

SECOND REGULAR SESSION

HOUSE BILL NO. 2118

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES YAEGER (Sponsor), FRANZ, OXFORD, LOW (39), CURLS, McGHEE, FLOOK, DONNELLY, SANDER, SCHOEMEHL AND COOPER (155) (Co-sponsors).

Read 1st time February 13, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

4858L.02I

AN ACT

To amend chapter 452, RSMo, by adding thereto four new sections relating to appointment of a parenting coordinator.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 452, RSMo, is amended by adding thereto four new sections, to be known as sections 452.435, 452.436, 452.437, and 452.438, to read as follows:

452.435. As used in sections 452.435 to 452.438, the following terms shall mean:

(1) "High-conflict case", any action for dissolution of marriage, legal separation, paternity, guardianship, or modification where minor children are involved and the parties demonstrate a pattern of ongoing:

(a) Litigation;

(b) Inability to comply with parenting agreements and orders;

(c) Difficulty in communicating about and cooperating in the care of their children;

or

(d) Other conditions that in the discretion of the court warrant the appointment of a parenting coordinator;

(2) "Parenting coordination", a child-focused dispute resolution process in which a qualified parenting coordinator assists parents or persons exercising parental authority to implement a parenting plan by facilitating a resolution of their disputes in a timely

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

14 manner and by reducing the child-related conflict so that the children may be protected
15 from the impact of such conflict;

16 (3) "Parenting coordinator", an impartial third party qualified under subsection
17 2 of section 452.436 appointed by the court to assist parties in promoting the best interests
18 of the children by resolving issues and deciding disputed issues under sections 452.435 to
19 452.438 relating to parenting and other family issues in any action for dissolution of
20 marriage, legal separation, paternity, guardianship, or modification where minor children
21 are involved.

452.436. 1. Any time after the entry of an order concerning parental
2 responsibilities and upon notice to the parties, the court may, on its own motion, a motion
3 by either party, or an agreement between the parties, appoint a parenting coordinator as
4 a neutral third party to assist in the resolution of disputes between the parties concerning
5 parental responsibilities, including but not limited to implementation of the court-ordered
6 parenting plan. The parenting coordinator shall be an individual with appropriate
7 training and qualifications acceptable to the court.

8 2. (1) The court shall not appoint a parenting coordinator if any party objects,
9 unless the court makes specific findings that the case is a high-conflict case and the
10 appointment of a parenting coordinator is in the best interest of the child.

11 (2) In addition to such specific findings, prior to appointing a parenting
12 coordinator, the court shall consider the effect of any evidence of domestic violence on the
13 parties' ability to engage in parent coordination.

14 3. A parenting coordinator shall assist the parties in implementing the terms of the
15 parenting plan. The parenting coordinator's duties shall include, but are not limited to:

16 (1) Assisting the parties in creating an agreed-upon structured guideline for
17 implementation of the parenting plan;

18 (2) Developing guidelines for communication between the parties and suggesting
19 appropriate resources to assist the parties in learning appropriate communication skills;

20 (3) Informing the parties about appropriate resources to assist them in developing
21 improved parenting skills;

22 (4) Assisting the parties in realistically identifying the sources and causes of conflict
23 between them, including but not limited to identifying each party's contribution to the
24 conflict, when appropriate; and

25 (5) Assisting the parties in developing parenting strategies to minimize conflict.

26 4. (1) The court shall grant to the parenting coordinator binding authority to
27 resolve disputes between the parties as to implementation or clarification of existing orders
28 concerning the parties' minor or dependent children, including but not limited to disputes

29 concerning parenting time and specific dispute parental decisions. A parenting
30 coordinator shall have the authority to make binding determinations to implement or
31 clarify the provisions of a preexisting court order in a manner that is consistent with the
32 substantive intent of the court order.

33 (2) The parenting coordinator shall not make any modification to any order,
34 judgment, or decree; however, the parenting coordinator may make minor temporary
35 departures from a parenting plan. The appointment order may specify the matters which
36 the parenting coordinator is authorized to determine. However, the appointment of a
37 parenting coordinator shall not divest the court of its exclusive jurisdiction to determine
38 fundamental issues of custody, visitation, and support, and the authority to exercise
39 management and control of the case.

