

**Boards of Psychology and Medicine Workgroup
HB768**

**Monday, July 20, 2026
10:00 am**

**Perimeter Circle
9960 Mayland Drive, Suite 201, Board Room 3
Henrico, VA 23233**

Call to Order and Roll Call

Emergency Egress Procedures

Introduction of Workgroup Members

Adoption of Agenda

Public Comment on Agenda Items

New Business

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2. Discussion regarding health regulatory boards' complaint, investigation, and disciplinary process – DHP process overview by DHP staff..... 4
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VIRGINIA ACTS OF ASSEMBLY - 2026 RECONVENED SESSION

CHAPTER 1116

An Act to amend and reenact § 20-124.2 of the Code of Virginia, relating to custody and visitation arrangements for minor; custody evaluation; report.

[H 768]

Approved May 14, 2026

Be it enacted by the General Assembly of Virginia:

1. That § 20-124.2 of the Code of Virginia is amended and reenacted as follows:

§ 20-124.2. Court-ordered custody and visitation arrangements.

A. In any case in which custody or visitation of minor children is at issue, whether in a circuit or district court, the court shall provide prompt adjudication, upon due consideration of all the facts, of custody and visitation arrangements, including support and maintenance for the children, prior to other considerations arising in the matter. The court may enter an order pending the suit as provided in § 20-103. The procedures for determining custody and visitation arrangements shall insofar as practical, and consistent with the ends of justice, preserve the dignity and resources of family members. Mediation shall be used as an alternative to litigation where appropriate. When mediation is used in custody and visitation matters, the goals may include development of a proposal addressing the child's residential schedule and care arrangements, and how disputes between the parents will be handled in the future.

B. In determining custody, the court shall give primary consideration to the best interests of the child. The court shall consider and may award joint legal, joint physical, or sole custody, and there shall be no presumption in favor of any form of custody. The court shall assure minor children of frequent and continuing contact with both parents, when appropriate, and encourage parents to share in the responsibilities of rearing their children. As between the parents, there shall be no presumption or inference of law in favor of either. The court shall give due regard to the primacy of the parent-child relationship but may upon a showing by clear and convincing evidence that the best interest of the child would be served thereby award custody or visitation to any other person with a legitimate interest.

B1. In any case or proceeding involving the custody or visitation of a child, as to a parent, the court may, in its discretion, use the phrase "parenting time" to be synonymous with the term "visitation."

B2. In any case or proceeding in which a grandparent has petitioned the court for visitation with a minor grandchild, and a natural or adoptive parent of the minor grandchild is deceased or incapacitated, the grandparent who is related to such deceased or incapacitated parent shall be permitted to introduce evidence of such parent's consent to visitation with the grandparent, in accordance with the rules of evidence. If the parent's consent is proven by a preponderance of the evidence, the court may then determine if grandparent visitation is in the best interest of the minor grandchild. For the purposes of this subsection, "incapacitated parent" has the same meaning ascribed to the term "incapacitated person" in § 64.2-2000.

C. The court may order that support be paid for any child of the parties. Upon request of either party, the court may order that such support payments be made to a special needs trust or an ABLE savings trust account as defined in § 23.1-700. The court shall also order that support will continue to be paid for any child over the age of 18 who is (i) a full-time high school student, (ii) not self-supporting, and (iii) living in the home of the party seeking or receiving child support until such child reaches the age of 19 or graduates from high school, whichever first occurs. The court may also order that support be paid or continue to be paid for any child over the age of 18 who is (a) severely and permanently mentally or physically disabled, and such disability existed prior to the child reaching the age of 18 or the age of 19 if the child met the requirements of clauses (i), (ii), and (iii); (b) unable to live independently and support himself; and (c) residing in the home of the parent seeking or receiving child support. In addition, the court may confirm a stipulation or agreement of the parties which extends a support obligation beyond when it would otherwise terminate as provided by law. The court shall have no authority to decree support of children payable by the estate of a deceased party. The court may make such further decree as it shall deem expedient concerning support of the minor children, including an order that either party or both parties provide health care coverage or cash medical support, or both.

D. In any case in which custody or visitation of minor children is at issue, whether in a circuit or district court, the court may order *a custody evaluation* or an independent mental health or psychological evaluation to assist the court in its determination of the best interests of the child. The court may enter such order as it deems appropriate for the payment of the costs of the evaluation by the parties.

E. The court shall have the continuing authority and jurisdiction to make any additional orders necessary to effectuate and enforce any order entered pursuant to this section or § 20-103 including the authority to punish as contempt of court any willful failure of a party to comply with the provisions of the order. A parent or other person having legal custody of a child may petition the court to enjoin and the court may enter an

order to enjoin a parent of the child from filing a petition relating to custody and visitation of that child for any period of time up to 10 years if doing so is in the best interests of the child and such parent has been convicted of an offense under the laws of the Commonwealth or a substantially similar law of another state, the United States, or any foreign jurisdiction which constitutes (i) murder or voluntary manslaughter, or a felony attempt, conspiracy or solicitation to commit any such offense, if the victim of the offense was a child of the parent, a child with whom the parent resided at the time the offense occurred, or the other parent of the child, or (ii) felony assault resulting in serious bodily injury, felony bodily wounding resulting in serious bodily injury, or felony sexual assault, if the victim of the offense was a child of the parent or a child with whom the parent resided at the time of the offense. When such a petition to enjoin the filing of a petition for custody and visitation is filed, the court shall appoint a guardian ad litem for the child pursuant to § 16.1-266.

F. In any custody or visitation case or proceeding wherein an order prohibiting a party from picking the child up from school is entered pursuant to this section or § 20-103, the court shall order a party to such case or proceeding to provide a copy of such custody or visitation order to the school at which the child is enrolled within three business days of such party's receipt of such custody or visitation order.

If a custody determination affects the school enrollment of the child subject to such custody order and prohibits a party from picking the child up from school, the court shall order a party to provide a copy of such custody order to the school at which the child will be enrolled within three business days of such party's receipt of such order. Such order directing a party to provide a copy of such custody or visitation order shall further require such party, upon any subsequent change in the child's school enrollment, to provide a copy of such custody or visitation order to the new school at which the child is subsequently enrolled within three business days of such enrollment.

If the court determines that a party is unable to deliver the custody or visitation order to the school, such party shall provide the court with the name of the principal and address of the school, and the court shall cause the order to be mailed by first class mail to such school principal.

Nothing in this section shall be construed to require any school staff to interpret or enforce the terms of such custody or visitation order.

