

**Maine Revised Statute Title 19-A, Chapter 55:
RIGHTS AND RESPONSIBILITIES**

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19-A §1651. PARENTS JOINT NATURAL GUARDIANS OF CHILDREN

The father and mother are the joint natural guardians of their minor children and are jointly entitled to the care, custody, control, services and earnings of their children. Neither parent has any rights paramount to the rights of the other with reference to any matter affecting their children. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

19-A §1652. SPOUSE'S OR PARENT'S OBLIGATION TO SUPPORT

1. Petition. If a parent, spouse or child resides in this State, a parent, a spouse, a guardian or a state providing maintenance may petition the District Court or Probate Court to order a nonsupporting parent or spouse to contribute to the support of the nonsupporting person's spouse or child. The petition may be brought in the court in the district or county where the parent, spouse or child resides or in the district or county in which the nonsupporting person may be found.

[2001, c. 554, §7 (AMD) .]

2. Court action. If the court finds that the nonsupporting person is of sufficient ability or is able to labor and provide for that person's children or spouse, and that the person has willfully and without reasonable cause refused or neglected to so provide, then the court may order the person to contribute to the support of that person's children or spouse in regular amounts that it determines reasonable and just. Child support must be determined or modified in accordance with chapter 63.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

3. Order pending petition. Pending petition, and after notice and an opportunity for a hearing, the court may order a nonsupporting person to pay to the court for the nonsupporting person's spouse or child sufficient money for the prosecution of the petition.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

4. Enforcement. The court may enforce an order as provided in chapter 65.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

5. Appeals. A party aggrieved by an order may appeal in the same manner as provided for appeals from that court in other causes. Continuance of an appeal may not be allowed without consent of the appellant or a showing of legal cause for the continuance to the court to which the order has been appealed.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

6. Order during pending appeal. Pending the determination of an appeal, the order appealed from remains in force and obedience to it may be enforced as if no appeal had been taken.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 1999, c. 731, §ZZZ33 (AMD). 1999, c. 731, §ZZZ42 (AFF). 2001, c. 554, §7 (AMD).

19-A §1653. PARENTAL RIGHTS AND RESPONSIBILITIES

1. Legislative findings and purpose. The Legislature makes the following findings concerning relationships among family members in determining what is in the best interest of children.

A. The Legislature finds and declares as public policy that encouraging mediated resolutions of disputes between parents is in the best interest of minor children. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

B. The Legislature finds that domestic abuse is a serious crime against the individual and society, producing an unhealthy and dangerous family environment, resulting in a pattern of escalating abuse, including violence, that frequently culminates in intrafamily homicide and creating an atmosphere that is not conducive to healthy childhood development. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

C. The Legislature finds and declares that it is the public policy of this State to assure minor children of frequent and continuing contact with both parents after the parents have separated or dissolved their marriage and that it is in the public interest to encourage parents to share the rights and responsibilities of child rearing in order to effect this policy. [2001, c. 329, §1 (NEW).]

[2001, c. 329, §1 (AMD) .]

2. Parental rights and responsibilities; order. This subsection governs parental rights and responsibilities and court orders for parental rights and responsibilities.

A. When the parents have agreed to an award of shared parental rights and responsibilities or so agree in open court, the court shall make that award unless there is substantial evidence that it should not be ordered. The court shall state in its decision the reasons for not ordering a shared parental rights and responsibilities award agreed to by the parents. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

B. The court may award reasonable rights of contact with a minor child to a 3rd person. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

C. The court may award parental rights and responsibilities with respect to the child to a 3rd person, a suitable society or institution for the care and protection of children or the department, upon a finding that awarding parental rights and responsibilities to either or both parents will place the child in jeopardy as defined in Title 22, section 4002, subsection 6. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

