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SESSION 2019

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SENATE BILL DRS15233-LU-76B

Short Title: Revise Parenting Coordinator Laws/Family Law.

(Public)

Sponsors: Senator Britt (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE LAWS PERTAINING TO PARENTING COORDINATORS.
3 The General Assembly of North Carolina enacts:

4 SECTION 1. Article 5 of Chapter 50 of the General Statutes reads as rewritten:

5 "Article 5.

6 "Parenting Coordinator.

7 "§ 50-90. Definitions.

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

9 ...

10 (4) Party. – Any person granted legal or physical custodial rights to a child in a
11 child custody action.

12 "§ 50-91. Appointment of parenting coordinator.

13 (a) The court may appoint or reappoint a parenting coordinator at any time ~~during the~~
14 ~~proceedings of in~~ a child custody action involving minor children brought under Article 1 of this
15 Chapter if ~~all parties consent to the appointment. The parties may agree to limit the parenting~~
16 ~~coordinator's decision-making authority to specific issues or areas on or after the entry of a~~
17 custody order, other than an ex parte order, or upon entry of a contempt order involving a custody
18 issue pursuant to any of the following:

19 (1) All parties consent to the appointment and the scope of the parenting
20 coordinator's authority.

21 (2) Upon motion of a party requesting the appointment of a parenting coordinator.

22 (3) Upon the court's own motion.

23 (b) ~~The court may appoint a parenting coordinator without the consent of the parties upon~~
24 ~~entry of a custody order other than an ex parte order, or upon entry of a parenting plan only if~~
25 If the parties have not consented to the appointment of a parenting coordinator, the court also makes
26 shall make specific findings that the action is a high-conflict case, that the appointment of the
27 parenting coordinator is in the best interests of any minor child in the case, and that the parties
28 are able to pay for the cost of the parenting coordinator. The court does not have to find a
29 substantial change of circumstance has occurred to appoint a parenting coordinator.

30 (c) The order appointing a parenting coordinator shall specify the terms of the
31 appointment and the issues the parenting coordinator is directed to assist the parties in resolving
32 and deciding. The order may also incorporate any agreement regarding the role of the parenting
33 coordinator made by the parties under subsection (a) of this section. The court shall give a copy
34 of the appointment order to the parties prior to the appointment conference. Notwithstanding the
35 appointment of a parenting coordinator, the court shall retain exclusive jurisdiction to determine



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1 fundamental issues of custody, visitation, and support, and the authority to exercise management
2 and control of the case.

3 (d) ~~The court shall select a parenting coordinator shall be selected from a list maintained~~
4 ~~by the district court. Prior to the appointment conference, the court must complete and give to~~
5 ~~the parenting coordinator a referral form listing contact information for the parties and their~~
6 ~~attorneys, the court's findings in support of the appointment, and any agreement by the~~
7 ~~parties.~~ appointment, the court, the parties' attorneys, or the parties shall contact the parenting
8 coordinator to determine if the parenting coordinator is willing and able to accept the
9 appointment.

10 **"§ 50-92. Authority of parenting coordinator.**

11 (a) The authority of a parenting coordinator shall be specified in the court order
12 appointing the parenting coordinator and shall be limited to matters that will aid the
13 ~~parties:~~ parties in complying with the court's custody order, resolving disputes regarding issues
14 that were not specifically addressed in the custody order, or ambiguous or conflicting terms in
15 the custody order. The parenting coordinator's scope of authority may include, but is not limited
16 to, any of the following areas:

- 17 (1) ~~Identify disputed issues.~~ Transition time, pick up, or delivery.
- 18 (2) ~~Reduce misunderstandings.~~ Sharing of vacations and holidays.
- 19 (3) ~~Clarify priorities.~~ Method of pickup and delivery.
- 20 (4) ~~Explore possibilities for compromise.~~ Transportation to and from visitation.
- 21 (5) ~~Develop methods of collaboration in parenting.~~ Participation in child or day
22 care and babysitting.
- 23 (6) ~~Comply with the court's order of custody, visitation, or guardianship.~~ Bed time.
- 24 (7) Diet.
- 25 (8) Clothing.
- 26 (9) Recreation.
- 27 (10) Before- and after-school activities.
- 28 (11) Extracurricular activities.
- 29 (12) Discipline.
- 30 (13) Health care management.
- 31 (14) Alterations in schedule that do not substantially interfere with the basic
32 time-share agreement.
- 33 (15) Participation in visitation, including significant others or relatives.
- 34 (16) Telephone contact.
- 35 (17) Alterations to appearance, including tattoos or piercings.
- 36 (18) The child's passport.
- 37 (19) Education.
- 38 (20) Other areas of specific authority as designated by the court or the parties.