2. That the Board of Psychology (the Board), in consultation with the Board of Medicine, shall convene a stakeholder advisory group no later than July 1, 2026, to study and make recommendations to the General Assembly regarding the availability of qualified mental health professionals willing to serve as court-appointed experts in family law proceedings, including in custody evaluations. The advisory group shall include licensed psychologists and psychiatrists who perform custody evaluations, representatives of the Virginia State Bar Family Law Section, circuit court judges who preside over domestic relations matters, and such other stakeholders as the Board deems appropriate. The advisory group shall (i) examine the extent to which licensing board complaints and investigation processes deter qualified professionals from accepting court appointments, (ii) review regulatory approaches adopted by other states to address this issue, and (iii) assess whether regulatory or statutory action is warranted in Virginia to provide appropriate protections for mental health professionals serving as court-appointed evaluators while maintaining adequate standards of professional accountability. The advisory group shall also develop specific recommendations to increase the number of qualified mental health professionals willing to perform court-appointed custody evaluations and provide expert testimony in child custody and other domestic relations cases in Virginia's courts, including any training, certification, compensation, liability, or regulatory reforms that would expand the pool of available evaluators and improve access to expert testimony. The Board shall report its findings and recommendations to the Chairs of the Senate Committee for Courts of Justice and the House Committee on Health and Human Services no later than November 1, 2026.

Code of Virginia
Title 54.1. Professions and Occupations
Chapter 25. Department of Health Professions

§ 54.1-2506.01. Investigation of reported violations.

The Department shall investigate all complaints that are within the jurisdiction of the relevant health regulatory board received from (i) the general public and (ii) all reports received pursuant to §§ 54.1-2400.6, 54.1-2400.7, 54.1-2709.3, 54.1-2709.4, 54.1-2908, or § 54.1-2909.

2003, cc. 753, 762; 2004, c. 64.

State	Description of Immunity	Source
Alabama	None other than immunity for reporting child abuse or neglect.	Section 26-14-9 Immunity from Liability for Actions
Alaska	The doctrine of absolute judicial immunity extends not only to judges but to others who perform duties sufficiently related to the judicial process. ⁹ We have previously stated that the "clearest case for quasi-judicial immunity is presented in instances where some aspect of the court's adjudicative responsibility is delegated to another official such as a master or referee. And in Alaska, as well as in almost all other jurisdictions, neutral court-appointed experts are also shielded by absolute quasi-judicial immunity."	Christoffersen v. State, Court Custody Investigator's Office, 242 P.3d 1032 (Alaska 2010). Also see Lythgoe v. Guinn 884 P.2d 1085 (Alaska 1994)
Arizona	Judicial immunity protects both the finality of judgments and judicial independence. Grimm v. Arizona Bd. of Pardons & Paroles, 115 Ariz. 260, 264, 564 P.2d 1227, 1231 (1977). In Grimm, the Arizona Supreme Court delineated additional reasons: (1) the need to save judicial time in defending suits; (2) the need for finality in the resolution of disputes; (3) to prevent deterring competent persons from taking office; (4) to prevent the threat of lawsuit from discouraging independent action; and (5) the existence of adequate procedural safeguards such as change of venue and appellate review. 115 Ariz. at 264-65, 564 P.2d at 1231-32. These policy reasons apply equally to court-appointed officials such as psychologists and psychiatrists who assist the court in making decisions. Without immunity, these professionals risk exposure to lawsuits whenever they perform quasi-judicial duties. Exposure to liability could deter their acceptance of court appointments or color their recommendations. Seibel v. Kemble, 63 Haw. 516, 631 P.2d 173, 180 (1981). Threat of liability could undermine objectivity and independence. Acevedo, 142 Ariz. at 321, 690 P.2d at 40. Immunity removes the possibility that a professional who is delegated judicial duties to aid the court will become a "lightning rod for harassing litigation." Id. (quoting Kermit Const. Corp. v. Banco Credito Y Ahorro Ponceno, 547 F.2d 1, 3 (1st Cir.1976)).	Lavit v. Superior Court In and For County of Maricopa, 839 P.2d 1141, 173 Ariz. 96 (Ariz.App. 1992)
Arkansas	We recently examined the concept of judicial immunity in Robinson v. Langdon, 333 Ark. 662, 970 S.W.2d 292 (1998). We noted that judicial immunity is absolute immunity, and we adopted a six-factor test to be considered in determining absolute immunity: (1) the need to assure that the individual can perform his functions without harassment or intimidation, (2) the presence of safeguards that reduce the need for private damages actions as a means of controlling unconstitutional conduct, (3) insulation from political influence, (4) the importance of precedent, (5) the adversary nature of the process, and (6) the correctability of error on appeal. Robinson, 333 Ark. at 670, 970 S.W.2d at 296. Consistent with these factors, the parties agree that absolute judicial immunity extends to physicians appointed by courts to assist in "evaluations." However, the parties dispute whether judicial immunity continues to shield the court-appointed physician when the evaluation phase progresses to treatment or therapy. Significantly, there is no Arkansas case law on point. Public policy considerations also compel us to extend judicial immunity to court-appointed therapists. Psychologists and other experts would be reluctant to accept appointments if they were subject to personal liability for actions taken in their official capacities. See Doe v. Hennepin County, 623 F. Supp. 982, 986 (D.C. Minn. 1985). In that vein, we agree with the Minnesota District Court that court-appointed therapists are entitled to absolute immunity for acts committed "within the scope of their appointments." Doe, 623 F. Supp. at 986.	Chambers M.D. v. Stern M.D., 994 S.W.2d 463, 338 Ark. 332 (Ark. 1999)
California	Quasi-judicial immunity has been extended to three classes of individuals. The first class includes commissioners, referees, and hearing officers who act as temporary judges or otherwise perform subordinate judicial duties. (Holt, supra, 85 Cal.App.5th at p. 621; see also <i>ibid.</i> [noting that this class also includes prosecutors, grand jurors, and others connected with the judicial process through investigating crimes and instituting criminal proceedings].) The second class includes mediators, neutral factfinders, and others "who function apart from the courts but are engaged in neutral dispute resolution." (Id. at p. 622.) The third class afforded quasi-judicial immunity is individuals "who serve functions integral to the judicial process and act as arms of the court." (Ibid.) This class includes not only court-appointed guardians, receivers, and trustees, but also therapists, evaluators, probation officers who prepare presentencing reports, and "psychiatrists involved in terminating parental rights." (Ibid.) Several cases have applied quasi-judicial immunity to individuals involved in family law matters. The seminal case is Howard v. Drapkin, supra, 222 Cal.App.3d 843. Quasi-judicial immunity bars the infliction of emotional distress claim at issue because, much like the evaluator in Bergeron, in suspending visitation Ouse was exercising a judicial function that the trial court delegated to her.	Vergara v. Ouse, H052022 (Cal. App. Dec 12, 2025). See also Howard v. Drapkin (1990) 222 Cal.App.3d 843 and Bergeron v. Boyd (2014) 223 Cal.App.4th 877
Colorado	The Colorado Supreme Court, in considering liability in medical third-party evaluations (Greenberg v. Perkins), delineated the following positions held by various courts: 1. In the absence of physician-patient relationship, a physician owes no duty to an examinee (the traditional view upheld by courts). 2. A duty of care exists if the examining physician undertakes in some way to act on behalf of the examinee or induces reasonable reliance by the person examined (also a view traditionally upheld by courts). 3. Medical malpractice standards govern, and a duty of care exists, simply on the basis of the relationship created by the referral and examination. 4. Medical malpractice standards govern the duty of the functions the physician agrees to undertake, but are limited in scope. 5. The absence of a physician-patient relationship precludes a malpractice action, but an ordinarily negligence action can be maintained in appropriate circumstances, based on the recognized principle that a person who assumes to act must act with care.	