D. The order of the court awarding parental rights and responsibilities must include the following:

(1) Allocated parental rights and responsibilities, shared parental rights and responsibilities or sole parental rights and responsibilities, according to the best interest of the child as provided in subsection 3. An award of shared parental rights and responsibilities may include either an allocation of the child's primary residential care to one parent and rights of parent-child contact to the other parent, or a sharing of the child's primary residential care by both parents. If either or both parents request an award of shared primary residential care and the court does not award shared primary residential care of the child, the court shall state in its decision the reasons why shared primary residential care is not in the best interest of the child;

(2) Conditions of parent-child contact in cases involving domestic abuse as provided in subsection 6;

(3) A provision for child support as provided in subsection 8 or a statement of the reasons for not ordering child support;

(4) A statement that each parent must have access to records and information pertaining to a minor child, including, but not limited to, medical, dental and school records and other information on school activities, whether or not the child resides with the parent, unless that access is found not

to be in the best interest of the child or that access is found to be sought for the purpose of causing detriment to the other parent. If that access is not ordered, the court shall state in the order its reasons for denying that access;

(5) A statement that violation of the order may result in a finding of contempt and imposition of sanctions as provided in subsection 7;

(6) A statement of the definition of shared parental rights and responsibilities contained in section 1501, subsection 5, if the order of the court awards shared parental rights and responsibilities ; and

(7) If the court appoints a parenting coordinator pursuant to section 1659, a parenting plan defining areas of parental rights and responsibilities within the scope of the parenting coordinator's authority.

An order modifying a previous order is not required to include provisions of the previous order that are not modified. [2009, c. 345, §1 (AMD).]

E. The order of the court may not include a requirement that the State pay for the defendant to attend a batterers' intervention program unless the program is certified under section 4014. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

[2009, c. 345, §1 (AMD) .]

3. Best interest of child. The court, in making an award of parental rights and responsibilities with respect to a child, shall apply the standard of the best interest of the child. In making decisions regarding the child's residence and parent-child contact, the court shall consider as primary the safety and well-being of the child. In applying this standard, the court shall consider the following factors:

A. The age of the child; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

B. The relationship of the child with the child's parents and any other persons who may significantly affect the child's welfare; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

C. The preference of the child, if old enough to express a meaningful preference; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

D. The duration and adequacy of the child's current living arrangements and the desirability of maintaining continuity; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

E. The stability of any proposed living arrangements for the child; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

F. The motivation of the parties involved and their capacities to give the child love, affection and guidance; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

G. The child's adjustment to the child's present home, school and community; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

H. The capacity of each parent to allow and encourage frequent and continuing contact between the child and the other parent, including physical access; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

I. The capacity of each parent to cooperate or to learn to cooperate in child care; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

J. Methods for assisting parental cooperation and resolving disputes and each parent's willingness to use those methods; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

K. The effect on the child if one parent has sole authority over the child's upbringing; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

L. The existence of domestic abuse between the parents, in the past or currently, and how that abuse affects:

(1) The child emotionally; and

(2) The safety of the child; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

M. The existence of any history of child abuse by a parent; [1997, c. 187, §3 (AMD); 1997, c. 187, §5 (AFF).]

N. All other factors having a reasonable bearing on the physical and psychological well-being of the child; [1999, c. 702, §1 (AMD).]

O. A parent's prior willful misuse of the protection from abuse process in chapter 101 in order to gain tactical advantage in a proceeding involving the determination of parental rights and responsibilities of a minor child. Such willful misuse may only be considered if established by clear and convincing evidence, and if it is further found by clear and convincing evidence that in the particular circumstances of the parents and child, that willful misuse tends to show that the acting parent will in the future have a lessened ability and willingness to cooperate and work with the other parent in their shared responsibilities for the child. The court shall articulate findings of fact whenever relying upon this factor as part of its determination of a child's best interest. The voluntary dismissal of a protection from abuse petition may not, taken alone, be treated as evidence of the willful misuse of the protection from abuse process; [2001, c. 665, §1 (AMD).]

