



## **Parent Coordination Services: A Guide for Policy Makers**

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# **Parent Coordination Services: A Guide for Policymakers**

This Guide is designed to assist policymakers, courts and attorneys in deliberations and decision-making on enabling legislation, licensing standards, rules of court, appointment letters or contracts, and the scope of appropriate authority and functions for court-appointed parent coordinators. The Guide also offers courts and attorneys a yardstick for assessing the propriety of engaging parent coordinators in various types of child custody cases, especially those cases in which domestic violence is alleged by a party or included in a court's findings of fact. The Guide provides information about law and practice related to parent coordination services and then raises issues for consideration by those contemplating the establishment of parent coordination services to support courts and/or families in child custody dispute processes, in particular the issues raised when domestic violence is present.<sup>1</sup>

## **I. Overview**

Parent Coordination Services (PCS) are a recent addition to the alternative dispute resolution methods available to assist courts in devising, implementing, monitoring and enforcing court orders related to custody, allocation of parenting time, and/or assignment of parent rights and responsibilities.<sup>2</sup>

Family courts are confronted with burgeoning dockets. In an attempt to expeditiously manage dockets to provide litigants with timely and effective disposition of family court matters, increasingly judges are delegating development, evaluation and monitoring authority to third parties, either court staff or external professionals. Recently, judges and attorneys are considering the potential contributions of parent coordination services in "high conflict" divorce cases<sup>3</sup> where intractable discord and disputes between the parties are imposing significant burdens on court calendars and resources as a consequence of protracted litigation.

### **A. What is a Parent Coordinator?**

A Parent Coordinator is a person appointed by a family court to assist parents in the development of custody plans and/or in implementation of custody orders issued by family courts.

Responsibilities of Parent Coordinators (PCs) vary broadly.<sup>4</sup> A PC may facilitate the development of a proposed custody order or assist parents in resolving their disputes about the meaning of custody/parenting time/parental rights and responsibilities or other elements of the court order. In the development phase, the

PC often functions as a mediator. In the post-disposition phase, a PC may act as a mediator or as an arbitrator.

In a minority of jurisdictions, courts appoint PCs before issuing custody orders to assist parents in developing an agreement or compromise about parenting issues. More often courts appoint PCs to work with parents to implement custody orders.<sup>5</sup>

Judges generally have broad discretion in designating PC responsibilities.<sup>6</sup> However, state law may limit judicial authority regarding PC appointments.<sup>7</sup>

The authority and responsibilities of a PC are typically enumerated in court appointment letters.

### **Considerations for Policymakers**

1. The broader the role of the PC the more costly, time-consuming and, potentially, the longer the appointment.
2. The broader the role of the PC the greater the incursion into the life of the family, the substitution of PC values and parenting preferences for those of the parents and children, and the potential interference with the agency/autonomy of the parent who is the historical predominant caregiver. Courts should not authorize PCs to assume the functions of parents in the management and care of the family and parent-child relationships except as necessary to ensure the safety and well-being of the children.
3. The broader the role of a PC, the more potential for drift into functions that might more appropriately be performed by other professionals. State statutes or court rules should preclude PCs from simultaneously serving in multiple roles.<sup>8</sup>

### **B. What Issues are Addressed by Parent Coordinators?**

Allocation of parenting time, the decision-making authority of either parent, communication between the parents (e.g., face-to-face, telephone, texting, email, internet postings), safety of the parties, the selection of a child's school and extra-curricular activities, visitation exchange directions, transportation of the children, contact by the child with 3<sup>rd</sup> parties, and other matters about which the parents cannot reach agreement or on which a parent does not follow an agreement with the PC or the court order are issues that courts may authorize PCs to mediate or arbitrate.<sup>9</sup>

The law may limit the issues that a PC is authorized to address.<sup>10</sup>

## **Considerations for Policymakers**

1. Policymakers may conclude that limits on involvement of PCs might best serve families and the court. The more issues PCs are authorized or directed to address, the more complex the role of the PC and the more enmeshed the PC can be in the daily operations of the family. Perhaps also, the more issues, the greater the possibility of failure.

