

Section 211 Report Model Order for Use in Family Law Disputes before the Supreme Court of British Columbia

Version 1
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1. *[Name of professional]*, or, in the event *[name of professional]* is unable or unwilling to accept the appointment, *[name of alternate professional]*, (the “Assessor”) is appointed to prepare a written report concerning the arrangements for the parenting of, or contact with, *[names and birthdates of all children who are the subjects of the assessment]*.
2. In the event *[name of professional]* or *[name of alternate professional]* is unable or unwilling to accept the appointment, *[name of professional]* or *[name of alternate professional]* will forthwith advise the court in writing and will copy the communication to the parties.
3. Pursuant to section 211(1) of the *Family Law Act*, the Assessor will assess and prepare a report concerning (check all that apply):
 - ☐ the needs of the child(ren) in relation to this family law dispute,
 - ☐ the views of the child(ren) in relation to this family law dispute, and
 - ☐ the ability and willingness of *[names of adults who are the subjects of the assessment]* to satisfy the needs of the child(ren).
4. The Assessor will make their best efforts to complete the report by *[date]*. If circumstances arise such that the Assessor will not be able to complete the report by the expected completion date, the Assessor will forthwith advise the parties.
5. The Assessor will give a copy of the completed report to each party and give a copy of the completed report to the court.

6. The parties will meet with the Assessor, and take such steps as may be required for the child(ren) to do so, when and where requested by the Assessor.
7. The parties will promptly provide to the Assessor any information and documentation the Assessor requests.
8. The parties will promptly sign and return to the Assessor any releases of confidentiality or authorizations the Assessor may require, including for the release of the records of, or to speak to, any professionals who have direct knowledge of the child(ren) or the parties, including any counsellors, therapists, doctors, teachers, social workers and other professionals, provided that the Assessor may only seek the release of the records of, or speak to, any mediators or counsellors assisting spouses to achieve the reconciliation of their relationship either:
 - ☐ by the consent of the parties, in which case the parties will promptly sign and return to the Assessor any releases of confidentiality, authorizations and waivers of privilege required for this purpose, or
 - ☐ to the minimum extent required for the purposes of the assessment, where the importance of preserving the parties' confidentiality is outweighed by the importance of discovering the facts of the case and ensuring a just result.
9. Except when meeting with the Assessor as requested or otherwise directed by the Assessor, all communications between a party or their lawyer and the Assessor must be in writing and be copied to the other party or their lawyer.
10. For the purposes of the preparation of the report, any expectations or entitlements of confidentiality as between the Assessor and the parties and the Assessor and the child(ren) are hereby waived, and the parties will promptly execute consents to this effect at the request of the Assessor.
11. Subject to paragraphs 8 and 12 of this Order, the Assessor may interview any counsellors, therapists, doctors, teachers, social workers and other professionals who have direct knowledge of the child(ren) or the parties and who, in the opinion of the Assessor, are likely to have information that will assist the Assessor in the preparation of the report.
12. The Assessor may not interview any family justice counsellors.
13. The Assessor may interview one or more people identified by the parties for the preparation of the report.

14. In the event the Assessor requires the services of an interpreter in the preparation of their report, the Assessor will retain an independent interpreter certified for interpretation in legal disputes by the Society of Translators and Interpreters of British Columbia, or the equivalent body in another jurisdiction.
15. Subject to paragraphs 8 and 12 of this Order, the Assessor may obtain and review the records of any counsellors, therapists, doctors, teachers, social workers and other professionals who have direct knowledge of the child(ren) or the parties for the preparation of the report. The Assessor may, subject to any agreements between the parties or the further order of the court, review only the following additional documents for the preparation of the report (check all that apply):

- ☐ in the case of matters before the Supreme Court, the Notice of Family Claim, Response to Family Claim and Counterclaim, or, in the case of matters before the Provincial Court, the Application to Obtain an Order, Application Respecting Existing Orders and Agreements and Reply,
- ☐ in the case of matters before the Supreme Court, the following Notices of Application and Application Responses, or, in the case of matters before the Provincial Court, the following Notices of Motion: [*identify documents*],
- ☐ the following affidavits: [*identify documents*],
- ☐ the following orders, awards and agreements: [*identify documents*], and
- ☐ the following other materials: [*identify documents*],

as well as such further and other materials as may be requested by the Assessor.