P. If the child is under one year of age, whether the child is being breast-fed; [2005, c. 567, §1 (AMD).]

Q. The existence of a parent's conviction for a sex offense or a sexually violent offense as those terms are defined in Title 34-A, section 11203; and [2005, c. 567, §2 (AMD).]

R. If there is a person residing with a parent, whether that person:

(1) Has been convicted of a crime under Title 17-A, chapter 11 or 12 or a comparable crime in another jurisdiction;

(2) Has been adjudicated of a juvenile offense that, if the person had been an adult at the time of the offense, would have been a violation of Title 17-A, chapter 11 or 12; or

(3) Has been adjudicated in a proceeding, in which the person was a party, under Title 22, chapter 1071 as having committed a sexual offense. [2005, c. 567, §3 (NEW).]

[2005, c. 567, §§1-3 (AMD) .]

4. Equal consideration of parents. The court may not apply a preference for one parent over the other in determining parental rights and responsibilities because of the parent's gender or the child's age or gender.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

5. Departure from family residence. The court may not consider departure from the family residence as a factor in determining parental rights and responsibilities with respect to a minor child when the departing parent has been physically harmed or seriously threatened with physical harm by the other parent and that harm or threat of harm was causally related to the departure, or when one parent has left the family residence by mutual agreement or at the request or insistence of the other parent.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

5-A. Effect of protective order. Although the court shall consider the fact that a protective order was issued under chapter 101, the court shall determine the proper award of parental rights and responsibilities and award of rights of contact de novo and may not use as precedent the award of parental rights and responsibilities and rights of contact included in the protective order.

[2001, c. 273, §1 (NEW) .]

6. Conditions of parent-child contact in cases involving domestic abuse. The court shall establish conditions of parent-child contact in cases involving domestic abuse as follows.

A. A court may award primary residence of a minor child or parent-child contact with a minor child to a parent who has committed domestic abuse only if the court finds that contact between the parent and child is in the best interest of the child and that adequate provision for the safety of the child and the parent who is a victim of domestic abuse can be made. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

B. In an order of parental rights and responsibilities, a court may:

- (1) Order an exchange of a child to occur in a protected setting;
- (2) Order contact to be supervised by another person or agency;
- (3) Order the parent who has committed domestic abuse to attend and complete to the satisfaction of the court a domestic abuse intervention program or other designated counseling as a condition of the contact;
- (4) Order either parent to abstain from possession or consumption of alcohol or controlled substances, or both, during the visitation and for 24 hours preceding the contact;
- (5) Order the parent who has committed domestic abuse to pay a fee to defray the costs of supervised contact;
- (6) Prohibit overnight parent-child contact; and
- (7) Impose any other condition that is determined necessary to provide for the safety of the child, the victim of domestic abuse or any other family or household member. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

C. The court may require security from the parent who has committed domestic abuse for the return and safety of the child. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

D. The court may order the address of the child and the victim to be kept confidential. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

E. The court may not order a victim of domestic abuse to attend counseling with the parent who has committed domestic abuse. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

F. If a court allows a family or household member to supervise parent-child contact, the court shall establish conditions to be followed during that contact. Conditions include but are not limited to:

- (1) Minimizing circumstances when the family of the parent who has committed domestic abuse would be supervising visits;
- (2) Ensuring that contact does not damage the relationship with the parent with whom the child has primary physical residence;
- (3) Ensuring the safety and well-being of the child; and
- (4) Requiring that supervision is provided by a person who is physically and mentally capable of supervising a visit and who does not have a criminal history or history of abuse or neglect. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

G. Fees set forth in this subsection incurred by the parent who has committed domestic abuse may not be considered as a mitigating factor reducing that parent's child support obligation. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

6-A. Custody and contact limited; convictions for sexual offenses. The award of primary residence and parent-child contact with a person who has been convicted of a child-related sexual offense is governed by this subsection.

