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An Act To Authorize a Court To Appoint a Parenting Coordinator To Assist in Domestic Relations Actions

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

Sec. 1. 19-A MRSA §1653, sub-§2, ¶D, as amended by PL 2001, c. 329, §2, is further amended to read:

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; ~~and~~

(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.

Sec. 2. 19-A MRSA §1659 is enacted to read:

§ 1659. Parenting coordination and assistance

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, at a minimum, meets the qualifications and requirements established by the Supreme Judicial Court for guardians ad litem and any other qualifications and requirements established by the Supreme Judicial Court.

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.

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.

B. The order of appointment must include apportionment of responsibility for payment of the parenting coordinator's fee, if any, between the parties.

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.

D. The order of appointment may include the length of the term of the appointment.

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.

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.

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.

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.

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.

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;

B. It is in the best interest of the child; and

C. The court considers any evidence of domestic abuse in the relationship between the parties before making the appointment.

SUMMARY

This bill authorizes a court to appoint a parenting coordinator to oversee and resolve disputes that arise between parents in interpreting and implementing the final court order in a divorce judgment or a parental rights and responsibilities judgment. A parenting coordinator is a neutral 3rd party and must meet

the qualifications and requirements established for guardians ad litem, as well as any other qualifications and requirements the Supreme Judicial Court may establish for parenting coordinators.

A parenting coordinator may be appointed when the appointment is in the best interest of the child or children involved, and when the parents have demonstrated a pattern of persistent inability or unwillingness to make parenting decisions on their own, comply with parenting agreements and orders, reduce their child-related conflicts or protect their child from the effects of that conflict.

The court shall consider any evidence of domestic abuse that may affect the parties' ability to engage in parenting coordination and shall tailor its order accordingly, including declining to appoint a parenting coordinator.

The parenting coordinator may make recommendations that interpret and implement the parenting plan made part of the order. A party's failure to comply with the recommendations of the parenting coordinator is admissible in a proceeding concerning compliance with a court order, including the parenting plan, and a contempt proceeding. The parenting coordinator's recommendations interpreting and implementing the parenting plan may not change the court's order. If a party objects to the recommendations, a party or the parenting coordinator may file a motion for review by the court. Pending review, the parties shall follow the order as interpreted and implemented by the parenting coordinator.

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

The new provisions do not limit the court's authority to appoint a person to assist the parties in implementing specifically identified issues as set forth in the terms of the court's judgment even though the person is not qualified as a parenting coordinator. The parties must consent to the appointment, the appointment must be in the best interest of the child and the court must consider any domestic abuse between the parties before making the appointment.