## **II. General Policy Considerations for Parent Coordination Services**

The increased popularity of Parent Coordination Services has resulted in some diversity of law and practice. Below are some areas of Parent Coordination practice that should be considered by policy makers. Some areas have particular significance in domestic violence cases and some do not.

### **A. Fees and Costs of Parent Coordinators**

The costs of PCs are a significant, threshold issue that must feature prominently in any discussion of the propriety and utility of PCs.

The fees and schedules for reimbursable costs of PCs should be set by the courts. More often, fees and costs are set by PCs. Hourly rates charged by PCs are often equivalent to those of custody evaluators and mediators, yet PCs typically bill for many hours more than other ADR providers due to the nature and duration of their services.

The fees and costs of PCs range with the scope of their appointment letters. Judges may limit the PC to a fixed number of hours per month or may direct that the appointment of the PC will be dissolved when the PC has billed to the maximum amount established by the court. Often courts do not impose limits on the number of hours a PC may devote to custody case.

In most jurisdictions there are no public funds to cover the fees and costs of PCs for parents with limited or no income. In some judicial districts, a court is not permitted to appoint a PC when one or both parents are unable to pay or are excused from paying the fees and costs of the PC unless there are public funds to cover these expenses.<sup>11</sup> State codes may preclude the use of state funds for payment of PC fees or costs.<sup>12</sup>

However, the fees and costs of PC services are almost universally assigned to the parents. A judge may order that the parents share the expenses equally or may assign different portions of the fees and costs to each parent. A judge may direct that only the parent who is not following the court's order is responsible for paying the costs.

Unfortunately, courts in many communities do not formally assess the ability of parents to pay for PC services (i.e., evaluating parent capacity in light of employment, income, assets and other essential financial obligations). Without the resources to pay the fees and costs of a PC, parents too frequently find themselves in a "catch-22" situation – unable to resolve custody disputes because they cannot pay for the PC or diverting funds critical for essential living expenses, e.g., food, housing,

clothing, transportation, medicine, to obtain PC services to reduce the conflict, stress and potential danger arising from disputes with the other parent.

Since most recommendations of PCs for resolution of conflict between parents do not have the force of law, a parent can fully engage in the PC process (paying the costs of the PC) only to have to retain an attorney to seek resolution in court because the opposing party will not agree to the suggested change(s) in parenting arrangements suggested by the PC.

### **Considerations for Policymakers**

1. Most litigants cannot afford PC service.
2. Most courts do not have funds to pay for PC services.
3. Parents without the capacity to pay the costs of PCs should not be required to use the services of a PC.<sup>13</sup> Courts should develop tools to assess the economic capacity of parents to pay PC fees and costs.<sup>14</sup>
4. Parents who are eligible for a waiver of court filing and service fees (generally when a person is “indigent” or is a victim of domestic violence) should be excused from paying the expenses of an appointed PC.
5. Limiting the scope of the PC responsibilities and the issues appropriate for PC engagement may facilitate cost containment.
6. Courts and/or bar associations might develop volunteer PC programs. Caveat. Few lay persons understand that PC services are time-consuming, long-lasting, potentially stressful, sometimes dangerous, and may produce discord in the lives and families of the volunteer PC.

### **B. Qualifications of Parent Coordinators**

In most communities, a PC is a professional (e.g., psychologist, social worker or attorney) appointed by a custody or family court judge to oversee and facilitate the implementation of custody orders issued by courts.<sup>15</sup>

In some states/judicial districts, a PC may be a family member, friend, faith leader or other person who does not meet the professional requirements in the law or court rules.<sup>16</sup>

### **Considerations for Policymakers**

1. Courts should create job descriptions for PCs. An individual considering the possibility of accepting an appointment as a PC should

be apprised of the nature and scope of the duties and authority entailed in the work of a PC so as to evaluate his/her “fit” with PC skills, the scope and extent of the work entailed, and any limitations that an appointment may impose on other employment or affiliations.

### **C. Educational Requirements for PCs**

PC law or court rules typically require that a person who is licensed by the state as an attorney, psychologist or social worker must have a specified number of hours of education in custody law and parenting coordination before being appointed by a court to act as a PC.<sup>17</sup> Components of the curriculum for PCs are sometimes defined in the law or court rules.