A. For the purposes of this section, "child-related sexual offense" means the following sexual offenses if, at the time of the commission of the offense, the victim was under 18 years of age:

- (1) Sexual exploitation of a minor, under Title 17-A, section 282;
 - (2) Gross sexual assault, under Title 17-A, section 253;
 - (3) Sexual abuse of a minor, under Title 17-A, section 254;
 - (4) Unlawful sexual contact, under Title 17-A, section 255-A or former section 255;
 - (5) Visual sexual aggression against a child, under Title 17-A, section 256;
 - (6) Sexual misconduct with a child under 14 years of age, under Title 17-A, section 258;
 - (6-A) Solicitation of a child by computer to commit a prohibited act, under Title 17-A, section 259;
- or
- (7) An offense in another jurisdiction that involves conduct that is substantially similar to that contained in subparagraph (1), (2), (3), (4), (5), (6) or (6-A). For purposes of this subparagraph, "another jurisdiction" means the Federal Government, the United States military, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa and each of the several states except Maine. "Another jurisdiction" also means the Passamaquoddy Tribe when that tribe has acted pursuant to Title 30, section 6209-A, subsection 1, paragraph A or B and the Penobscot Nation when that tribe has acted pursuant to Title 30, section 6209-B, subsection 1, paragraph A or B. [2007, c. 513, §2 (AMD).]

B. A court may award primary residence of a minor child or parent-child contact with a minor child to a parent who has been convicted of a child-related sexual offense only if the court finds that contact between the parent and child is in the best interest of the child and that adequate provision for the safety of the child can be made. [2001, c. 665, §4 (NEW).]

C. In an order of parental rights and responsibilities, a court may require that parent-child contact between a minor child and a person convicted of a child-related sexual offense may occur only if there is another person or agency present to supervise the contact. If the court allows a family or household member to supervise parent-child contact, the court shall establish conditions to be followed during that contact. Conditions include, but are not limited to, those that:

- (1) Minimize circumstances when the family of the parent who is a sex offender or sexually violent predator would be supervising visits;
- (2) Ensure that contact does not damage the relationship with the parent with whom the child has primary physical residence;
- (3) Ensure the safety and well-being of the child; and
- (4) Require that supervision be provided by a person who is physically and mentally capable of supervising a visit and who does not have a criminal history or history of abuse or neglect. [2001, c. 665, §4 (NEW).]

[2007, c. 513, §2 (AMD) .]

6-B. Conviction or adjudication for certain sex offenses; presumption. There is a rebuttable presumption that the petitioner would create a situation of jeopardy for the child if any contact were to be permitted and that any contact is not in the best interests of the child if the court finds that the person seeking primary residence or contact with the child:

A. Has been convicted of an offense listed in subsection 6-A, paragraph A in which the victim was a minor at the time of the offense and the person was at least 5 years older than the minor at the time of the offense except that, if the offense was gross sexual assault under Title 17-A, section 253, subsection 1, paragraph B or C, or an offense in another jurisdiction that involves conduct that is substantially similar to that contained in Title 17-A, section 253, subsection 1, paragraph B or C, and the minor victim submitted as a result of compulsion, the presumption applies regardless of the ages of the person and the minor victim at the time of the offense; or [2007, c. 513, §3 (AMD).]

B. Has been adjudicated in an action under Title 22, chapter 1071 of sexually abusing a person who was a minor at the time of the abuse. [2005, c. 366, §3 (NEW).]

The person seeking primary residence or contact with the child may present evidence to rebut the presumption.

[2007, c. 513, §3 (AMD).]