Connecticut	"The litigation privilege is a long-standing [common-law] rule that communications uttered or published in the course of judicial proceedings are absolutely privileged so long as they are in some way pertinent to the subject of the controversy.... The privilege ... applies to every step of the proceeding until [its] final disposition ... including to statements made in pleadings or other documents prepared in connection with [the] proceeding. . . . The privilege originated in response to the need to bar persons accused of crimes from suing their accusers for defamation.... [It] then developed to encompass and bar defamation claims against all participants in judicial proceedings, including judges, attorneys, parties, and witnesses.... Subsequently, the privilege was expanded to bar a variety of retaliatory civil claims arising from communications or communicative acts occurring in the course of a judicial or quasi-judicial proceeding, including, but not limited to, claims for tortious interference, intentional infliction of emotional distress, fraud, and violations of CUTPA." (Citations omitted; internal quotation marks omitted.) <i>Deutsche Bank AG v. Vik</i> , supra, 349 Conn. 137. The Connecticut Supreme Court identified several factors that courts should consider in determining whether a claim is barred by the litigation privilege: "(1) whether the alleged conduct subverts the underlying purpose of a judicial proceeding, in a similar way to how _ conduct constituting abuse of process and vexatious litigation does; (2) whether the alleged conduct is similar in essential respects to defamatory statements, inasmuch as a defamation action is barred by the privilege; and (3) whether the alleged conduct may be adequately addressed by other available remedies... . [T]hese factors ... are simply instructive, with the focus being on the issues relevant to the competing interests in each case in light of the particular context of the case. . . . [Courts] are not required to rely exclusively or entirely on *11 11 these factors; rather, they are useful when undertaking a careful balancing of all competing public policies implicated by the specific claim at issue and determining whether affording [parties] this common-law immunity from this common-law action is warranted." (Citations omitted; internal quotation marks omitted.) <i>Id.</i> , 139. the defendant is entitled to absolute immunity and the litigation privilege as to counts two (negligent infliction of emotional distress), three (negligent failure to disclose), four (fraud), and five (CUTPA - Connecticut Unfair Trade Practices Act).	<i>Sakon v. Smith</i> , HHD-CV-20-6136500-S (Conn. Super. Jun 10, 2025)
Delaware	US District Court case states that GAL is granted quasi-judicial immunity. I cannot find any other cases on the topic, especially as it relates to court appointed professionals in a custody case.	L.C. 1 v.. <i>State of Delaware</i> , C.A. No. 07-675-GMS-LPS (3rd Cir. 2008)
Florida	Statute presumes good faith. Must petition for disqualification to the presiding judge before filing an administrative complaint. If petitioner provides good cause, court will appoint another psychologist and determine assessment of fees. If a supplemental legal action is filed against the psychologist and the petitioner loses, then he/she is responsible for all reasonable costs and attorney fees for both parties. If psychologist is found liable, then psychologist is responsible for all fees.	61.122 Parenting plan recommendation; presumption of psychologist's good faith; prerequisite to parent's filing suit; award of fees, costs, reimbursement.—
Georgia	Section (a)(7) of 19-9-3 provides - The judge is authorized to order a psychological custody evaluation of the family or an independent medical evaluation. In addition to the privilege afforded a witness, neither a court appointed custody evaluator nor a court appointed guardian ad litem shall be subject to civil liability resulting from any act or failure to act in the performance of his or her duties unless such act or failure to act was in bad faith. The two cases referenced in the source column discuss quasi-judicial immunity for non-judicial actors but I could not find a case on point regarding quasi-judicial immunity for court appointed therapists. The cases provide that they must be exercising a judicial function.	19-9-3. Establishment and review of child custody and visitation. Also, <i>Withers v. Schroeder</i> , 304 Ga. 394, 819 S.E.2d 49 (Ga. 2018) and <i>Stanley v. Patterson</i> , 314 Ga. 582, 878 S.E.2d 529 (Ga. 2022)
Hawaii	The statute provides for the appointment of a custody evaluator and the necessary qualifications. It also provides that the judiciary shall establish a referral process to allow parties to file a complaint with the judiciary regarding a court-appointed child custody evaluator. Upon notification by a party of the party's intent to file a complaint against a child custody evaluator appointed under subsection (a), the judiciary may refer the complainant to the appropriate licensing authority. If the custody evaluator is not qualified then they may file a civil suit against the evaluator. I could not find any case law specifically related to the appointment of a custody evaluator, however, the Supreme Court of Hawaii stated in <i>Seibel</i> , we believe that the better position is to provide court-appointed psychiatrists absolute immunity from suit. In adopting this position, [*523] we do not condone negligence by persons in the performance of their duties or their failure to abide by a court order. The grant of absolute immunity is not intended to permit the doctors to hide behind the judicial shield. Rather, our position is necessary to maintain the orderly administration of the judicial process. Consequently, if court-appointed psychiatrists are not given the freedom to make difficult decisions, more and more persons will be institutionalized because of the possible adverse consequences. <i>Taig v. State</i> , supra. Courts have held that court-appointed psychiatrists were absolutely immune from suit when evaluating and reporting to the court on the mental condition of a patient which results in wrongful commitment. <i>Duzynski v. Nosal</i> , 324 F.2d 924 (7th Cir. 1963); <i>Bartlett v. Weimer</i> , 268 F.2d 860 (7th Cir. 1959); <i>Snyder v. Faget</i> , 295 Ala. 197, 326 So.2d 113 (1976); <i>O'Barr v. Feist</i> , 292 Ala. 440, 296 So.2d 152 (1974); <i>Cawthon v. Coffey</i> , 264 So.2d 873 (Fla. Dist. Ct. App. 1972); <i>Linder v. Foster</i> , 209 Minn. 43, 295 N.W. 299 (1940); <i>Schanbarger v. Kellogg</i> , 35 App. Div. 2d 902, 315 N.Y.S.2d 1013 (1970). These courts have provided various rationales to support the conclusion that court-appointed psychiatrists were entitled to the immunity accorded to their appointing judges.	§571-46.4 Child custody evaluators; qualifications; registry; complaints; <i>Seibel v. Kemble</i> , 63 Haw. 516, 631 P.2d 173 (Haw. 1981)
Idaho	Idaho has put together a comprehensive statute relating to the appointment of a custody evaluator, the qualifications necessary, the scope of the evaluation, the report and their qualified judicial immunity.	Idaho Rules of Family Law Procedure Rule 1004. Parenting Time Evaluation.