However, the content of the curricula on mandated subjects is either not developed or is nascent in most jurisdictions. There is not yet consensus on the goals of parent coordination or on “best practices” regarding the philosophy, process, skills, or methodology of PC practice. Training on screening tools and a process for distinguishing “high conflict” from “domestic violence-involved” custody cases is not required in many jurisdictions. Likewise, training on risk assessment and safety planning for adult victims of intimate partner violence, children exposed to domestic violence and PCs is not in most courses for PCs seeking certification.

Few curricula have been approved by courts or professional associations. Evaluation of the various PC credentialing courses is not available. Further, there is no evidence-based research on the efficacy of any approach to PC practice.

Formal education is almost never required for lay PCs.

#### **Considerations for Policymakers**

1. Courts should require specialized training for PCs. The functions of a PC are not analogous to and may not be well informed by the traditional professional training or continuing education that attorneys, mental health workers, mediators or all eligible PCs otherwise receive.
2. Mandatory basic and continuing specialized education for PCs must address domestic violence and child abuse.<sup>18</sup>

### **D. Disqualifying Conduct Precluding PC Appointment**

Unfortunately, due to the sometimes scant regulation of Parent Coordination Services, few jurisdictions have established standards that explicitly preclude classes of people from appointment as PCs.<sup>19</sup> Explicit preclusions would prevent inappropriate persons from becoming court appointed actors in peoples’ lives.

### **Considerations for Policymakers**

1. Policymakers should enumerate disqualifying behaviors or status in court rules or state codes on parent coordination services. Generally, persons who are felons, persons convicted of misdemeanor crimes of domestic violence involving assault, false imprisonment, stalking or coercion, and persons listed in state child abuse or sex offender registries, should be barred from serving as PCs. Persons who are under the supervision of a criminal court or a child welfare agency should also be ineligible. Persons against whom civil protection or restraining orders have been issued and those who are prohibited from possessing or owning firearms or ammunition by state or federal law should be ineligible for appointment as a PC. Persons suffering from mental illness or addiction to drugs or alcohol and those who are consumers of child pornography should, likewise, be precluded from service as a PC.
2. Courts should be required to advise parents if a PC might be precluded based on any of the above factors. A parent should be invited to raise any objection she/he might have to the appointment.
3. If a parent discovers that an appointed PC may have been ineligible for service had any of the disqualifiers been known before the appointment, a court should discharge the PC at the request of a parent or at the court's discretion.

### **E. Ethical Standards for Parent Coordinators**

PCs who are professionals are bound by the standards or ethics imposed by their professional licensing authority, certification board or the Administrative Office of the State Court.

In addition, most state statutes and rules require PCs to be “neutral” third parties; neutral as to the dispute and to the litigants, whether chosen by the parents or selected by the court.<sup>20</sup> Some also specify that a PC be impartial.<sup>21</sup>

Furthermore some codes and rules direct that PCs be free of any conflicts of interest with both parents, counsel, and any third party involved in the parenting plan or order. Whether a PC is a professional or a lay person, he/she should not accept an appointment if there is an apparent or potential conflict of interest unless the parties are informed and agree to the appointment. The avoidance of conflicts may be particularly difficult for the lay PC who is a friend, family member or colleague of either or both parties. Should a conflict arise during his/her service, the PC must

disclose the conflict to the parties and the court, and the court may cancel or continue the appointment.<sup>22</sup>

Some PC codes limit the scope of the roles that may be simultaneously performed by a PC.<sup>23</sup>

The Association of Family and Conciliation Courts promulgated Guidelines for Parenting Coordination.<sup>24</sup> The Guidelines set forth ethical principles for practice, and are extensive in their reach.<sup>25</sup> However, PCs are not bound by the Guidelines.

