



PSYCHOSOCIAL ASSESSMENTS IN FAMILY MATTERS: Part of the Evidence

A psychosocial assessment is an assessment performed by a specialist in social sciences. It is a complete and unbiased assessment of the family and social situation of a child about whom there is a court dispute involving custody or visitation rights.

The purpose of the expert assessment is to enlighten the judge about certain scientific or technical matters with which the judge is not familiar.¹ A psychosocial assessment is but one of the elements of evidence submitted to a court—it is not a magic wand.

Depending on the circumstances, the expert may be a social worker or a psychologist with the necessary qualifications and experience, who is chosen by one of the parties or by both of them acting jointly. The expert must meet with the child, the parents and any other person who has relevant personal information about the child and the parents. For example, the expert may contact a person who has been involved in the file, a social worker, a teacher or a physician. If the expert deems it necessary, a psychological or psychiatric evaluation of the child and/or the parents may be carried out. Once the assessment is complete, the expert presents a written report containing his observations and recommendations to the person who gave him the mandate to carry out the assessment. If the report is filed in the court record, the expert may be called to testify in court.

Are the expert's recommendations always followed? No, because a judge is not bound by expert testimony.² The probative value of the report is left to the court's discretion, but **should not be rejected unless there are serious reasons to do so**. If a judge decides not to follow the expert's recommendations, he must state his reasons.

A party may ask for a second opinion from another expert. Sometimes the court favours an amicable settlement; if so, it will encourage the experts to meet and discuss their recommendations so as to find a middle ground.

Obtaining a psychosocial assessment is not the norm in disputes about custody or access rights involving a minor child. Such evidence may be useful in cases where the parental capacity of one or both of the parents is in dispute or where the child's conduct is particularly unusual. The behaviour and reaction of children faced with the breakup of their family can be complex and difficult to grasp; therefore, judges sometimes appreciate having a professional's assessment.

¹ *Dorion v. Roberge*, (1991) 1 S.C.R. 374.

² *Idem*.

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* The information set out in this document is not a legal interpretation.

The masculine is used to designate persons solely in order to simplify the text.