Illinois	The Appellate Court of Illinois essentially relied on US Supreme Court and Federal cases to find immunity for the court appointed evaluator. The Court state: Judges in Illinois and their court-appointed experts are entitled to absolute immunity from civil suit. Writing in exceptions to this doctrine for malicious or corrupt conduct precludes absolute immunity as proceedings are almost always necessary to determine the motives of the actor. We agree with the cases holding that the purpose of absolute immunity from civil suit for actors such as judges and their court-appointed experts cannot be accomplished with exceptions for conduct that is allegedly in bad faith, malicious or corrupt. Thus we find only two exceptions exist barring a defense of absolute immunity: where (1) the action is not taken in the judge's judicial capacity and (2) the action is taken in the complete absence of all jurisdiction. <i>Generes</i> , 277 Ill. App. 3d at 355. Finding otherwise would open the door for unsatisfied litigants to hound immune actors with litigation charging malice or corruption resulting in decision-making based on fear and intimidation. Precisely the outcome the doctrine of absolute immunity is intended to avoid.	Saud v. Gardner, 2019 IL App (1st) 180866-U. Sec. 604.10. Interviews; evaluations; investigation of the Illinois Marriage and Dissolution of Marriage Act provides that the court may appoint a professional to assist the court.
Indiana	There is a statute which provides immunity for court appointed GALs, CASA and their employees, there is no such statute for court appointed custody evaluators. However, there is an Indiana Appellate case which discusses quasi-judicial immunity. In that case, state social workers had been sued. The court noted, that same policy regarding judicial immunity justifies granting immunity to non-judicial officers who perform quasi-judicial functions. Id. This quasi-judicial immunity is given to people "performing tasks so integral or intertwined with the judicial process that these persons are considered an arm of the judicial officer who is immune." Id. Courts are, however, reluctant to apply quasi-judicial immunity too broadly, and if the "acts do not involve the judicial process so that a fear exists that freedom of judicial decision-making may be stifled," then the person or act in question should not be shielded by immunity. Lake Cnty. Juvenile Court v. Swanson, 671 N.E.2d 429, 435 (Ind.Ct.App.1996), trans. denied. To determine which acts are covered by quasi-judicial immunity, the United States Supreme Court has adopted a functional approach, where the court looks to the nature of the function performed rather than the identity of the actor who performed it. H.B., 713 N.E.2d at 302 (citing Forrester v. White, 484 U.S. 219, 224, 108 S.Ct. 538, 98 L.Ed.2d 555 (1988)). Under this approach, even judges are not immune for acts that stem from functions that are not adjudicative. Forrester, 484 U.S. at 219, 108 S.Ct. 538. Thus the "touchstone" when applying the functional approach is "performance of the function of resolving disputes between parties, or of authoritatively adjudicating private rights." Antoine v. Byers & Anderson, Inc., 508 U.S. 429, 435-36, 113 S.Ct. 2167, 124 L.Ed.2d 391 (1993). There are two overarching scenarios in which the functional approach leads to a grant of immunity. The first scenario is one in which there is a direct adjudication of rights, either by a judge or by someone performing an action that is functionally equivalent to that of a judge. Snyder v. Nolen, 380 F.3d 279, 286 (7th Cir.2004). The second scenario involves individuals who are carrying out the explicit orders of a judicial officer. Id. at 287.	IC 31-17-6-8 Civil immunity
Iowa	Iowa has a statute authorizing the appointment of an investigator in custody cases but nothing specific regarding custody evaluations. In the Muzingo case, the Supreme Court of Iowa determined that court-appointed psychiatrists are entitled to absolute quasi-judicial immunity. The court noted that the court had extended quasi-judicial immunity to court-appointed guardians ad litem. Babbe v. Peterson, 514 N.W.2d 726 (Iowa 1994). In determining whether absolute immunity applies, the focus is on the nature of the function performed, not on the identity or title of the particular actor. The key question in the present case is whether a court-appointed psychiatrist's and hospital's activities are an integral part of the judicial process so that to deny immunity would disserve the broader public interest that nonjudicial officers act without fear of liability. In the ROCKAS case, a court order was entered giving the child's therapist the authority to determine a change to the father's visitation. Because this authority was allocated to the therapist in a court order, the court determined that the therapist had quasi-judicial immunity. The court noted At the court's direction, Cowan determined what level of visitation was appropriate, which was to serve an integral function to that court by providing the judge presiding over the dissolution with impartial fact-gathering on the issue of visitation. The prospect of liability from suit would seriously erode the ability of persons in Cowan's position to carry out their independent fact-finding function and thereby impair the presiding judge's ability to carry out his or her judicial duties. See Muzingo, 518 N.W.2d at 777.	598.12B of the Dissolution of Marriage and Domestic Relations Chapter; Muzingo v. St. Luke's Hosp., 518 N.W.2d 776 (Iowa 1994); Rockas v. Stockdale, 826 N.W.2d 515 (Iowa App. 2012)
Kansas	Quasi judicial immunity. Evaluators can still face complaints or ethical challenges, often related to methodology, bias, or failure to gather information, but legal liability is significantly limited. Once designated as a testifying expert, some initial attorney-client privilege or work product protections may be lost, opening the evaluator to scrutiny under discovery rules.	
Kentucky	It is also clear under the law of this Commonwealth that court-appointed psychologists and custody evaluators are entitled to quasi-judicial immunity as a means to protect the integrity of the judicial process. <i>J.S. v. Berla</i> , 456 S.W.3d 19, 24 (Ky.App.2015); <i>Stone v. Glass</i> , 35 S.W.3d 827, 830 (Ky.App.2000). In <i>Stone</i> , this Court provided the following rationale for extending immunity to these individuals: First, if these individuals are subject to suit, they will be much less willing to serve the court in such a capacity. Second, a psychologist who agrees to fill the role of court-appointed evaluator will be less likely to offer the disinterested, objective opinion the court seeks in making such an appointment if he or she is subject to suit.	Feinberg v. Keeton, 493 S.W.3d 841 (Ky.Ct. App. 2016)