### **Considerations for Policymakers**

1. A professional accepting an appointment as a PC should certify that the ethics or standards of his/her primary profession, licensing board or certification agency are not inconsistent with the ethical standards for PCs in the judicial district or the state.
2. Statutes and rules on parent coordination do not discuss the meaning of the terms “neutrality” and “impartiality” in the context of domestic violence custody cases. However, policymakers drafting statutes and rules related to mediation and arbitration in cases involving domestic violence have articulated that ADR process should “be provided in a specialized manner that protects the safety of the victim.”<sup>26</sup> Further, PCs must not be neutral or impartial as to the safety of any party or child and should ensure that safeguards are articulated in any agreement or court order to protect abused children and battered parents from violence, coercive controls and abuse.<sup>27</sup>
3. Selection of supportive services, e.g., treatment, educational, religious, athletic, medical, etc. by the appointed PC when the parties do not agree must be free of any appearance of or actual conflict of interest. PC decision-making about the programs or services utilized by the parents and children (pursuant to a general directive in a custody order) may be fraught with conflicts or the appearance thereof. Policymakers should offer guidance to PCs given this authority, delineating whether such issues should be resolved based on pre-separation practice, agreement of the parties once a custody case has commenced, the court order, or at the discretion of the PC.

### **F. Accountability and Immunity**

State statutes and court rules are sparse as to the issue of accountability of PCs.<sup>28</sup> Most states have not identified an agency within the Administrative Office of the Court or otherwise to receive, review and decide on complaints of litigants, counsel or judges against PCs<sup>29</sup>. Some statutes and rules provide for review by the judge

presiding over the custody case when litigants disagree with the PC or have complaints about the scope or method of PC practice.<sup>30</sup>

Yet most state statutes or rules provide PCs with immunity as to all acts performed within the scope of their duties, as set forth in the appointment letter or otherwise.<sup>31</sup> The grant of immunity is based on PC service as “agents” of the court. Similar immunity is almost universally afforded to custody evaluators, guardians ad litem and mediators to whom courts have delegated judicial functions.<sup>32</sup>

### **Considerations for Policymakers**

1. Courts utilizing PC services should provide explicit directions for practice, stringent limits on intrusion in the decision-making of parents, and expeditious procedures for review of and/or complaints about PC conduct. Courts should closely supervise or monitor PC practice, and lacking resources for supervision or monitoring, should not appoint PCs.

### **G. Application Process**

The application process for PCs is truncated in most jurisdictions. Those seeking PC appointments usually submit proof that they are professionals in good standing with licensing or accreditation agencies within the state or judicial district, proof of any required education or training, affidavits that there is no criminal or other impediment to PC service, and a notarized agreement to serve at the direction and discretion of the appointing judge in accord with local or state rules and statutes.

Rarely are potential PCs required to set forth their experience in the practice of parent coordination or other “agent of the court” position, any complaints filed against them, or any financial settlements reached with parents related to alleged wrongdoing in their service. Likewise, they do not have to set forth their philosophy, method or process of PC service, their communication style and perspective on confidentiality of communications with the parties (if not specified by the court) or strategies they may employ to mitigate any risk of violence, coercion or fraud by either party during PC engagement. Thus, a judge, counsel and the parties cannot assess the candidacy of any PC beyond the formal disclosures above. Without this additional information, parents cannot give informed consent to the appointment of any PC.

### **Considerations for Policymakers**

1. Statutes and rules should facilitate application processes that provide the court, litigants and counsel with nuanced information about the qualifications, perspectives and practices of PCs. Informed decision-making by parents about the selection of a PC is critical.

## **H. Appointment and Selection of Parent Coordinators**

Custody judges have broad discretion about the appointment of PCs in child custody cases. A judge may make an appointment of a PC at the request of one or both parents,<sup>33</sup> upon the recommendation of a custody evaluator or an attorney/guardian for the child, or when the judge believes the services of a PC are essential to the implementation of the custody order. Some jurisdictions have considered, however, whether courts should be restricted by law or rules to appoint a PC only when a parent has failed to comply with the terms of a custody order.

Judicial authority is also largely unfettered about the selection of PCs. In the few judicial districts where the practice of PCS has been established, courts may have constructed a list of eligible PCs from which all selections are made. Otherwise, a judge may select a PC for a case as the court deems the qualifications and experience of the PC fit the needs of the particular parents and children. A judge may consider the fees charged by the PC, any likely additional costs, and the number of hours that may be required to adequately serve a family in selecting a PC for appointment. On the other hand, selection can be by rotation from the eligible ADR provider list.