7. Violation of order concerning parental rights and responsibilities and contact. Either parent may petition the court for a hearing on the issue of noncompliance with the order issued under subsection 2. If the court finds that a parent has violated a part of the order, the court may find that parent in contempt and may:

A. Require additional or more specific terms and conditions consistent with the order; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

B. Order that additional visitation be provided for a parent to take the place of visitation that was wrongfully denied; or [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

C. Order a parent found in contempt to pay a forfeiture of at least \$100. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

8. Child support order. The court may order conditions of child support as follows.

A. Either parent of a minor child shall contribute reasonable and just sums as child support payable weekly, biweekly, monthly or quarterly. In an action filed under section 1654, the court may require the child's nonprimary care provider to pay past support. Availability of public welfare benefits to the family may not affect the decision of the court as to the responsibility of a parent to provide child support. The court shall inquire of the parties concerning the existence of a child support order entered pursuant to chapter 65, subchapter 2, article 3. If an order exists, the court shall consider its terms in establishing a child support obligation. A determination or modification of child support under this section and a determination of past support must comply with chapter 63. [2007, c. 142, §1 (AMD).]

B. After January 1, 1990, if the court orders either parent to provide child support, the court order must require that the child support be provided beyond the child's 18th birthday if the child is attending secondary school as defined in Title 20-A, section 1, until the child graduates, withdraws or is expelled from secondary school or attains the age of 19, whichever occurs first. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

When the department provides support enforcement services, the support order must include a provision that requires the responsible parent to keep the department informed of changes in that parent's current address, the name and address of that parent's current employer and whether the responsible parent has access to reasonable cost health insurance coverage and, if so, the health insurance policy information and any subsequent changes.

C. The court may require the payment of part or all of the medical expenses, hospital expenses and other health care expenses of the child. The court order must include a provision requiring at least one parent to obtain and maintain private health insurance for the child, if private health insurance for the child is available at reasonable cost. The court order must also require the parent providing insurance to furnish proof of coverage to the other parent within 15 days of receipt of a copy of the court order. If private health insurance for the child is not available at reasonable cost at the time of the hearing, the court order must include a provision requiring at least one parent to obtain and maintain private health insurance for the child that must be effective immediately upon private health insurance for the child being available at reasonable cost. [2009, c. 290, §6 (AMD).]

[2009, c. 290, §6 (AMD) .]

9. Enforcement of child support order. The court may enforce a child support order as provided in chapter 65.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

10. Modification or termination. Upon the petition of one or both of the parents, an order for parental rights and responsibilities with respect to a minor child may be modified or terminated as circumstances require.

A. Modification and termination of child support orders are governed by section 2009. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

B. Modification of and termination orders for parental rights and responsibilities other than child support are governed by section 1657. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

11. Mediation. Prior to a contested hearing under this chapter relating to initial or modified orders, the court shall refer the parties to mediation as provided in chapter 3.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

12. Termination of order. A court order requiring the payment of child support remains in force as to each child until the order is altered by the court or until that child:

A. Attains 18 years of age. For orders issued after January 1, 1990, if the child attains 18 years of age while attending secondary school as defined in Title 20-A, section 1, the order remains in force until the child graduates, withdraws or is expelled from secondary school or attains 19 years of age, whichever occurs first; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

B. Becomes married; or [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

C. Becomes a member of the armed services. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

13. Automatic adjustments. The order of the court or hearing officer may include automatic adjustments to the amount of money paid for the support of a child when the child attains 12 or 18 years of age; or when the child graduates, withdraws or is expelled from secondary school, attains 19 years of age or is otherwise emancipated, whichever occurs first.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

14. Notice of relocation. The order must require notice of the intended relocation of a child by a parent awarded shared parental rights and responsibilities or allocated parental rights and responsibilities. At least 30 days before the intended relocation of a child by a parent, the parent shall provide notice to the other parent of the intended relocation. If the relocation must occur in fewer than 30 days, the parent who is relocating shall provide notice as soon as possible to the other parent. If the parent who is relocating believes notifying the other parent will cause danger to the relocating parent or the child, the relocating parent shall notify the court of the intended relocation, and the court shall provide appropriate notice to the other parent in a manner determined to provide safety to the relocating parent and child.