Louisiana	An expert appointed by a trial court to assist it in the adjudication of a case in which his special skill and knowledge may aid the court is an officer of the court from the time of his qualification until the rendition of final judgment in the case. The immunity of court-appointed psychiatrists under LSA—C.C.P. art. 373 was addressed by the Second Circuit in <i>S.T.J. v. P.M.</i>, 556 So.2d 244 (La.App. 2nd Cir. 1990). In affirming the dismissal of a suit against a court-appointed psychiatrist, S.T.J. relied on article 373 and adopted the reasoning of <i>Myers v. Morris</i>, 810 F.2d 1437 (8th Cir.), cert. denied, 484 U.S. 828, 108 S.Ct. 97, 98 L.Ed.2d 58 (1987), to find appointed psychologists are entitled to absolute immunity, protecting them from having to litigate the manner in which they perform these functions. S.T.J., 556 So.2d at 247. As the court noted in <i>S.T.J.</i>, the danger presented in not extending immunity to these court-appointed experts would result in psychologists avoiding future court appointments, and the fear of civil liability would mar opinions and recommendations provided to the courts. S.T.J., 556 So.2d at 247.	Todd v. Angelloz, 844 So.2d 316 (La. App. 2003)
Maine	Court not find any case law regarding immunity for mental health practitioners. Only CASA and GALS	Title 4, section 1505 Immunity from Civil Liability
Maryland	Does not provide immunity to GAL because no statute setting forth the role of a GAL or its functions as an arm of the court. This State has no statute or rule, applicable to the present case, which would support a conclusion that the respondent Wills was "act[ing] mainly as an arm of the court and perform[ing] judicial functions." In addition to Maryland's lack of any statute providing that a "guardian ad litem" or appointed attorney for a minor should primarily function "as an agent or arm of the court, to which it owes its principal duty of allegiance," 7 § 1-202 of the Family Law Article specifically does not support the theory that an attorney appointed under the statute functions primarily as an agent or arm of the court. Neither the language nor the history of § 1-202 suggest that an attorney appointed pursuant to that statute owes his or her "principal duty of allegiance" 8 to the court or does not function primarily as an advocate for the child.	Fox v. Wills, 890 A.2d 726 (Md.App. 2006)
Massachusetts	The doctrine of absolute judicial immunity which first arose under the common law has been extended to persons, other than judges, performing judicial or quasi judicial functions. See, e.g., <i>Imbler v. Pachtman</i>, 424 U.S. 409, 430-431, 96 S.Ct. 984, 995-996, 47 L.Ed.2d 128 (1976) (prosecuting attorneys associated with judicial phase of criminals [**211] process); <i>Demoran v. Witt</i>, 781 F.2d 155, 157-158 (9th Cir.1986) (probation officer preparing presentence reports); <i>Burkes v. Callion</i>, 433 F.2d 318, 319 (9th Cir.1970), cert. denied, 403 U.S. 908, 91 S.Ct. 2217, 29 L.Ed.2d 685 (1971) (probation officer and court-appointed psychiatrists). Courts have expanded the doctrine of absolute judicial immunity to include these "quasi judicial" officers because they are involved in an integral part of the judicial process and thus must be able to act freely without the threat of a law suit. <i>Robichaud v. Ronan</i>, 351 F.2d 533, 535-538 (9th Cir.1965). When acting at a judge's direction, these "quasi judicial" officers enjoy the same absolute immunity for their conduct. <i>Temple v. Marlborough Div. of the Dist. Court Dep't</i>, supra 395 Mass. at 133, 479 N.E.2d 137 (court clerk). In <i>Temple v. Marlborough Div. of the Dist. Court Dep't</i>, supra 395 Mass. at 132, 479 N.E.2d 137, we dealt with a statute which granted immunity to a court psychiatrist acting pursuant to its provisions. G.L. c. 123 (1986 ed.). We did not reach the question of the extent to which the statute may have extended or limited common law immunity. Most jurisdictions have held that common law immunity protects persons appointed by a court to conduct a medical or psychiatric evaluation and render an opinion or to provide other expert assistance because of their integral relation to the judicial process. See, e.g., <i>Moses v. Parwatikar</i>, 813 F.2d 891, 892 (8th Cir.), cert. denied, 484 U.S. 832, 108 S.Ct. 108, 98 L.Ed.2d 67 (1987) (psychiatrist); <i>Myers v. Morris</i>, 810 F.2d 1437, 1467 (8th Cir.), cert. denied, 484 U.S. 828, 108 S.Ct. 97, 98 L.Ed.2d 58 (1987) (therapists in child sexual abuse case); <i>Burkes v. Callion</i>, supra at 319 (psychiatrists); <i>Bartlett v. Weimer</i>, 268 F.2d 860, 862 (7th Cir.1959), cert. denied, 361 U.S. 938, 80 S.Ct. 380, 4 L.Ed.2d 358 (1960) (physicians); <i>Williams v. Rapoport</i>, 699 F.Supp. 501, 507-508 (D.Md.1988) (psychiatrist and psychologist appointed during custody determination); <i>Miner v. Baker</i>, 638 F.Supp. 239, 241 (E.D.Mo.1986) (psychiatrist); <i>Doe v. Hennepin County</i>, 623 F.Supp. 982, 986 (D.Minn.1985) (therapists in child sexual abuse case); <i>Phillips v. Singletary</i>, 350 F.Supp. 297, 300 (D.S.C.1972) (physician); <i>Bartlett v. Duty</i>, 174	LaLonde v. Eissner, 539 N.E.2d 538 (Mass. 1989)