Attorneys requesting a PC appointment may recommend several PCs to the court; and the court usually appoint a PC who is nominated by both counsel for the parents. If parents are not represented by counsel, the court may seek agreement from the parties for the appointment of a particular PC, but will usually make the selection if the parents cannot agree.

The scope of the authority of PCs should be clear and detailed in an appointment letter or the custody order.

### **Considerations for Policymakers**

1. Statutes and rules should facilitate informed decision-making by parents about participation in PCS.<sup>34</sup> It is critical that parents are able to make informed decisions about pursuing or resisting the appointment of a PC in their custody cases. The ramifications of an appointment can be profound and enduring. Therefore, courts, bar associations, legal services agencies and victim services agencies should develop materials and offer tutorials to assist parents in weighing all the options related to both selection and appointment of a PC. Briefings about PCS should not be solely the responsibility of counsel for a party as the field is so new and there is no evidence-based research on the benefits vs. adverse consequences of participation in PCS.

## **I. Terms and Hours of Service of Parent Coordinators**

Judges frequently limit the duration of a PC appointment to 6 months after the issuance of a custody order. Most PCs spend several hours in the first month getting to know the parents and child, reviewing relevant documents related to the custody arrangements and court order, and identifying challenges that either parent may have in following the court order. After the first month, the PC often spends an hour every week or two responding to problems raised by either parent.<sup>35</sup>

A judge may direct the PC to meet regularly with each parent or to reach out to the parents to evaluate if there is compliance with the court order. On the other hand a judge may direct that the PC only work with the parents when one or the other raises issues about implementation of the court order.

### **Considerations for Policymakers**

1. State statutes or court rules should require that the term of the appointment and the parameters of the hours of service be set forth in appointment letters or orders. Further, the language of the statute or rule should provide for expiration of an appointment on a date certain unless extended by the court.
2. Similarly, court rules should enumerate a simple procedure by which a parent may seek modification of the terms or hours of service.

## **J. Appointment Letter and Conference**

Best practice related to PC appointments requires that:

1. Judges craft detailed appointment letters. Letters may incorporate recommendations from counsel, the parties and/or the PC. Recommendations may be supported by memos of law or documentation of the merits of any proffered provision.
2. Judges meet with the parties, counsel, the PC and any third party integral to the implementation of the custody order to review and explain the contents of the appointment letter, to answer any questions about the nature, scope, costs, or duration of the appointment and to hear concerns from the parties and counsel. Modifications of the appointment letter can be crafted during the conference. The appointment letter is then signed by the judge and witnessed by the parents and the PC.

3. Judges advise the parents, counsel and the PC of the mechanism for review of the performance of the PC that includes feedback from the parents and counsel, as well as the PC.
4. Judges inform the parents about the method for making any application for modification of the appointment or dismissal of the PC appointment.

The PC statute of North Carolina<sup>36</sup> requires that the parties, their counsel, and the proposed PC must all attend an appointment conference chaired by the court. The specifics of the order, the appointment and role/responsibility/authority of the PC, the fee arrangement, communications rules for the parents and for the PC with the court, releases/consents/contracts and scheduling of meetings with the PC are addressed.

### **Considerations for Policymakers**

1. When PCS are available in a judicial district, courts should develop informational packets for parents on PCS and promulgate standardized forms related to all aspects of appointment, evaluation and discharge of PCs.
2. To facilitate informed decision-making about participation in PCS, courts, local bar associations and domestic violence programs should offer tutorials and assistance to potential custody litigants about PCS.
3. State statutes and court rules should permit a parent to object to the appointment of a PC.<sup>37</sup>

### **K. Confidentiality of Communications**

The law, court rules, professional ethics or practice guidelines related to confidentiality of communications of parents with PCs and PCs with courts are widely divergent.<sup>38</sup>

PCs may be authorized to report or disclose specific information to the custody judge. PCs may be authorized to discuss matters related to their service with other professionals, family members, etc. related to implementation of the custody order. PCs may appropriately disclose the communications of one parent with the PC to the other parent in some circumstances. PCs may be permitted to share communications of a child with the PC with one or both parents in some circumstances.