[1997, c. 403, §1 (NEW); 1997, c. 403, §4 (AFF) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 1997, c. 187, §§2,3 (AMD). 1997, c. 403, §1 (AMD). 1997, c. 415, §3 (AMD). 1997, c. 187, §5 (AFF). 1997, c. 403, §4 (AFF). 1997, c. 415, §5 (AFF). 1999, c. 702, §§1-3 (AMD). 2001, c. 273, §1 (AMD). 2001, c. 329, §§1,2 (AMD). 2001, c. 665, §§1-4 (AMD). 2003, c. 711, §C1 (AMD). 2005, c. 323, §12 (AMD). 2005, c. 366, §§2,3 (AMD). 2005, c. 567, §§1-3 (AMD). 2007, c. 142, §1 (AMD). 2007, c. 513, §§2, 3 (AMD). 2009, c. 290, §6 (AMD). 2009, c. 345, §1 (AMD).

19-A §1654. PARENTING AND SUPPORT WHEN PARENTS LIVE APART

If the father and mother of a minor child are living apart, the Probate Court or District Court in the county or division where either resides, upon complaint of either and after notice to the other as the court may order, may make an order awarding parental rights and responsibilities with respect to the child in accordance with this chapter. [1999, c. 731, Pt. ZZZ, §34 (AMD); 1999, c. 731, Pt. ZZZ, §42 (AFF).]

The jurisdiction granted by this section is limited by the Uniform Child Custody Jurisdiction Act, if another state may have jurisdiction as provided in that Act. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 1999, c. 731, §ZZZ34 (AMD). 1999, c. 731, §ZZZ42 (AFF).

19-A §1655. SUPPORT AND MAINTENANCE WHEN PARENTAL RIGHTS AND RESPONSIBILITIES OR CONTACT AWARDED TO AGENCY OR PERSON OTHER THAN PARENT

1. Department granted parental rights and responsibilities or contact awarded. When the department has been granted parental rights and responsibilities for a child under this chapter, Title 22, chapter 1071 applies regarding subsequent reviews and governs further rights and responsibilities of the department, the parents, the child and any other party.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

2. Modification of orders. Upon the motion of an agency or person who has been granted parental rights and responsibilities or contact with respect to a child under this chapter, the court may alter its order concerning parental rights and responsibilities or contact with respect to a minor child as circumstances require in accordance with section 1657.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

3. Support of child committed to agency. When a child under 17 years of age is committed by the District Court, or the District Court acting as a Juvenile Court, to custody other than that of the child's parent, that commitment is subject to Title 22, sections 4038, 4061 and 4063. The court may, after giving a parent a reasonable opportunity to be heard, adjudge that the parent shall pay, in a manner as the court may direct, a sum that covers in whole or in part the support of that child. If that parent fails to pay that sum, that parent may be proceeded against as provided in chapter 65. A determination or modification of child support under this section must comply with chapter 63.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

19-A §1656. EXCLUSION OF PUBLIC

In an action for parental rights and responsibilities under this chapter, at the request of either party, personally or through that party's attorney, unless the other party who has entered an appearance objects personally or through the other party's attorney, the court shall exclude the public from the court proceedings. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

If the court orders that the public is to be excluded, only the parties, their attorneys, court officers and witnesses may be present. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

19-A §1657. MODIFICATION OR TERMINATION OF ORDERS FOR PARENTAL RIGHTS AND RESPONSIBILITIES

1. Modification or termination. An order for parental rights and responsibilities may be modified or terminated as circumstances require:

A. Upon the petition of one or both of the parents; or [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

B. Upon the motion of an agency or person who has been granted parental rights and responsibilities or contact with a child under this chapter. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

2. Change in circumstances. In reviewing a motion for modification or termination filed under chapter 59 or section 1653 or 1655, the following constitute a substantial change in circumstances:

A. The relocation, or intended relocation, of a child resident in this state to another state by a parent, when the other parent is a resident of this State and there exists an award of shared or allocated parental rights and responsibilities concerning the child; [1997, c. 403, §2 (AMD); 1997, c. 403, §4 (AFF).]