39 (b) ~~Notwithstanding subsection (a) of this section, the court may authorize a parenting~~
40 ~~coordinator to decide issues regarding the implementation of the parenting plan that are not~~
41 ~~specifically governed by the court order and which the parties are unable to resolve. The parties~~
42 ~~must comply with the parenting coordinator's decision until the court reviews the decision. The~~
43 ~~parenting coordinator, any party, or the attorney for any party may request an expedited hearing~~
44 ~~to review a parenting coordinator's decision. Only the judge presiding over the case may~~
45 ~~subpoena the parenting coordinator to appear and testify at the hearing.~~ The parenting coordinator
46 shall decide any issue within the scope of the parenting coordinator's authority and the decision
47 shall be enforceable as an order of the court. The decision shall be in writing and provided to the
48 parties and their attorneys. So long as the custody order under which the decision is made is in
49 effect, the decision shall remain binding after the expiration of the parenting coordinator's term
50 unless the parenting coordinator or a subsequent parenting coordinator modifies the decision or
51 the court reviews and modifies the decision.

1 (b1) Any party or attorney for the party may file a motion for the court to review a
2 parenting coordinator's decision. The parties shall comply with the parenting coordinator's
3 decision unless the court, after a review hearing, determines that (i) the parenting coordinator's
4 decision is not in the child's best interests or (ii) the decision exceeded the scope of the parenting
5 coordinator's authority. The moving party or the attorney for the moving party shall cause a
6 subpoena to be issued for the parenting coordinator's attendance at the review hearing. At the
7 conclusion of the review hearing, the court shall determine how the parenting coordinator's fees,
8 as related to the review hearing, shall be apportioned between the parties. The court may review
9 and modify a parenting coordinator's decision after the expiration of a parenting coordinator's
10 term.

11 (c) The parenting coordinator shall not provide any professional services or counseling
12 to ~~either parent any party~~ or any of the minor children.

13 (d) The parenting coordinator shall refer financial issues related to the parenting
14 coordinator's decisions to the parties' parties or their attorneys.

15 **"§ 50-93. Qualifications.**

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

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

26 ...

27 **"§ 50-94. Appointment conference.**

28 (a) The parties, their attorneys, and the proposed parenting coordinator must all attend
29 the appointment conference. However, no appointment conference is required if (i) the parenting
30 coordinator's term is later extended, (ii) a subsequent parenting coordinator is appointed in the
31 same matter, or (iii) the parties, their attorneys, and the proposed parenting coordinator consent
32 to a waiver of the appointment conference by signing the proposed appointment order. The court
33 shall not enter an order appointing a parenting coordinator or conduct an appointment conference
34 unless a custody order has already been entered or is being simultaneously entered.

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

- 36 (1) Explain to the parties the parenting coordinator's role, authority, and
37 responsibilities as specified in the appointment order and any agreement
38 entered into by the parties.
- 39 (2) ~~Determine the information each party must provide to the parenting~~
40 ~~coordinator.~~
- 41 (3) Determine financial arrangements for the parenting coordinator's fee to be
42 paid by each party and authorize the parenting coordinator to charge any party
43 separately for individual contacts made necessary by that party's behavior.
- 44 (4) Inform the parties, their attorneys, and the parenting coordinator of the rules
45 regarding communications among them and with the court.
- 46 (5) Enter the appointment ~~order~~ order if the order has not yet been entered.

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

50 **"§ 50-95. Fees.**

1 (a) The parenting coordinator shall be entitled to reasonable compensation from the
2 parties for services rendered and to a reasonable retainer. ~~The parenting coordinator may request~~
3 ~~a hearing in the event of a fee dispute.~~ If a dispute arises regarding the payment of fees or the
4 retainer, the parenting coordinator may file a fee report and request a hearing. If a party disputes
5 the parenting coordinator's fees or the allocation of those fees, the party may file a motion with
6 the court requesting that the court review the fees. The district court retains jurisdiction to resolve
7 disputes regarding the parenting coordinator's fees after the conclusion of the parenting
8 coordinator's term so long as the parenting coordinator's fee report was filed in a timely manner.