Michigan	Code section states: A guardian ad litem is immune from civil liability for an injury to a person or damage to property if he or she is acting within the scope of his or her authority as guardian ad litem. In the instant case, defendant was a private, clinical psychologist who was appointed by the trial court to perform a custody evaluation of the minor children. In the absence of a statutory amendment of M.C.L. § 691.1407; MSA 3.996(107) to include psychologists performing court-ordered evaluations in child custody cases as individuals entitled to immunity, we must strictly adhere to the legislative intent clearly articulated in the statute that provides no indication that a private psychologist acting at the behest of a trial court is entitled to governmental immunity for alleged negligence in carrying out his duties. Certainly, if the Legislature had intended to include psychologists performing court-ordered evaluations in child custody cases as individuals entitled to immunity, it could have done so. Under these circumstances, we hold that private psychologists performing court-ordered custody evaluations are excluded from the scope of governmental immunity under M.C.L. § 691.1407; MSA 3.996(107). When a court appoints a psychologist to assist it in making a custody determination, the court is depending upon that individual to exercise discretionary judgment to render an evaluation and make a recommendation. The exercise of discretionary judgment is a hallmark of a position functionally comparable to that of a judge.... Furthermore, in conducting [*89] such evaluations, the psychologist is essentially acting as a neutral factfinder for the court. Fact-finding is an integral part of the judicial process and a function naturally associated with judges and juries, both of whom are granted immunity from suit. Our conclusion that defendant was protected by quasi-judicial immunity is also well supported by a number of public policy considerations, including (1) the need to save judicial time in defending suits, (2) the need for finality in the resolution of disputes, (3) to prevent the threat of lawsuit from discouraging independent action, and (4) the existence of adequate procedural safeguards. Lythgoe, supra at 1089, citing Lavit v. Superior Court,	MCL 691.1407 (6) Immunity from Tort Liability Diehl v. Danuloff, 618 N.W.2d 83, 242 Mich.App. 120 (Mich. App. 2000) - Great case that goes through cases from other states
Minnesota	We decline to formally extend judicial immunity to custody evaluators without court appointment. That extension is not needed for our decision. We do understand the logic of Cutler's argument. For now, the doctrine of judicial immunity protects those who are appointed by the court to perform judicial or quasi-judicial functions. See Dziubak [*524] v. Mott, 503 N.W.2d 771, 775-76 (Minn.1993) (extending judicial immunity from malpractice suits to public defenders, though not to privately retained defense counsel). If a district court finds it necessary to obtain the opinion of a custody evaluator to decide custody issues where custody is contested, courts have statutory authority to order evaluations and reports. See Minn.Stat. § 518.167, subd. 1 (1996). This precise issue of extending absolute judicial immunity to evaluators who are not court appointed will need to be looked at down the road. SEE ALSO Dahl v. Quinn, A20-0468 (Minn. App. Nov 23, 2020) : There is no precedent indicating whether quasi-judicial immunity protects court-appointed custody evaluators from suit. However, the rationales underlying quasi-judicial immunity would seem to support application of such immunity to a court-appointed custody evaluator who is directed to provide the court with an opinion about a subject central to the court's judicial function in a custody proceeding. Although caselaw supports Quinn's attempt to avail herself of the protections of quasi-judicial immunity based on her undisputed court appointment as a custody evaluator, Quinn is not entitled to quasi-judicial immunity unless she was acting within the scope of her court-ordered duties when she allegedly made the challenged statements regarding Dahl. See Myers, 463 N.W.2d at 776.	Zagaros v. Erickson, 558 N.W.2d 516 (Minn. App. 1997)
Mississippi		
Missouri		
Montana	Evaluators/psychologists have "quasi immunity". Bad Faith/Malice: If an evaluator acts with malice or clearly outside their appointed role, immunity may not protect them. Ethical Violations: Deliberate violation of established ethical standards can expose them to liability. Procedural Failures: Failing to gather necessary records or coordinate with other professionals can be grounds for complaint.	
Nebraska	Person participating in an investigation or the making of a report or providing information or assistance; immune from liability; civil or criminal. Any person participating in an investigation or the making of a report of child abuse or neglect required by section 28-711 pursuant to or participating in a judicial proceeding resulting therefrom or providing information or assistance, including a medical evaluation or consultation in connection with an investigation, a report, or a judicial proceeding pursuant to a report of child abuse or neglect, shall be immune from any liability, civil or criminal, that might otherwise be incurred or imposed, except for maliciously false statements.	28-716
Nevada		
New Hampshire		
New Jersey		
New Mexico	Not Absolute Immunity: Immunity doesn't cover malicious acts, fraud, or severe misconduct. Court Oversight: Courts can cross-examine evaluators, find bias or incompetence, and remove them from the approved list, notes this CPH Insurance article. Professional Standards: Breaches of professional standards, like failing to gather necessary records or communicate with treatment providers, can lead to complaints, says this CPH Insurance article.	

New York	Public policy supports the protection afforded a court-appointed expert based on immunity from suit. Oftentimes a court needs to hear the opinions of experts to fully and fairly determine the issues raised in litigation. Judicial immunity protects judges in the performance of their judicial functions so as to allow them to exercise independent judgment without the threat of legal reprisal, which is "critical to our judicial system." <i>Mosher-Simons v County of Allegany</i> , 99 NY2d 214, 219 (2002), quoting <i>Tarter v State of New York</i> , 68 NY2d 511, 518 (1986). 'A logical extension of this premise is that 'other neutrally positioned [individuals], regardless of title, who are delegated judicial or quasi-judicial functions should also not be shackled with the fear of civil retribution for their acts.'" <i>Mosher-Simons</i> , 99 NY2d at 220, quoting <i>Tarter, supra</i> . Here, because Dr. *7 7Cohen Lewis was a court-appointed neutral forensic evaluator serving a quasi-judicial function, she is entitled to immunity from suit.	Ashmore v. Lewis, 2012 NY Slip Op 30189, Index No. 108248/11, Motion Seq. No. 001 (N.Y. Sup. Ct. Jan 31, 2012)
North Carolina		
North Dakota	Does not have blanket general immunity – protection comes from the court process itself and the court can impose other sanctions if they feel the evaluator made a mistake and acted improperly.	
Ohio	No statute providing for immunity. However, there is caselaw to support absolute immunity for a GAL. That same case noted that the 6th circuit found that a GAL acts in a quasi-judicial function and is entitled to the same immunity afforded to the judiciary when the allegations stem from the performance of the duties attendant to the appointment. There is also caselaw wherein appointed psychologists were granted immunity. The Court noted the psychologists were "acting as an arm of the court and only carrying out a duty imposed upon them by the court order, regardless of whether the duty was to produce an evaluation or to testify."	<i>Dickson v. Gorski</i> , 100 N.E.3d 857 (Ohio App. 2017). <i>McCleery v. Leach</i> , 11th Dist. Lake No. 2001-L-195, 2003-Ohio-1875; <i>Crosset v. Marquette</i> , 1st Dist. Hamilton Nos. C-060148, C-060180, 2007-Ohio-550
Oklahoma	1) Quasi-Judicial Immunity for GALs and Custody Evaluators The court situates GALs and custody evaluators within the category of non judge participants who perform functions "closely associated with the judicial process," thus meriting absolute immunity for acts within their core duties. The stated purposes underpinning the doctrine are especially salient in family court matters: these officers must exercise judgment, often under intense pressure and in emotionally charged facts, to assist the court. The law protects that independent judgment by insulating them from subsequent tort suits by unhappy litigants.	
Oregon	Thus, as well as protecting judicial decisionmaking, immunity also attaches in "quasi-[*261] judicial" scenarios, such as where public officers other than judges perform judicial functions. See <i>id.</i> (explaining that when "judicial functions are performed by a public officer other than a judge, the immunity is often referred to as quasi-judicial immunity, but this is a distinction of name and not a distinction of immunity"); see also <i>Harmon v. State of Oregon</i> , 920 Or. App. 406, 492, 514 P.3d 1131 (2022) (holding that judicial immunity applied to quasi-judicial decisions made by the Psychiatric Security Review Board); <i>Jones-Clark v. Severe</i> , 118 Or. App. 270, 274, 846 P.2d 1197 (1993) (explaining that parole board decisions are subject to judicial immunity). Until now, Oregon appellate courts have not addressed specifically whether judicial immunity applies to 372 court-appointed custody evaluators. To determine whether a particular duty "can be considered judicial or quasi-judicial for the purpose of extending immunity to the official performing the action," courts look to factors including • "whether the official's actions are functionally comparable to judicial actions or involve decisions normally performed by judges in their judicial capacity"; • "whether the action depends on legal opinions or discretionary judgments comparing the facts of a present situation with general legal questions"; and • "whether the acts in question are primarily concerned with the official's role as a judicial or quasi-judicial officer." Here, the court directed defendant to conduct a custody investigation and evaluation, inform the court about the best interests of the children and safety of the parties, and recommend a custody and parenting plan. See ORS 107.101(4) - (5) (explaining the state policy that courts and parents are granted the widest discretion in developing a parenting plan that considers the best interests of the child). Although the court was not bound by defendant's recommended resolution of the parties' custody dispute, defendant was to investigate the facts and,	<i>Harrison v. Joseph B. Mazza</i> , 554 P.3d 258, 333 Or.App. 367 (Or. App. 2024)
Pennsylvania	No statute, but has a case on point granting court appointed custody evaluators absolute judicial (quasi-judicial) immunity.	<i>Hughes v. Long</i> , 242 F.3d 121 (3rd Cir. 2001)
Rhode Island	No statute providing for immunity. There is case law which granted a court appointed psychologist in a family law matter quasi-judicial immunity.	<i>Johnson v. Kosseff</i> , C.A. No. WC 2011-0366 (R.I. Super. Jan. 11, 2013)
South Carolina	No statute conferring immunity. Could only find a case granting court appointed GALs quasi-judicial immunity.	<i>Fleming v. Asbill</i> , 326 S.C. 49 (S.C. 1996)
South Dakota	Quasi judicial immunity, but also a bad faith exception which includes actual malice or wrongdoing, not just error. Also no patient/therapist privilege.	

