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SESSION 2005

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HOUSE BILL 1221
Committee Substitute Favorable 5/25/05
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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. – An action brought under Article 1 of this Chapter
12 where minor children are involved and the parties demonstrate an
13 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 in communicating about and cooperating in the care
19 of their children.

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

22 (2) Parenting coordinator. – An impartial person qualified under this
23 Article, appointed by the court to assist parties in resolving issues and
24 deciding disputed issues relating to parenting and other family issues,
25 in actions brought under Article 1 of this Chapter where a minor child
26 is involved, particularly, but not exclusively, in high-conflict cases.

27 **"§ 50-91. Appointment of parenting coordinators.**

1 (a) In any action brought under Article 1 of this Chapter where minor children
2 are involved, the court may, at any time during the proceedings, upon its own motion, or
3 by motion or agreement of the parties, appoint a parenting coordinator to assist the
4 parties in resolving issues and decide disputed issues related to parenting and other
5 family issues in the case as set forth in this Article. A parenting coordinator may not be
6 appointed under this subsection if any party objects.

7 (b) Notwithstanding subsection (a) of this section, the court may appoint a
8 parenting coordinator, without the consent of the parties, upon the entry of a custody
9 order (other than an ex parte order) or parenting agreement.

10 (c) If the court determines that a parenting coordinator should be appointed
11 pursuant to subsection (b) of this section, or if the parties agree without motion to the
12 appointment of a parenting coordinator, the court shall:

13 (1) Complete a referral form listing contact information for the parties and
14 their attorneys, if any, and the issues warranting the appointment of a
15 parenting coordinator. The form shall be provided to any proposed
16 parenting coordinator prior to his or her appointment.

17 (2) Appoint a parenting coordinator at which appointment the parties and
18 their attorneys, and the proposed parenting coordinator if possible,
19 shall be present.

20 **"§ 50-92. Role of parenting coordinator.**

21 (a) The parenting coordinator shall:

22 (1) Assist parents in implementing custody and visitation court orders on
23 an ongoing basis.

24 (2) Reduce conflict between parents.

25 (3) Facilitate both parents' relationships with the children.

26 (4) Provide attorneys and any unrepresented party with written summaries
27 of developments in the case.

28 (5) Act to resolve any issues in the implementation of the parenting plan
29 not specifically governed by the court order over which the parents
30 reach an impasse, until further orders are entered.

31 (6) Empower the parents to successfully resolve conflicts over their
32 children on their own.

33 (b) The parenting coordinator shall not serve or act in any professional capacity
34 for either or both parents or children.

35 (c) The parenting coordinator shall not deal directly with financial issues and
36 shall refer financial issues to the attorneys.

37 (d) The appointment of a parenting coordinator shall not divest the court of its
38 exclusive jurisdiction to determine fundamental issues of custody, visitation, and
39 support, and the authority to exercise management and control of the case.

40 **"§ 50-93. Qualifications.**

41 A parenting coordinator shall be chosen by the court from a list maintained by the
42 district court. To be included on the list, a parenting coordinator must provide
43 documentation as evidence that the person meets the following criteria:

- 1 (1) Education. – Masters or doctorate in psychology, law, social work,
2 counseling, medicine, or related degrees and relevant training or
3 experience.
- 4 (2) Training and experience. –
5 a. No less than five years of related professional postdegree
6 experience.
7 b. Participation in 24 hours of training in topics of developmental
8 stages of children, dynamics of high-conflict families, stages
9 and effects of divorce, problem solving techniques, mediation,
10 and legal issues.
11 c. Participation in parenting coordinators seminars which will
12 provide continuing education, group discussion, and peer
13 review and support on a monthly basis.
- 14 (3) Licensing. – Current license in the parenting coordinator's area of
15 practice, if applicable.

16 **"§ 50-94. Appointment conference.**

17 At the time of the appointment of the parenting coordinator, the court shall do the
18 following:

- 19 (1) Explain the parenting coordinator's role, authority, and responsibilities.
20 (2) Determine who will provide what information to the parenting
21 coordinator.
22 (3) Determine financial arrangements for the parenting coordinator's fee to
23 be paid by each party and authorize the parenting coordinator to charge
24 any party separately for individual contacts made necessary by that
25 party's behavior.
26 (4) Inform the participants of the rules regarding communication among
27 them and with the court.
28 (5) Enter the appointment order.

29 The parenting coordinator and any guardians ad litem shall bring to the appointment
30 conference all necessary releases, contracts, and consents. The parenting coordinator
31 also shall schedule the first sessions with the parties.

32 **"§ 50-95. Fees.**

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

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

39 **"§ 50-96. Meetings and communications.**

40 Meetings between the parenting coordinator and the parties need not follow any
41 specific procedures, and the meetings may be informal and ex parte. All
42 communications between the parties and the parenting coordinator shall not be
43 confidential. The parenting coordinator and the court shall not engage in any ex parte
44 communication.

"§ 50-97. Actions by parenting coordinator.

Any decision made by the parenting coordinator, in an attempt to resolve any disagreement between the parties, shall prevail until, upon motion, the matter is reviewed by the court. The parenting coordinator, any party or the attorney for any party, may request a hearing, file a motion, and schedule a hearing on an expedited basis. A parenting coordinator may be subpoenaed to appear and testify only by the judge presiding over the case.

"§ 50-98. Reports.

(a) The parenting coordinator shall promptly notify the court, parties, and attorneys for the parties in writing in any of the following events:

(1) The parenting coordinator determines that the existing custody order is not in the best interests of the child.

(2) The parenting coordinator determines that there exist issues in the case which the parenting coordinator is not qualified to address or resolve.

(b) Upon receipt of notice from the parenting coordinator under this section, the court shall promptly schedule the matter for review no later than two weeks following receipt of the report, and the parenting coordinator shall remain involved in the case until the review hearing.

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

"§ 50-99. Parenting coordinator records.

(a) The parenting coordinator shall provide the attorneys and the parties with any written summaries of developments in the case following every meeting with the parents. Copies of any written communication with the parent coordinator shall be sent to attorneys for the parties and any unrepresented parties.

(b) The parenting coordinator shall maintain records of each meeting. These records may only be subpoenaed by order of the judge presiding over the case. These records shall be subject to an in camera inspection by the court and shall be released to the parties and their attorneys only if the court determines that the information contained in the records will assist the parties with the presentation of their case at trial.

"§ 50-100. Modification or termination of parenting coordinator appointment.

The court may terminate or modify the parenting coordinator appointment for good cause upon motion of either party at the request of the parenting coordinator, upon the agreement of the parties and the parenting coordinator, or by the court on its own motion. Good cause includes any of the following:

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

(2) Determination that the parties no longer need the assistance of a parenting coordinator.

(3) Impairment on the part of a party that significantly interferes with participating in the process.

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

"§ 50-101. Parenting coordinator immunity.

1 A parenting coordinator shall not be liable for damages arising from acts or
2 omissions of ordinary negligence arising in connection with that person's duties and
3 responsibilities as a parenting coordinator. The immunity provided in this section does
4 not apply if it is determined that the personal injury, wrongful death, property damage,
5 or other loss arose out of the operation of a motor vehicle."

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