

### **Rule 110. Physical and Mental Examinations**

(a) Authority of the Family Court and place of examination. At any time following the filing of a petition, the Family Court may order a child examined as an aid in determining his physical or mental condition in accordance with D.C. Code § 16-2315. The Family Court may order the examination conducted at the Child Guidance Clinic, or any other appropriate hospital, agency or institution, or may refer the child to the appropriate District of Columbia agency with instructions to secure examination within a prescribed period of time.

(b) Hearing on request for mental health examination. When a request for a mental health examination of a child is made on motion of one of the parties or by the court, the Family Court shall notify the parties and hold a hearing on that request to determine whether to order such examination and whether any such examination should be conducted on an outpatient or inpatient basis.

(1) Inpatient examination. The Family Court may order an inpatient mental health examination of a child only if a psychiatrist or qualified psychologist as defined in D.C. Code § 16-2301(40) certifies that he has examined the child and that the child is presently in need of a mental health examination that cannot be provided effectively on an outpatient basis. If the Family Court receives a request for an inpatient mental health examination that is not filed with a written finding of a psychiatrist or qualified psychologist that the child is in need of a mental health examination which cannot be effectively provided on an outpatient basis, the Family Court shall order that a forensic screening be conducted by the Department of Mental Health within 24 hours or by the next business day.

(2) If the Family Court orders a forensic screening pursuant to subparagraph (b)(1) of this rule, upon completion of the forensic screening, the psychiatrist or qualified psychologist shall prepare a written report indicating whether further examination of the child's mental health is needed and whether such examination can be conducted on an outpatient basis. The report shall be filed with the Family Court with copies served on the attorneys of record. A forensic screening report shall include the following information:

(A) a certification of whether the examination can be effectively conducted on an outpatient basis;

(B) if an inpatient mental health examination is recommended,

(i) an explanation of the need for an inpatient examination;

(ii) a recommendation of an appropriate hospital, facility or institution where the inpatient examination should be conducted;

(iii) a statement of whether immediate hospitalization is recommended, and if so,

(iv) the bases for such recommendation.

(C) If the forensic screening is ordered in whole or in part to determine whether the child is competent to proceed:

(i) a preliminary assessment of the child's capacity to understand the proceedings against him, including the nature of the charges and range of options available to the court at disposition; and

(ii) the child's ability to assist his attorney.

(3) Prior to any hearing pursuant to subsection (b) of this Rule, the Family Court shall notify counsel for the child, the child's parents, guardian or custodian, and the Assistant Attorney General of the request for the examination, the requesting party, and the reasons proffered for the request.

(4) An order of the Family Court for an inpatient mental health examination shall provide:

(A) That the hospital or other appropriate facility for the purpose of the mental health examination shall not discharge the child without further order of the Family Court; and

(B) For a return date for a hearing no later than the 21st day from the date of the order for inpatient mental health examination.

(c) Court order for access to mental health and educational records. Upon motion of either party, and after consideration of any response from the opposing party, the Family Court may issue an order to procure a child's mental health and educational records that are relevant for purposes of an examination ordered pursuant to D.C. Code § 16-2315(a). The Family Court order shall provide in detail which mental health and educational records the order covers and identify who shall have authority to procure the records. The Family Court shall order that the person who obtains these records pursuant to the Court order shall not disclose the records or information contained therein except as permitted by the Court.

(d) Outpatient examination prior to factfinding hearing. If a child is ordered to be examined on an outpatient basis prior to a factfinding hearing, the Family Court shall promptly notify counsel for the child, and the child's parents, guardian or custodian, of the reasons for the examination and the place where the examination is to take place. Upon request by counsel for the child or the child's parent, guardian, or custodian, the Family Court shall hold a hearing within 48 hours to establish the necessity for the examination.

(e) Report of inpatient or outpatient examination.

(1) Timing. A written report of the examining psychiatrist or qualified psychologist shall be filed with the Family Court with copies to attorneys of record no later than 20 days from the date of the order of examination and no later than one day prior to a hearing. A written report may be filed with the Family Court with copies to the attorneys of record at any time after the examining psychiatrist or qualified psychologist has completed the examination.

(2) Content of report conducted in whole or in part for the purpose of determining the competency of the child to proceed. A written report of the examining psychiatrist or qualified psychologist shall include the following information: an assessment of whether the child has the capacity to understand the proceedings against him, including the nature of the charges and range of potential options available to the court at disposition; an assessment of the child's ability to assist his attorney; whether the child is incompetent to proceed, and if so, the reasons and bases for the conclusion and the suspected cause of the incompetence; an assessment of the likelihood of the child attaining competence in the reasonably foreseeable future, and if likely, any recommended treatment and services that may render the child competent in the reasonably foreseeable future; and a certification as to the least restrictive setting for providing the recommended treatment and services.

(f) HIVIDS testing.

(1) At the request of the Attorney General or his or her designee to have a respondent tested for the HIVIDS virus, the Family Court shall hold a hearing to determine if there is probable cause to believe that a victim or eyewitness to an alleged delinquent act may have been put at risk of the HIVIDS virus by virtue of being a victim or eyewitness to an alleged delinquent act.

(2) If the Family Court determines that there is probable cause to believe that the victim or eyewitness was put at risk of the HIVIDS virus by virtue of being a victim or eyewitness

to an alleged delinquent act, the Family Court shall order that the respondent be tested for the HIVIDS virus and shall order the Attorney General or his or her designee to disclose the results of the testing to the respondent and the victim or eyewitness and advise the victim or eyewitness that he or she may disclose the respondent's identity only to his or her doctor or counselor.

#### COMMENT

This Rule supplements D.C. Code § 16-2315. Sections (c) and (d) of the Rule reflect the statutory preference for outpatient examinations. (See D.C. Code § 16-2315(b)). Section (f) implements D.C. Code §16-2315(f).