Response to Discovery (Noncompliance)	Deficient Discovery Responses (Adequacy Issues)
Discovery Served	Discovery properly served and response deadline passes with no response.	Discovery responses are timely served but are incomplete or improper.
Initial Review	Confirm proper service and verify response deadline has passed.	Identify specific deficiencies such as missing documents, incomplete answers, or improper objections.
Good-Faith Effort	Send a non-response notice with a firm cure deadline.	Send a detailed deficiency letter identifying each issue and setting a cure deadline.
Informal Resolution	Await response following non-response notice.	Attempt to resolve through narrowing requests, redactions, or protective orders.
If Issue Persists	No response is received after notice.	Deficiencies are not cured by the deadline.
Motion to Compel	File a motion to compel based on complete nonresponse, including certification of good-faith efforts.	File a limited motion to compel addressing only the disputed items.
Court Order	Court orders discovery responses by a date certain.	Court orders supplemental responses or production.
Post-Order Compliance	Party complies with or violates the court's order.	Party complies with or violates the court's order.
If Court Order Violated	File a motion for sanctions.	File a motion for sanctions.
Potential Sanctions	Attorney's fees, cost-shifting, evidentiary limitations, adverse inferences, contempt, or dismissal.	Escalated remedies based on repeated or bad-faith noncompliance.

ATTORNEYS FOR CHILDREN

- Privilege Attorney
- Best Interest Attorney
- Advocacy Attorney

CHILD PRIVILEGE ATTORNEY

- Role: This attorney is appointed specifically to decide whether a child's confidential communications with therapists, doctors, or counselors should remain private or can be shared in court.
- Focus: Protecting the child's privacy rights, especially regarding sensitive mental health or medical information.
- Not the child's general lawyer: They do not represent the child's wishes or best interests in the overall case - just the issue of privilege (confidentiality).

BEST INTEREST ATTORNEY

- Role: This attorney is appointed to represent the child’s best interests, even if that is different from what the child wants.
- Focus: The BIA investigates the situation, talks to the child and others involved, and makes recommendations to the court about what outcome would be best for the child’s safety, well-being, and development.
- Not the child’s voice: The BIA does not have to advocate for what the child says they want, but instead for what the attorney believes is best for the child.

CHILD ADVOCACY ATTORNEY

- Role: This attorney represents the child as a traditional client, just like an adult would have a lawyer.
- Focus: The attorney must advocate for what the child wants, as long as the child is old enough and able to express their wishes.
- Child’s voice in court: The attorney’s job is to make sure the child’s preferences are heard and argued for in court, even if others disagree with those wishes.

MD RULE 9 -205.1

Under **Maryland Rule 9 -205.1**, courts have discretion to appoint counsel for a child when the circumstances of a custody or access dispute warrant independent representation. In making that determination, the court typically considers a range of case-specific factors, including:

- The level of conflict between the parties and whether that conflict hinders fair representation of the child's interests;
- Concerns about inappropriate adult influence or manipulation affecting the child's position;
- Any history or allegations of child abuse or neglect or family violence;
- Actual or threatened domestic violence or other safety concerns;
- The child's special physical, educational, or mental health needs that require investigation or advocacy;
- Past or current mental health problems or substance abuse issues involving a party;
- Whether one or both parties have requested the child be represented;
- Whether custody or visitation changes such as terminating or suspending parenting time, or awarding custody to a non-parent, are under consideration;
- Other relevant factors the court deems necessary to ensure the child's interests are adequately represented.

HOW TO INVOLVE AN ATTORNEY FOR CHILDREN

- By agreement of the parties at the scheduling conference or via Joint Motion
- By Motion of one party
  - Pleading should include:
    - Position of other party
    - Relevant case history
    - Examples from the case directly related to the factors listed in Rule 9-205.1
    - Statement of why the child attorney is necessary in this case, i.e., how will such an attorney help the child and the court?
    - Each party's position on who should serve as the child attorney and on fee splitting
- *Sua sponte* based on the allegations in the pleadings

ALTERNATE SERVICE

Service of Process: Generally: In Maryland, service of process is governed by **Maryland Rule 2-121** The rule sets out the standard methods—personal delivery, leaving papers at the defendant's home with a suitable resident, or certified mail with restricted delivery. However, when these methods fail despite diligent, good-faith efforts, practitioners can seek "alternate service" by court order.

ALTERNATE SERVICE

Process for Obtaining Alternate Service: To obtain alternate service, you must file a motion with the court detailing your attempts at standard service. This motion should be supported by affidavits or declarations from process servers, returned mail receipts, and any other documentation showing multiple, genuine attempts at service. The court will review whether you have exhausted reasonable means and whether the defendant is evading service or simply cannot be located. If satisfied, the court may authorize a method reasonably calculated to give actual notice—such as service by regular mail, email, posting at a known address, or publication. The key is that the proposed method must not be substantially less likely to provide notice than other available options, in line with due process requirements.

CHECK OUT FORM CCDR070

ALTERNATE SERVICE

What Must Be Proven: You must demonstrate two things: (1) that you made diligent, good-faith efforts to serve the defendant by the standard methods, and (2) that those methods are impractical or impossible under the circumstances. The court has broad discretion, but your motion should be thorough and well-documented. If alternate service is granted, you must strictly comply with the court's order and file proof of service as directed. Failure to follow these procedures can result in dismissal for lack of jurisdiction.

DEFAULTS GENERALLY

Default is a court ruling that allows a case to move forward when one party fails to participate as required. Most commonly, this happens when a party is properly served but does not file a timely response. For example, if a defendant does not file an Answer to a Complaint for Divorce, the plaintiff may request that the defendant be held in default; similarly, if a plaintiff fails to respond to a counterclaim, the defendant may seek a default on that counterclaim.

In Maryland, a request for default can be made using ***Form CCDR054*** . If the court is satisfied that service was properly completed and no response was filed, it will issue an Order of Default, which allows the case to proceed without the non-responding party's participation.

Once an Order of Default is entered, the defaulted party has 30 days to ask the court to vacate, or undo, the order and explain why no response was filed. If no request to vacate is filed within that time, the court will schedule a hearing so the case can move forward toward resolution, even without the other party present.

DEFAULTS AND CUSTODY

A default in a Maryland child custody case does not permit the court to award custody or modify custody solely on the basis of the default; the court remains obligated to conduct a full evidentiary hearing and make an independent determination of the child's best interests. The child's right to a best-interest determination is paramount and cannot be forfeited or bypassed due to a parent's procedural default.

DEFAULTS

Pros of Default	Cons of Default
Keeps the case moving when one party refuses to participate	Not an automatic win; the moving party must still prove the case
Prevents delay as a litigation tactic	Defaults are often vacated if promptly challenged
Limits the non-responsive party's ability to control the process	Courts still apply best-interest and fairness standards
Can prompt a non-responsive party to engage or retain counsel	Can increase cost and conflict if the case later reopens
Allows the court to proceed toward resolution	Relief may be narrower than requested, especially in custody cases

QUESTIONS?