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SESSION 2005

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HOUSE BILL 1221
Committee Substitute Favorable 5/25/05
Third Edition Engrossed 5/26/05
Senate Judiciary II Committee Substitute Adopted 7/5/05

Short Title: Parenting Coordinator Established.

(Public)

Sponsors:

Referred to:

April 14, 2005

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH THE APPOINTMENT OF PARENTING
3 COORDINATORS IN DOMESTIC CHILD CUSTODY ACTIONS.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. Chapter 50 of the General Statutes is amended by adding a
6 new Article to read:

7 "Article 5.

8 "Parenting Coordinator.

9 **"§ 50-90. Definitions.**

10 As used in this Article, the following terms mean:

11 (1) High-conflict case. – A child custody action involving minor children
12 brought under Article 1 of this Chapter where the parties demonstrate
13 an ongoing pattern of any of the following:

14 a. Excessive litigation.

15 b. Anger and distrust.

16 c. Verbal abuse.

17 d. Physical aggression or threats of physical aggression.

18 e. Difficulty communicating about and cooperating in the care of
19 the minor children.

20 f. Conditions that in the discretion of the court warrant the
21 appointment of a parenting coordinator.

22 (2) Minor child. – A person who is less than 18 years of age and who is
23 not married or legally emancipated.

24 (3) Parenting coordinator. – An impartial person who meets the
25 qualifications of G.S. 50-93.

26 **"§ 50-91. Appointment of parenting coordinator.**

1 (a) The court may appoint a parenting coordinator at any time during the
2 proceedings of a child custody action involving minor children brought under Article 1
3 of this Chapter if all parties consent to the appointment. The parties may agree to limit
4 the parenting coordinator's decision-making authority to specific issues or areas.

5 (b) The court may appoint a parenting coordinator without the consent of the
6 parties upon entry of a custody order other than an ex parte order, or upon entry of a
7 parenting plan only if the court also makes specific findings that the action is a
8 high-conflict case, that the appointment of the parenting coordinator is in the best
9 interests of any minor child in the case, and that the parties are able to pay for the cost
10 of the parenting coordinator.

11 (c) The order appointing a parenting coordinator shall specify the issues the
12 parenting coordinator is directed to assist the parties in resolving and deciding. The
13 order may also incorporate any agreement regarding the role of the parenting
14 coordinator made by the parties under subsection (a) of this section. The court shall give
15 a copy of the appointment order to the parties prior to the appointment conference.
16 Notwithstanding the appointment of a parenting coordinator, the court shall retain
17 exclusive jurisdiction to determine fundamental issues of custody, visitation, and
18 support, and the authority to exercise management and control of the case.

19 (d) The court shall select a parenting coordinator from a list maintained by the
20 district court. Prior to the appointment conference, the court must complete and give to
21 the parenting coordinator a referral form listing contact information for the parties and
22 their attorneys, the court's findings in support of the appointment, and any agreement by
23 the parties.

24 **"§ 50-92. Authority of parenting coordinator.**

25 (a) The authority of a parenting coordinator shall be specified in the court order
26 appointing the parenting coordinator and shall be limited to matters that will aid the
27 parties:

- 28 (1) Identify disputed issues.
- 29 (2) Reduce misunderstandings.
- 30 (3) Clarify priorities.
- 31 (4) Explore possibilities for compromise.
- 32 (5) Develop methods of collaboration in parenting.
- 33 (6) Comply with the court's order of custody, visitation, or guardianship.

34 (b) Notwithstanding subsection (a) of this section, the court may authorize a
35 parenting coordinator to decide issues regarding the implementation of the parenting
36 plan that are not specifically governed by the court order and which the parties are
37 unable to resolve. The parties must comply with the parenting coordinator's decision
38 until the court reviews the decision. The parenting coordinator, any party, or the
39 attorney for any party may request an expedited hearing to review a parenting
40 coordinator's decision. Only the judge presiding over the case may subpoena the
41 parenting coordinator to appear and testify at the hearing.

42 (c) The parenting coordinator shall not provide any professional services or
43 counseling to either parent or any of the minor children. The parenting coordinator shall
44 refer financial issues to the parties' attorneys.

"§ 50-93. Qualifications.

(a) To be eligible to be included on the district court's list of parenting coordinators, a person must meet all of the following requirements:

- (1) Hold a masters or doctorate degree in psychology, law, social work, counseling, medicine, or a related subject area.
- (2) Have at least five years of related professional post-degree experience.
- (3) Hold a current license in the parenting coordinator's area of practice, if applicable.
- (4) Participate in 24 hours of training in topics related to the developmental stages of children, the dynamics of high-conflict families, the stages and effects of divorce, problem solving techniques, mediation, and legal issues.