A-1. The relocation, or intended relocation, of a child that will disrupt the parent-child contact between the child and the parent who is not relocating, if there exists an award of shared or allocated parental rights and responsibilities concerning the child. Relocating the child more than 60 miles from the residence of the parent who is relocating or more than 60 miles from the residence of the parent who is not relocating is presumed to disrupt the parent-child contact between the child and the parent who is not relocating; [1997, c. 403, §3 (NEW); 1997, c. 403, §4 (AFF).]

A-2. The receipt of notice of the intended relocation of the child as required under section 1653, subsection 14; or [1997, c. 403, §3 (NEW); 1997, c. 403, §4 (AFF).]

B. A finding by the court that domestic or family violence has occurred since the last determination of primary residence. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

[1997, c. 403, §§2, 3 (AMD); 1997, c. 403, §4 (AFF) .]

3. Uniform Child Custody Jurisdiction and Enforcement Act. The jurisdiction granted by this section to make or alter an order concerning parental rights and responsibilities with respect to a minor child is limited by the Uniform Child Custody Jurisdiction and Enforcement Act, if another state may have jurisdiction as provided in that Act.

[1999, c. 486, §1 (AMD); 1999, c. 486, §6 (AFF) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 1997, c. 403, §§2,3 (AMD). 1997, c. 403, §4 (AFF). 1999, c. 486, §1 (AMD). 1999, c. 486, §6 (AFF).

19-A §1658. TERMINATION OF PARENTAL RIGHTS AND RESPONSIBILITIES UPON CONVICTION

The parental rights and responsibilities with respect to a specific child of a parent convicted of a crime involving the sexual intercourse that resulted in the conception of that child may be terminated in accordance with this section. [1997, c. 363, §1 (NEW).]

1. Petitioner. The petition for termination may be filed by the other parent or, if the other parent is a minor, the parent or guardian of the other parent.

[1997, c. 363, §1 (NEW) .]

2. Petition. The petitioner may file a petition with the District Court that requests the termination of the parental rights and responsibilities of the convicted parent and alleges:

A. That the parent was convicted of a crime involving sexual intercourse; and [1997, c. 363, §1 (NEW) .]

B. That the sexual intercourse resulted in the conception of the child. [1997, c. 363, §1 (NEW) .]

[1997, c. 363, §1 (NEW) .]

3. Termination. Except as provided in subsection 4, if the petitioner proves the allegations in subsection 2, paragraphs A and B by a preponderance of the evidence, the court shall terminate the parental rights and responsibilities of the parent.

[1997, c. 363, §1 (NEW) .]

4. Exception. The court is not required to terminate the parental rights and responsibilities of a parent convicted of gross sexual assault under Title 17-A, section 253, subsection 1, paragraph B, that resulted in the conception of the child if:

A. The parent or guardian of the other parent filed the petition; [1997, c. 363, §1 (NEW).]

B. The other parent informs the court that the sexual act was consensual; and [1997, c. 363, §1 (NEW) .]

C. The other parent opposes the termination of the parental rights and responsibilities of the parent convicted of the gross sexual assault. [1997, c. 363, §1 (NEW).]

[1997, c. 363, §1 (NEW) .]

SECTION HISTORY

1997, c. 363, §1 (NEW).

19-A §1659. PARENTING COORDINATION AND ASSISTANCE

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE UNTIL 1/1/14)

(WHOLE SECTION TEXT REPEALED 1/1/14 by T. 19-A, §1659, sub-§9)

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Parenting coordinator" means a neutral 3rd party appointed by the court to oversee and resolve disputes that arise between parents in interpreting and implementing the parenting plan set forth in the court's order and who:

(1) On July 1, 2009 is listed in the roster of guardians ad litem maintained by the Chief Judge of the District Court pursuant to rules adopted by the Supreme Judicial Court, or who holds one or more of the licenses listed in the rules and is listed on the roster after July 1, 2009 after completing the other requirements set forth in the rules; and

(2) Meets any other qualifications and requirements established by the Supreme Judicial Court. [2009, c. 345, §2 (NEW).]