40 5. A parenting coordinator shall not have served in any capacity with the parties
41 other than as a mediator, and once appointed as a parenting coordinator, shall not later
42 serve in any capacity other than as a mediator, without the agreement of the parties, in
43 order to address matters outside of the scope of his or her authority as a parenting
44 coordinator.

45 6. A court order appointing a parenting coordinator shall be for a specified term;
46 except that, the court order shall not appoint a parenting coordinator for a period of longer
47 than two years. If an order fails to specify the length of the court-ordered appointment,
48 it shall be construed to be two years from the date of appointment. Upon agreement of the
49 parties, the court may extend, modify, or terminate the appointment, including extending
50 the appointment beyond two years from the date of the original appointment. The court
51 may terminate the appointment of the parenting coordinator at any time for good cause.
52 The court shall allow the parenting coordinator to withdraw at any time.

53 7. (1) No parenting coordinator shall be appointed unless the court finds that the
54 parties have the means to pay the fees of the parenting coordinator.

55 (2) The state of Missouri shall not assume financial responsibility for payment of
56 fees to the parenting coordinator; except that, the court, if feasible may:

57 (a) Appoint a parenting coordinator to serve on a volunteer basis;

58 (b) Subsidize the fees of a parenting coordinator from other authorized court fees,
59 grants, or other similar funds received by the court.

60 (3) The court may allocate fees for parenting coordination between the parties,
61 taking into consideration the relevant factors, including but not limited to the relative
62 incomes of the parties.

63 (4) The court may allocate the fees between the parties differently upon a finding
64 of good cause by the court or good cause set forth in the parenting coordinator's report.

65 **8. In any judicial proceeding, administrative proceeding, or any other similar**
66 **proceeding between the parties to the action, a parenting coordinator shall not be**
67 **competent to testify about the parenting coordination process and shall not be required to**
68 **produce records as to any statement, conduct, or decision that occurred during the**
69 **parenting coordinator's appointment. Nothing in this subsection shall be construed to**
70 **prohibit a parenting coordinator from testifying or producing records to the extent**
71 **testimony or production of records by the parenting coordinator is necessary in an action**
72 **by the parenting coordinator to collect fees from a party to the action.**

73 **9. (1) A parenting coordinator shall be immune from civil or criminal liability in**
74 **any claim for injury that arises out of an act or omission of the parenting coordinator**
75 **occurring during the performance of his or her duties, or during the performance of an act**
76 **that the parenting coordinator reasonably believed was within the scope of his or her**
77 **duties unless the act or omission causing such injury was willful and wanton.**

78 **(2) Nothing in this subsection shall be construed to bar a party from asserting a**
79 **claim related to the reasonableness or accuracy of any fee charged or time billed by a**
80 **parenting coordinator.**

452.437. 1. A written report of the decisions and recommendations made by the
2 **parenting coordinator shall be provided to the parties or their counsel within twenty days**
3 **of a decision or recommendation being made. There shall be no ex parte communication**
4 **with the court.**

5 **2. Any decisions made by the parenting coordinator authorized by the court order**
6 **and issued under sections 452.435 to 452.438 shall be binding on the parties until further**
7 **order of the court.**

8 **3. Any party may file an objection to any report, decision, or recommendation**
9 **made by the parenting coordinator with the court within fifteen days after the parenting**
10 **coordinator provides the report to the parties, with notice being provided to both the**
11 **parenting coordinator and all parties. Any objection shall be accompanied by any written**
12 **report, decision, or recommendation made by the parenting coordinator. Responses to the**
13 **objections shall be filed with the court and served on the parenting coordinator and all**
14 **other parties within fifteen days after the objection is served. The court may expand the**
15 **time allowed to file any objection or response of any party.**

16 **4. The court shall review any objections to any report of a parenting coordinator**
17 **and any responses submitted to such objections to the report and shall set the matter for**
18 **a hearing de novo or enter other appropriate orders.**

452.438. 1. Each judicial circuit in this state shall adopt local rules governing the
2 **appointment and qualifications of a parenting coordinator.**

3 **2. A parenting coordinator shall be a licensed mental health professional or a**
4 **licensed attorney. The parenting coordinator shall also be qualified under Missouri**
5 **supreme court rules governing family mediation.**

6 **3. Parenting coordinators who are not licensed attorneys shall not be considered**
7 **as engaging in the unauthorized practice of law while performing actions within the scope**
8 **of his or her duties as a parenting coordinator.**

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