PCS might not be confidential.<sup>39</sup> However, the communications of parents with their respective attorneys are confidential, and communications of an abused parent with a domestic violence program advocate are confidential in most states.<sup>40</sup>

### **Considerations for Policymakers**

1. Statutes and court rules should specify which, if any, spoken or written communications between a PC and one parent may or must be held confidential from the other parent or from the court.
2. Statutes and court rules should provide for a breach of otherwise confidential communications between a PC and a parent when the PC believes that one parent presents a danger of bodily injury to the other or a child of the parties.

### **III. Parent Coordinators and Domestic Violence Cases**

As parent coordination services are currently organized, appointment of a PC is most likely inappropriate where one parent has battered the other (e.g. inflicted physical injuries on the other parent, threatened with physical injury or death, used coercive controls to limit decision-making, held hostage or restricted social supports and connection, recruited 3<sup>rd</sup> parties to monitor, sexually abused, and/or economically exploited the other parent).<sup>41</sup>

Battering parents frequently do not comply with the directives of judges in custody orders nor do they chose to “cooperate” with the PC process. Rather they ignore the order or seek to manipulate the implementation process. They are not often responsive to the interventions of PCs.

Parent coordinators that are not closely familiar with the dynamics of battering may increase the vulnerability of victims and haplessly advantage abusers. Batterers are skillful in aligning PCs (who may be uninformed about domestic violence and the tactics of control and intimidation used by batterers both in parenting and in relationship with their partners) against the battered parent; often persuading the uninformed PC that the battered parent is exaggerating, fabricating or hysterically misrepresenting the behavior of the batterer parent. PCs that are successfully manipulated by batterers greatly tip the playing field in favor of the batterer. Additionally, the intentions and behaviors of batterers are “laundered” for the court when mediated through a manipulated PC.

Legal protections such as guarantees of due process that might provide victims some surety within the court system don’t exist in the extra-judicial process of parent coordination.

Appointment of a PC by the custody judge is also inappropriate where there is a history of child sexual or physical abuse. Child-abusing parents generally deny acts of abuse, moral corruption, or intimidation of their children and assert that the other parent has manufactured allegations of abuse and is attempting to turn the child against the abuser. Like battering parents, child-abusing parents often ignore the directives of judges and continue abuse and manipulation of children during visitation and communications with the child. Child-abusing parents also rarely “cooperate” with the PC process. Appointment of an attorney (or a guardian ad litem) for the child may better protect the child and monitor compliance with a custody order or recommend modifications.

Some state codes and court rules limit the authority of a judge to appoint a PC in custody cases where there is a history of domestic violence.<sup>42</sup> Such limitations are rare. No such limitations on appointments in custody cases with a history of child abuse are currently in state codes or court rules.

## **Considerations for Policymakers**

1. Statutes and rules should provide that courts may not compel parents into PCS if there is a history of domestic violence or child abuse. The bases for exemption from a PC mandate should be codified and include: declaration of a party, extant or expired civil or criminal protection order, criminal history involving child abuse, child pornography, domestic or sexual violence or stalking, utilization of the services of a child welfare agency, a domestic violence services or a batterer intervention program.
2. Statutes and court rules might include language that authorizes judges to appoint PCs when there is a history of domestic or sexual violence, stalking or child abuse when both parents agree to the appointment, *but only after* the parents have had an opportunity to consult with a victim advocate or a family law attorney experienced in representation in domestic violence custody cases prior to providing their consent.<sup>43</sup>
3. Appointing a PC to manage implementation of the custody order will not limit the risk of violence, abduction or psychological abuse of the child. In fact, the judgment of a PC as to the risk posed by abusers and effective safety and threat management strategies will almost be less accurate than those of battered and protecting parents.<sup>44</sup> PCS may compromise the well-being and safety of abused adults and children and should not be used as a protective provision in a custody order.

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<sup>1</sup> Notably there is currently no evidence-based research establishing the benefits or confirming the risks of parent coordination services.

<sup>2</sup> State statutes utilize various terms to describe the post-separation rights and responsibilities of parents related to matters that were formerly termed “child custody.” Statutes often incorporate constructs that contemplate more nuanced roles for parents, e.g. allocation of residential time and parenting time, identification of a child’s primary residence, differential assignment of decision-making authority, delineation of parental rights and responsibilities, shared, sole or joint custody, limitations on travel, access by third parties, and assignment of the costs of child-rearing. The term “custody” in this paper refers to all of the above.