Tennessee	No statute but there is a case on point granting immunity to a court appointed psychologist. The court noted: "As the authorities cited above establish, the federal courts and numerous state courts have expanded the doctrine of absolute judicial immunity to include persons serving as an integral part of the judicial process on the reasoning that these persons must be able to act freely without the threat of a law suit. These authorities have convinced us the doctrine of immunity in Tennessee should protect a psychologist appointed by the court to assist the court in the evaluation and assessment of a family in a domestic dispute so the psychologist will be free from intimidation and harassment by a dissatisfied litigant. As the other courts have warned, if these psychologists are faced with the threat of personal liability, the court-appointed psychologist may be less likely to engage in frank discussions with the family he or she is directed to evaluate and less willing to offer the disinterested objective opinion the court seeks. For these reasons we find it appropriate to extend immunity to psychologists who are sued for services rendered in their capacity as agents of the court."	<i>Ghayoumi v. McMillian</i> , No. M2005-00267-COA-R3-CV (Tenn. App. 7/14/2006)
Texas	(a) A guardian ad litem, a child custody evaluator, or an adoption evaluator appointed under this chapter is not liable for civil damages arising from an action taken, a recommendation made, or an opinion given in the capacity of guardian ad litem, child custody evaluator, or adoption evaluator. (a-1) An attorney ad litem or amicus attorney appointed under this chapter is not liable for civil damages arising from an action taken in the capacity of attorney ad litem or amicus attorney. Subsections (a) and (a-1) do not apply to an action taken, a recommendation made, or an opinion given: (1) with conscious indifference or reckless disregard to the safety of another; (2) in bad faith or with malice; or (3) that is grossly negligent or willfully wrongful	Sec. 107.009. IMMUNITY.
Utah	Evaluators have "quasi judicial immunity as well. There is a rule regarding exact standards that custody evaluators must meet as well. Utah Judicial Administration Rule 4-903.	
Vermont	In denying defendant's claim of judicial immunity, the superior court observed that the duties required of defendant "were imposed by a contract with the parties for her professional services and [are] comparable with what is expected of any expert witness jointly selected by litigants." The public policy arguments advanced by defendant for granting immunity to a court appointed psychologist may have persuasive force, but the facts of this case do not provide a basis upon which to conclude defendant was performing a judicial or quasi-judicial function pursuant to a court directive.	<i>Politi v. Tyler</i> , 751 A.2d 788, 170 Vt. 428 (Vt. 2000)
Virginia		
Washington	We hold that family court investigators performing court-ordered parenting evaluations act as an arm of the court and accordingly are entitled to quasi-judicial immunity from civil liability for acts undertaken in performing such parenting evaluations. Family court investigators and evaluators assist the court to develop such orders as the court deems necessary to resolve parenting controversies between divorcing parents. RCW 26.12.190(2). These investigators and evaluators are appointed by and serve at the pleasure of the court. RCW 26.12.050(3). When performing court-ordered functions, these investigators and evaluators act as an arm of the court. Courts have the grave obligation to serve the best interests of minor children of divorcing parents with respect to where the child shall primarily reside and other issues of great importance to the child, its parents and society as a whole. Courts do not ordinarily perform independent investigations; rather the adversary system of justice ordinarily requires that parties to litigation investigate and present evidence from which the court finds facts and applies legal principles in [*931] order to resolve controversies. But the unique obligation of courts to serve the best interests of minor children in cases of divorce often requires independent investigations of allegations between warring parents, professional evaluation of parenting abilities, determination of the degree of bonding between children and each parent—not to mention the wisdom of Solomon when the most expedient solution might appear to be to "saw the baby in half." Judges cannot personally perform these [**750] independent investigations and evaluations, due not only to the volume of cases but also to the impropriety of ex parte contact between judges, parties and witnesses. Accordingly, a surrogate is necessary. Family court investigators and evaluators performing court-ordered services do so as surrogates for the court.	<i>Reddy v. Karr</i> , 102 Wash.App. 742, 9 P.3d 927 (Wash. App. 2000)
West Virginia	There is a statute providing that court appointed licensed psychologists and psychiatrists conducting a child custody evaluation are presumed to be acting in good faith. Any complaint cannot be filed anonymously and any action filed must contain a "recitation of a specific allegation of breaches of American psychologist association's guidelines".	West Va, Code 55-7-21
Wisconsin		
Wyoming	Evaluators have "quasi judicial immunity provided they are acting in the scope of the court ordered evaluation. They are still subject to professional regulation.	