16. In addition to family violence and any other issues that the Assessor identifies, the Assessor must address in the report the following specific issues and allegations, and their impact, regarding (check all that apply):
- ☐ a child or children resisting or refusing parenting time or contact with a party,
 - ☐ the relocation of the child(ren), in light of the factors identified at
 - ☐ sections 46 or 69 of the *Family Law Act* or
 - ☐ section 16.92(1) of the *Divorce Act*,

- ☐ substance abuse,
 - ☐ other mental health concerns, and
 - ☐ *[identify other specific issues or questions to be assessed]*.
17. The Assessor will observe the child(ren), and the child(ren) and the parties, for the purposes of the report, in a manner as comparable as possible, unless in the opinion of the Assessor an observation would be unsafe or is contraindicated. The observations will take place in an environment or environments in which the child(ren) are most likely to be comfortable, where practical and appropriate in the opinion of the Assessor.
 18. The Assessor must identify in the report all persons they have interviewed and all documents they have reviewed in the preparation of the assessment.
 19. The Assessor must identify any person whose statements are referenced in the report.
 20. The Assessor will address in their report all of the factors and considerations identified in
 - ☐ section 37(2) and (3), section 38, and section 41(a) to (h), (j) and (l) of the *Family Law Act*, or
 - ☐ section 16(2), (3), (4) and (6) of the *Divorce Act*
 that are, in the opinion of the Assessor, relevant to the arrangements for the parenting of or contact with the child(ren).
 21. *[Specify party or parties responsible for payment of Assessor's retainer]* will pay any retainer or deposit requested by the Assessor to secure payment of the Assessor's fees for the report, and any disbursements incurred by the Assessor in the preparation of the report, no later than the date specified by the Assessor.
 22. The parties are at liberty to apply at the final determination of this matter for a reallocation of the cost of the report.
 23. If a party requires the Assessor to produce a copy of some or all of their file on the report, the Assessor is entitled to be compensated for the Assessor's time spent reviewing the file as necessary to comply with their professional standards at the Assessor's ordinary hourly rate, and for the reasonable cost of photocopying. Subject to an agreement between the parties or further court order, the party requiring the

production of the file will be responsible for the fees and disbursements of the Assessor incurred to do so.

24. If a party requires the assessor to attend court to be cross-examined, the Assessor is entitled to be compensated for their time, including for any time required to prepare for or to attend court to be cross-examined, at the Assessor's ordinary hourly rate, and for any disbursements incurred by the Assessor in attending court to be cross-examined. Subject to an agreement between the parties or a further court order, the party requiring the Assessor to attend court to be cross-examined will be responsible for the fees and disbursements of the Assessor incurred to do so.
25. Neither party may require the Assessor to produce copies of any psychometric tests that were administered to a party or to a child, or any materials related to those tests, that are protected by copyright, except to provide these materials to a regulated psychologist qualified to administer and interpret those tests.
26. Where a party has retained a mental health professional who is qualified to review the Assessor's report, the parties will sign such consents as may be necessary to release the Assessor's clinical file to the professional for the purposes of a review.
27. The parties will be and are hereby restrained from
 - a) making complaints or reports about the Assessor to the Assessor's governing professional body, consumer protection bureaux and similar organizations,
 - b) posting complaints, comments or reports about the Assessor on social media of any kind, and
 - c) posting complaints or reports about the Assessor to review websites, professional rating websites and similar websites

without leave of the court until such time as a final order or written agreement addressing the arrangements for the parenting of or contact with the child(ren) is made and, in the case of a final order, until any appeal periods have expired or any appeals have concluded.

Acknowledgement of Assessor

I, *[name of professional]*, have reviewed and understand the draft order above. I am prepared to accept the proposed appointment and conduct and complete an assessment on the terms described in this draft order.

Signed at *[place]*, British Columbia on this the *[number]* day of *[month]*, *[year]*.

[Name of professional]