<sup>3</sup> Most parents in “high conflict” custody cases cannot clearly define their disagreements, the underlying causes of conflicts, issues that must be resolved, barriers to resolution, opportunities for resolution of conflicts, or processes for compromise that can result in win-win outcomes or equivalent concessions, etc.

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“High conflict” must be distinguished from “domestic violence-involved” custody cases. The Association of Family and Conciliation Courts discusses the differences between “high conflict” and “domestic violence” custody cases in several of their publications. See also, Jaffe, P. G., Crooks, C. V., & Bala, N. (2005). Making appropriate parenting arrangements in family violence cases: Applying the literature to identify promising practices. Report to the Department of Justice, Canada. Jaffe, P. G., Johnston, J. R., Crooks, C. V., & Bala, N. (2008). Custody disputes involving allegations of domestic violence: The need for differentiated approaches to parenting plans. *Family Court Review*, 46, 500–5.

<sup>4</sup> Responsibilities of *PCs* may be set forth in statutes and court rules.

**Utah.** The Judicial Administration Rules. RULE 4-509(1) sets forth broad responsibilities.

(1) *Role of the parent coordinator...* The parent coordinator's role is to consult with the parties and make recommendations directly to the parents about how the children's needs can best be served. The role of the parent coordinator is like that of the mediator in that the parent coordinator seeks to elicit cooperation and agreement between the parents. Using his or her expertise in child development, however, the parent coordinator also, after hearing the parents' perceptions and thoughts, offers advice and guidance with regard to specific decisions. With the help of the parent coordinator, the parents then create, revise, or clarify their parenting plan, as defined in the Utah Code.

(1)(B) The function of the parent coordinator is to make suggestions to the parties that are in the best interests of the children and are solutions and compromises that the parents can accept and implement. The parent coordinator is expected to use his/her insight, training, and therapeutic skill to diffuse conflict and stimulate appropriate parental communication. The length and frequency of parent consultation sessions will depend on the number of unresolved issues and both parents' desire for guidance. The parents may use this service on an as-needed basis as problems arise, even after a settlement has been reached.

(1)(C) The role of the parent coordinator is not primarily investigative, although the parent coordinator may meet and/or interview the children briefly during the course of the consultation process. Suggestions will not be binding upon the parties, and will not be sent to the court or others unless both parents agree to their dissemination and sign written releases to that effect. Involvement of a parent coordinator is best suited for parties who can respectfully exchange ideas and who can benefit from independent professional advice in areas where they disagree. If a viable parenting plan is established through work with the parent coordinator, the parents may stipulate to a custody and parent-time agreement, and thereby avoid active involvement of the court.

**South Dakota.** Title 25-4-63. Custody and visitation disputes. The SD code limits *PC* authority: “(T)he court may appoint a parenting coordinator to assist the parents in resolving contested issues.”

**North Dakota.** § 14-09.2-01. Parenting coordinator-- Definition

... The purpose of a parenting coordinator is to resolve parenting time disputes by interpreting, clarifying, and addressing circumstances not specifically addressed by an existing court order. A parenting coordinator: 1. May assess for the parties whether there has been a violation of an existing court order and, if so, recommend further court proceedings. 2. May be appointed to resolve a one-time parenting time dispute or to provide ongoing parenting time dispute resolution services. Parenting time dispute also means a visitation dispute under existing orders. 3. Shall attempt to resolve a parenting time dispute by facilitating negotiations between the parties to promote settlement and, if it becomes apparent that the dispute cannot be resolved by an agreement of the parties, shall make a decision resolving the dispute.

However, the inherent power of the court generally permits judges to exercise broad discretion in assigning *PC* responsibilities beyond those defined in the law or rules.

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If the court envisions significant involvement of a *PC*, the court may enlist a *PC* as an investigator into parenting values, historical parenting practices and the bases for any division of parenting labor, parenting capacities, and preferences for parenting engagement post-separation. A judge may ask a *PC* to offer parenting skills training to either parent to facilitate adherence to the court order. A court may instruct a *PC* to help parents frame the issues creating barriers to satisfactory post-separation parenting and to identify potential remedies to move beyond the impasse of conflict. A judge may direct that a *PC* teach conflict resolution methods, mediate if the parents cannot resolve disagreements (even with new knowledge about strategies to reach resolution), or arbitrate if no satisfactory resolution can be reached by agreement of the parents.