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

12 **"§ 50-96. Meetings and communications.**

13 ~~Meetings and communications between the parenting coordinator and the parties-parties, the~~
14 ~~attorneys for the parties, or any other person with information that assists the parenting~~
15 ~~coordinator in the coordinator's duties may be informal and ex parte. Communications between~~
16 ~~the parties and the parenting coordinator are not confidential. The parenting coordinator and the~~
17 ~~court shall not engage in any ex parte communications. Upon request of the parenting~~
18 ~~coordinator, the parties shall timely execute any releases necessary to facilitate communication~~
19 ~~with any person having information that assists the parenting coordinator in the coordinator's~~
20 ~~duties. The parenting coordinator, in the coordinator's discretion, may meet or communicate with~~
21 ~~the minor children.~~

22 **"§ 50-97. Reports.**

23 (a) ~~The parenting coordinator shall promptly provide written notification to the court, the~~
24 ~~parties, and attorneys for the parties if the parenting coordinator makes any of the following~~
25 ~~determinations:~~ The parenting coordinator may file a report with the court regarding any of the
26 following:

- 27 (1) The parenting coordinator's belief that the existing custody order is not in the
28 best interests of the child.
- 29 (2) The parenting coordinator's determination that the parenting
30 coordinator is not qualified to address or resolve certain issues in the case.
- 31 (3) A party's noncompliance with a decision of the parenting coordinator or the
32 terms of the custody order.
- 33 (4) The parenting coordinator's fees as set forth in G.S. 50-95.
- 34 (5) The parenting coordinator's request that the parenting coordinator's
35 appointment be modified or terminated.

36 (b) ~~The court shall schedule a hearing and review the matter no later than two weeks~~
37 ~~following receipt of the report. The parenting coordinator shall remain involved in the case until~~
38 ~~the hearing.~~ Upon the filing of a verified report by the parenting coordinator alleging that a party
39 is not complying with a decision of the parenting coordinator, not complying with the terms of
40 the custody order, or not paying the parenting coordinator's fees, the court may issue an order
41 directing a party to appear at a specified reasonable time and show cause why the party shall not
42 be held in contempt. Nothing in this section prevents a party from filing the party's own motion
43 regarding noncompliance with a parenting coordinator's decision or noncompliance with the
44 terms of the custody order.

45 (c) ~~If the parties agree to any fundamental change in the child custody order, the parenting~~
46 ~~coordinator shall send the agreement to the parties' attorneys for preparation of a consent~~
47 ~~order.~~ An expedited hearing shall be granted and shall occur within four weeks of the filing of the
48 report unless the parenting coordinator requests a longer length of time or the court has already
49 issued an order directing a party to show cause why the party shall not be held in contempt.

50 (d) The court, after a hearing on the parenting coordinator's report, shall be authorized to
51 issue temporary custody orders as may be required for a child's best interests.

1 **"§ 50-98. Parenting coordinator records.**

2 (a) ~~The parenting coordinator shall provide the following to the attorneys for the parties~~
3 ~~and to the parties:~~In the parenting coordinator's discretion, the parenting coordinator may release
4 any records held by the parenting coordinator to the parties or the attorneys for the parties.

5 (1) ~~A written summary of the developments in the case following each meeting~~
6 ~~with the parties.~~

7 (2) ~~Copies of any other written communications.~~

8 (b) ~~The parenting coordinator shall maintain records of each meeting. These records may~~
9 ~~only be subpoenaed by order of the judge presiding over the case. The court must review the~~
10 ~~records in camera and may release the records to the parties and their attorneys only if the court~~
11 ~~determines release of the information contained in the records will assist the parties with the~~
12 ~~presentation of their case at trial.~~Any party may apply to the judge presiding for the issuance of
13 a subpoena to compel production of the parenting coordinator's records. Any party who submits
14 an application for a subpoena shall provide reasonable notice to the parenting coordinator and
15 the parties so that any objection to the release of information or the manner of the release of
16 information may be considered prior to the issuance of a subpoena.

17 **"§ 50-99. Modification or termination of parenting coordinator appointment.**

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

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

24 (2) ~~A determination that the parties no longer need the assistance of a parenting~~
25 ~~coordinator.~~

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

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

29 (b) ~~If the parties agreed to the appointment of the parenting coordinator under~~
30 ~~G.S. 50-91(a), the court may terminate or modify the appointment according to that agreement~~
31 ~~or according to a subsequent agreement by the parties.~~For good cause shown, the court may
32 modify or terminate the parenting coordinator's appointment upon request of the parenting
33 coordinator as set forth in G.S. 50-97(a)(5).

34 (c) For purposes of termination or modification of the parenting coordinator's
35 appointment, good cause may include, but is not limited to, any of the following:

36 (1) The lack of reasonable progress.

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

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

41 (4) The inability or unwillingness of the parenting coordinator to continue to
42 serve.

43"

44 **SECTION 2.** This act becomes effective October 1, 2019.