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An Act To Authorize the Use of Parenting Coordinators in Maine

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 19-A MRSA §1732, sub-§5-A is enacted to read:

5-A. Coordinator. "Coordinator" means a parenting coordinator appointed by a court pursuant to section 1743, subsection 1.

Sec. 2. 19-A MRSA §1732, sub-§6-A is enacted to read:

6-A. High-conflict case. "High-conflict case" means an action brought under this chapter in which the court determines the parties demonstrate a pattern of:

- A. Excessive litigation;
- B. Anger and distrust;
- C. Verbal abuse;
- D. Physical aggression or threats of physical aggression;
- E. Difficulty communicating about and cooperating in the care of the child; or
- F. Any other behavior, as the court determines appropriate.

Sec. 3. 19-A MRSA §1743 is enacted to read:

§ 1743. Parenting coordinator

1. Appointment. In a proceeding under this chapter, the court may order the appointment of a coordinator from a list maintained by the court pursuant to subsection 2 specifying any issue the coordinator is directed to assist the parties in resolving or deciding. The court may issue the order:

- A. At any time during the proceeding if all parties consent to the appointment. The parties may agree to limit the role of the coordinator to specific issues or areas that the court determines appropriate; or
- B. Upon entry of a custody order other than an ex parte order if the court makes specific findings that:

(1) The proceeding is a high-conflict case;

(2) The appointment of the coordinator is in the best interests of a child involved in the proceeding; and

(3) The parties are able to pay the cost of the coordinator.

The order may incorporate an agreement regarding the role of the coordinator under paragraph A. The court shall give a copy of the order to the parties prior to the appointment conference required under subsection 5.

2. Qualifications; list of coordinators. The Supreme Judicial Court shall by rule establish qualifications for a coordinator pursuant to Title 4, section 8. The court shall maintain a list of coordinators who meet the qualifications. A coordinator must be impartial and may not have a separate connection to either party. To remain on the list under this subsection, a coordinator must complete parenting coordinator instruction by or approved by and in an amount and frequency determined by the Supreme Judicial Court.

3. Authority. The authority of a coordinator must be specified in a court order under subsection 1 and be limited to matters that will aid the parties, including:

- A. Identification of disputed issues;
- B. Reducing misunderstandings;
- C. Clarifying priorities;
- D. Exploring possibilities for compromise;
- E. Developing methods of collaboration in parenting;
- F. Complying with an order granting custody, visitation or guardianship; or
- G. Developing and implementing a parenting plan directed at issues that the parties are unable to resolve.

The court retains ultimate authority in determining any issue in the proceeding and may overrule a coordinator or remove any authority granted the coordinator at any time.

4. Decision of coordinator. The parties shall comply with a decision of the coordinator under this subsection unless the court overturns the decision. A coordinator or a party to the proceeding may request an expedited hearing to review a decision by the coordinator. If a decision of a coordinator is challenged under this subsection, the coordinator in writing shall state:

- A. The matter in dispute;
- B. Each party's position on the matter;
- C. Any facts pertinent to the decision; and
- D. The decision and the underlying reasons for the decision.

Only the court may compel a coordinator to testify at a hearing under this subsection. The court may grant or deny a motion for a hearing under this subsection. If a court grants a hearing under this subsection, the court may take evidence or conduct a de novo review of the matter.

5. Appointment conference. The parties, the attorneys for the parties, the guardian ad litem, if a guardian ad litem has been appointed in the case, and the proposed coordinator must attend the appointment conference called by the court order under subsection 1. Prior to a conference under this section, the court shall provide to the coordinator a referral form listing contact information for the parties and the parties' attorneys, the court's findings in support of the appointment and any agreement of the parties relating to the appointment. The coordinator and a guardian ad litem attending the appointment conference shall bring to the conference all necessary releases and contracts. During the appointment conference, the court shall:

- A. Explain to the parties the coordinator's role, authority and responsibilities as specified in the appointment order and any agreement entered into by the parties;
- B. Determine the information each party must provide to the coordinator;
- C. Determine the financial arrangements by which the coordinator's fee will be paid by each party and authorize the coordinator to charge a party separately for an individual contact made necessary by that party's behavior;
- D. Inform the parties, their attorneys and the coordinator of the rules regarding communication among them and the court pursuant to subsection 6; and
- E. Enter the appointment order.

Once an appointment order has been entered, the coordinator shall schedule the first session with each party.

6. Fees. The coordinator is entitled to a reasonable retainer and reasonable compensation from the parties for services rendered. The coordinator or a party may request a hearing in the event of a fee dispute. The court may make the appointment of a coordinator contingent upon the parties' payment of a specific fee to the coordinator and the coordinator may not render services until the fee is paid.

7. Meetings and communication. A meeting between the coordinator and a party may be informal and ex parte. A communication between a party and the coordinator is not confidential. The coordinator and the court may not engage in an ex parte communication.

8. Report. The coordinator shall promptly report in writing to the court, the parties, the attorneys for the parties and a guardian ad litem if the coordinator determines that the existing custody order is not in the best interests of the child or that the coordinator is not qualified to address or resolve certain issues in the case. The court shall schedule a hearing and review the matter no more than 2 weeks following

receipt of the report. If the parties have agreed to a fundamental change in the child custody order, the coordinator shall present the agreement to the court. The coordinator remains appointed to the case until relieved by the court.

9. Records. The coordinator shall maintain a record of each meeting with a party. The record may be subpoenaed only by order of the court presiding over the case. Upon request from a party, the court shall review the record in camera and may release the record to the party only if the court determines release of the record is in the best interests of the child. Notwithstanding the provisions of this subsection, a coordinator shall provide to the parties:

- A. A written summary of a meeting and a development in the case following each meeting; and
- B. A copy of any written communication.

10. Modification or termination of a coordinator appointment. For good cause shown, the court may terminate or modify a coordinator appointment upon motion of a party or the coordinator or the court on its own motion. Good cause under this subsection includes:

- A. Lack of reasonable progress over a significant period of time despite the best efforts of the parties and the coordinator;
- B. A determination that the parties no longer need the assistance of the coordinator;
- C. Impairment of a party that significantly interferes with the party's participation in the process;
- D. The coordinator is unable or unwilling to continue to serve; or
- E. If the appointment was made upon an agreement of the parties under subsection 1, paragraph A. If a motion is made under this paragraph, the court may modify or terminate the coordinator appointment according to a subsequent agreement of the parties.

11. Coordinator immunity. The coordinator serves as an officer of the court and is entitled to quasi-judicial immunity for an act or omission arising out of the performance of the duties of the coordinator as detailed in the order of appointment under subsection 1.

SUMMARY

This bill allows a court to appoint a parenting coordinator in a child custody dispute if the court determines that the dispute is a high-conflict case or upon agreement of the parties. The parenting coordinator aids the parties in identifying and resolving issues in the parenting or custody of the child, and decisions by the coordinator may be overturned only by the court.