MEMORANDUM

TO: Richard E. Garriott, Jr.
Chairman, Virginia Family Law Coalition

FROM: Julie M. Cillo (Chair)
Melanie Corbin Rice
Seth Ragosta
Allison Anders
Regina Amick

DATE: June 11, 2026

RE: Report of Coalition Work Group – Custody Evaluator Immunity

Background

In cases involving child custody and visitation, the appointment of a professional to complete a custody evaluation to aid the Court in its determination is appropriate. Such appointment is authorized under Virginia Code Sections 16.1-278.15(H) and, effective July 1, 2026, 20-124.2(D). Where a Court is required to consider various factors under Section 20-124.3 of the Code of Virginia, including but not limited to the mental health of both parents and the children and each parent's ability to meet the emotional and developmental needs of the children, these evaluations can be an important piece of evidence to determine what custody/visitation arrangement is in the best interests of children.

In recent years, however, the increase in board complaints and litigation against those professionals who are appointed by a Court to complete court ordered custody evaluations has caused a significant decrease in qualified professionals available and willing to engage in such work. The Coalition Work Group was asked to study whether statutory changes providing immunity to such court ordered evaluators is appropriate and warranted.

Importantly, this work group's focus is only on those professionals who are conducting evaluations under a court order and not professionals who are privately engaged as coparenting counselors, parenting coordinators, etc.

Workgroup Meetings

The Coalition Chair appointed Julie Cillo to lead a Coalition workgroup consisting of Melanie Corbin Rice, Seth Ragosta Allison Anders, Andi Davis, and Regina Amick, which workgroup organized a series of video conferences and engaged in outreach to licensed professionals who have been ordered to do custody evaluations, members of the Department of Health Professions, and other attorneys who have experience with professional complaints against these professionals.

Analysis of Virginia Code Sections Regarding Immunity

Currently, Virginia Code Sections: 20-103, 16.1-278.15(H), 20-124.2(D) reference the ability for a court ordered custody/psychological evaluation where custody and visitation are at issue. Regardless of the authority that exists, the ability of an attorney and/or the Court to identify a professional to undertake the evaluation is challenging. Despite immunity being available for professionals serving in the mental health arena, none of those existing statutes extends such immunity to these court appointed evaluators.

Analysis of 50 States Legislation Addressing Immunity of Court Ordered Custody Evaluations

The Work Group undertook a comprehensive study of all 50 states to determine how immunity is applied to court ordered custody evaluators. While the states' approaches differed in scope, the majority of states provided for some kind of quasi-judicial immunity for these professionals. See Exhibit A attached hereto.

Florida and Idaho were notable in the protections that they offered to professionals. Key provisions from Florida Code 61.122 include:

“61.122 Parenting plan recommendation; presumption of psychologist’s good faith; prerequisite to parent’s filing suit; award of fees, costs, reimbursement

(1) A psychologist who has been appointed by the court to develop a parenting plan recommendation in a dissolution of marriage, a case of domestic violence, or a paternity matter involving the relationship of a child and a parent, including time-sharing of children, is presumed to be acting in good faith if the psychologist’s recommendation has been reached under standards that a reasonable psychologist would use to develop a parenting plan recommendation.

(2) An administrative complaint against a court-appointed psychologist which relates to a parenting plan recommendation conducted by the psychologist may not be filed anonymously. The individual who files an administrative complaint must include in the complaint his or her name, address, and telephone number. Such an administrative complaint may not be filed until the complainant has moved to disqualify the selection of the psychologist pursuant to subsection (3).

(3) A parent who desires to disqualify the selection of the court-appointed psychologist or file an administrative complaint against the court-appointed psychologist who has acted in good faith in developing a parenting plan recommendation must petition the judge who is presiding over the dissolution of marriage, case of domestic violence, or paternity matter involving the relationship of a child and a parent, including time-sharing of children, to appoint an alternative psychologist. Upon the parent’s showing of good cause, the court shall appoint another psychologist. The court shall determine who is responsible for all court costs and attorney fees associated with making such an appointment.

Idaho Rules of Family Law Procedure Rule 1004. Parenting Time Evaluation provides as follows:

The terms of an order appointing a custody evaluator, the order must among other provisions “... include language that the court and the parties acknowledge the evaluator is appointed by the authority of the court and that the evaluator is under the direction and control of the court and as such, is performing a judicial function and is entitled to judicial immunity.”

(j) **Judicial Immunity** is then provided as parenting time evaluator appointed by the court or a court approved, stipulated evaluator is performing a judicial function when conducting an evaluation and is entitled to qualified judicial immunity.

In addition to the statutes that address immunity, in our review of the processes by which aggrieved parties can file complaints with Department of Health Professions, we found provisions from the West Virginia Code that allows for the complaint process to proceed but only if parties provide appropriate information and provides the professional remedies for attorney fees if they prevail. We recommend that statutory revisions be considered that track the following language from W. Va. Code § 55-7-21, which is also consistent with Florida Code § 61.122 discussed separately within our group:

- No complaint to a licensing or accrediting entity against a court-appointed licensed psychologist or psychiatrist relating to a child custody evaluation shall be considered if it is filed anonymously and does not include the full name, address, and telephone number of the complainant. W. Va. Code § 55-7-21 (LexisNexis, Lexis Advance through the 2026 Regular Session.***).

....

- Any licensed psychologist or licensed psychiatrist who is named in a civil action as a defendant because of his or her performance of a child custody evaluation while acting as a court-appointed expert and who prevails due to a finding that he or she acted consistently with the American Psychological Association’s guidelines shall be entitled to reimbursement of all reasonable costs and attorney’s fees expended. W. Va. Code § 55-7-21 (LexisNexis, Lexis Advance through the 2026 Regular Session.***)

Without such protections, a party can initiate a complaint with DHP that then starts a process that is expensive and of extensive duration for the professional.

Recommendation of the Work Group

This Work Group recommends that legislation be considered that affords limited immunity to licensed professionals who are court ordered to complete a custody evaluation. The statutes from Florida and Idaho should be considered as a potential framework to provide limited immunity to such court ordered evaluators that allows these professionals to conduct their work without fear of retaliatory complaints and lawsuits but still provides protection/remedies to parents where court ordered custody evaluators engage in conduct that would otherwise be considered negligent, done in bad faith, done in a manner contrary to standards of professional conduct, or done with malicious intent.

The Florida and Idaho immunity statutes are similar to other statutes in Virginia such as Virginia Code Section 54.1-2400.4(C) that allows immunity “unless such person acted in bad faith or malicious intent.”

These steps, along with the proposed revisions based on West Virginia Code, would allow the Courts to have necessary information in their determinations of the best interests of the children and would allow parties who believe that a court appointed evaluator has been negligent, acted in bad faith, performed their evaluation contrary to the standards of professional conduct, or acted with malicious intent to still have remedies available.

Respectfully submitted on behalf of the Coalition Work Group – Custody Evaluator Immunity