(b) In order to remain eligible as a parenting coordinator, the person must also attend monthly parenting coordinator seminars that provide continuing education, group discussion, and peer review and support.

"§ 50-94. Appointment conference.

(a) The parties, their attorneys, and the proposed parenting coordinator must all attend the appointment conference.

(b) At the time of the appointment conference, the court shall do all of the following:

- (1) Explain to the parties the parenting coordinator's role, authority, and responsibilities as specified in the appointment order and any agreement entered into by the parties.
- (2) Determine the information each party must provide to the parenting coordinator.
- (3) Determine financial arrangements for the parenting coordinator's fee to be paid by each party and authorize the parenting coordinator to charge any party separately for individual contacts made necessary by that party's behavior.
- (4) Inform the parties, their attorneys, and the parenting coordinator of the rules regarding communications among them and with the court.
- (5) Enter the appointment order.

(c) The parenting coordinator and any guardians ad litem shall bring to the appointment conference all necessary releases, contracts, and consents. The parenting coordinator must also schedule the first sessions with the parties.

"§ 50-95. Fees.

(a) The parenting coordinator shall be entitled to reasonable compensation from the parties for services rendered and to a reasonable retainer. The parenting coordinator may request a hearing in the event of a fee dispute.

(b) The court may make the appointment of a parenting coordinator contingent upon the parties' payment of a specific fee to the parenting coordinator. The parenting coordinator shall not begin any duties until the fee has been paid.

"§ 50-96. Meetings and communications.

1 Meetings between the parenting coordinator and the parties may be informal and ex
2 parte. Communications between the parties and the parenting coordinator are not
3 confidential. The parenting coordinator and the court shall not engage in any ex parte
4 communications.

5 **"§ 50-97. Reports.**

6 (a) The parenting coordinator shall promptly provide written notification to the
7 court, the parties, and attorneys for the parties if the parenting coordinator makes any of
8 the following determinations:

9 (1) The existing custody order is not in the best interests of the child.

10 (2) The parenting coordinator is not qualified to address or resolve certain
11 issues in the case.

12 (b) The court shall schedule a hearing and review the matter no later than two
13 weeks following receipt of the report. The parenting coordinator shall remain involved
14 in the case until the hearing.

15 (c) If the parties agree to any fundamental change in the child custody order, the
16 parenting coordinator shall send the agreement to the parties' attorneys for preparation
17 of a consent order.

18 **"§ 50-98. Parenting coordinator records.**

19 (a) The parenting coordinator shall provide the following to the attorneys for the
20 parties and to the parties:

21 (1) A written summary of the developments in the case following each
22 meeting with the parties.

23 (2) Copies of any other written communications.

24 (b) The parenting coordinator shall maintain records of each meeting. These
25 records may only be subpoenaed by order of the judge presiding over the case. The
26 court must review the records in camera and may release the records to the parties and
27 their attorneys only if the court determines release of the information contained in the
28 records will assist the parties with the presentation of their case at trial.

29 **"§ 50-99. Modification or termination of parenting coordinator appointment.**

30 (a) For good cause shown, the court may terminate or modify the parenting
31 coordinator appointment upon motion of either party at the request of the parenting
32 coordinator, upon the agreement of the parties and the parenting coordinator, or by the
33 court on its own motion. Good cause includes any of the following:

34 (1) Lack of reasonable progress over a significant period of time despite
35 the best efforts of the parties and the parenting coordinator.

36 (2) A determination that the parties no longer need the assistance of a
37 parenting coordinator.

38 (3) Impairment on the part of a party that significantly interferes with the
39 party's participation in the process.

40 (4) The parenting coordinator is unable or unwilling to continue to serve.

41 (b) If the parties agreed to the appointment of the parenting coordinator under
42 G.S. 50-91(a), the court may terminate or modify the appointment according to that
43 agreement or according to a subsequent agreement by the parties.

44 **"§ 50-100. Parenting coordinator immunity.**

1 A parenting coordinator shall not be liable for damages for acts or omissions of
2 ordinary negligence arising out of that person's duties and responsibilities as a parenting
3 coordinator. This section does not apply to actions arising out of the operation of a
4 motor vehicle."

5 **SECTION 2.** This act becomes effective October 1, 2005.