B. "Parenting plan" means a plan defining areas of parental rights and responsibilities within the scope of a parenting coordinator's authority included in an order of the court pursuant to section 1653. [2009, c. 345, §2 (NEW).]

[2009, c. 345, §2 (NEW) .]

2. Appointment. A court may appoint a parenting coordinator pursuant to this subsection.

A. In a proceeding under this chapter, on the motion of a party or on the court's own motion, the court may appoint a parenting coordinator, with or without consent of the parties, in a case in which:

(1) The parents have demonstrated a pattern of persistent inability or unwillingness to:

- (a) Make parenting decisions on their own;
- (b) Comply with parenting agreements and orders;
- (c) Reduce their child-related conflicts; or
- (d) Protect their child from the effects of those conflicts; and

(2) Appointment of the parenting coordinator is in the best interest of the child. [2009, c. 345, §2 (NEW).]

B. The order of appointment must include apportionment of responsibility for payment of the parenting coordinator's fee, if any, between the parties. State funds may not be used to pay parenting coordinator fees. [2009, c. 345, §2 (NEW).]

C. Prior to appointing a parenting coordinator, the court shall consider any evidence of domestic abuse that may affect the parties' ability to engage in parenting coordination and shall tailor the order accordingly, including, without limitation, declining to appoint a parenting coordinator. [2009, c. 345, §2 (NEW).]

D. The order of appointment may include the length of the term of the appointment. [2009, c. 345, §2 (NEW) .]

[2009, c. 345, §2 (NEW) .]

3. Timing of appointment; post-judgment. The appointment of a parenting coordinator is effective upon issuance of the final divorce judgment, the ruling on a post-judgment motion or the final parental rights and responsibilities judgment.

[2009, c. 345, §2 (NEW) .]

4. Authority; failure to comply. A parenting coordinator may make recommendations that interpret and implement the parenting plan. A party's failure to comply with the parenting coordinator's recommendations is admissible in a proceeding concerning compliance with an order of the court, including the parenting plan, and a contempt proceeding. A parenting coordinator's interpretation or implementation of the court order may not change the order.

[2009, c. 345, §2 (NEW) .]

5. Judicial review. If a party objects to the recommendations of the parenting coordinator, a party or the parenting coordinator may file a motion for review. Pending review, the parties shall follow the order as interpreted or implemented by the parenting coordinator.

[2009, c. 345, §2 (NEW) .]

6. Confidentiality. The activities of a parenting coordinator are not confidential, except that the parenting coordinator has discretion to keep any communications with children confidential.

[2009, c. 345, §2 (NEW) .]

7. Quasi-judicial immunity. An individual serving as a parenting coordinator acts as the court's agent and is entitled to quasi-judicial immunity for acts performed within the scope of the duties of the parenting coordinator as set forth in the court's order.

[2009, c. 345, §2 (NEW) .]

8. Other parenting assistance. Nothing in this section limits the court's authority to appoint a person who is not qualified as a parenting coordinator to assist the parties in implementing specifically identified issues in the parenting plan as set forth in the terms of the court's order if:

A. The parties consent to the appointment; [2009, c. 345, §2 (NEW) .]

B. It is in the best interest of the child; and [2009, c. 345, §2 (NEW) .]

C. The court considers any evidence of domestic abuse in the relationship between the parties before making the appointment. [2009, c. 345, §2 (NEW) .]

[2009, c. 345, §2 (NEW) .]

9. Repeal. This section is repealed January 1, 2014.

[2009, c. 345, §2 (NEW) .]

SECTION HISTORY

2009, c. 345, §2 (NEW) .

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