Or a court may sharply limit the role of a *PC* to recommending essential modifications in parenting plans or to monitoring compliance with custody orders.

<sup>5</sup> **Maine.** Title 19-A § 1659.1. *PCs* are appointed “to oversee and resolve disputes that arise between parents in interpreting and implementing the parenting plan set forth in the court’s order.” § 1658.3. “The appointment of a *PC* is effective upon issuance of the final divorce judgment, the ruling on a post-judgment motion or the final parental rights and responsibilities judgment.

<sup>6</sup> State or tribal statutes and court rules may limit or give broad judicial discretion.

**Arizona.** The AZ Family Rules of Court’s, Rule 74 on the authority of Parent Coordinators is broad: E. Powers and Scope of Appointment. ...The scope may include assisting with implementation of court orders, making recommendations to the court regarding implementation, clarification, modification, and enforcement of any temporary or permanent custody or parenting time order, and making recommendations on the day-to-day issues experienced by the parties. (However,) (t)he Parenting Coordinator shall not have the authority to make a recommendation affecting child support, a change of custody, or a substantial change in parenting time. In the event the Parenting Coordinator determines parenting or family issues or circumstances exist that are significantly detrimental to the welfare of the child(ren) and that a change in custody or a substantial change in parenting time is warranted, the Parenting Coordinator may submit the Parenting Coordinator’s concerns in writing to the parties and the court.

F. Additional Authority of Parenting Coordinator. The Parenting Coordinator may interview all members of the immediate and extended family or household of both parties and the children. To the extent provided in the Order of Appointment, the Parenting Coordinator may interview and request information from any persons who the Parenting Coordinator deems to have relevant information, including doctors, therapists, schools, or other caretakers. The Parenting Coordinator may recommend that the court order the parties or children to participate in ancillary services, to be provided by the court or third parties, including but not limited to physical or psychological examinations or assessments, counseling, and alcohol or drug monitoring and testing.

<sup>7</sup> **Florida.** Title VI. § 61.125(3). (a) If there has been a history of domestic violence, the court may not refer the parties to parenting coordination unless both parents consent. The court shall offer each party an opportunity to consult with an attorney or domestic violence advocate before accepting the party’s consent. The court must determine whether each party’s consent has been given freely and voluntarily... (c) If there is a history of domestic violence, the court shall order safeguards to protect the safety of the participants, including, but not limited to, adherence to all provisions of an injunction for protection or conditions of bail, probation, or a sentence arising from criminal proceedings.

**Maine.** Title 19-A § 1659.2(A)... 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

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effects of those conflicts; and (2) Appointment of the parenting coordinator is in the best interest of the child.

<sup>8</sup> **NY Eighth Judicial District Parenting Coordinator Guidelines.**

Guideline IV. Prohibition Against Multiple Roles.

*A PC shall not serve in dual sequential roles.*

A. A PC shall not serve in multiple roles in a case that create a professional conflict.

1. A child's attorney or child advocate shall not become a PC in the same case.
2. A mediator or custody evaluator, after completion of an evaluation, shall be cautious about becoming a PC in the same case afterward, even with the consent of the parties, because of the differences in the role and potential impact of the role change. However, the mediator or evaluator is not prohibited from undertaking the parenting coordinator role, but may not thereafter resume the role of mediator or custodial evaluator.
3. A PC shall not become a custody evaluator either during or after the term of a PC's involvement with the family.
4. A PC shall not be appointed after serving as a therapist, consultant, or coach, or serve in another mental health role to any family member.
5. A PC shall not become a therapist, consultant, or coach or serve in any other mental health role to any family member, either during or after the term of the PC's involvement.
6. A PC shall not become one client's lawyer, either during or after the term of the PC's involvement, nor shall one client's lawyer become the PC in that client's case.

<sup>9</sup> **Arizona.** AZ Rule 74. E., *supra*, also provides: By way of example only, these issues include disagreements around exchanges, holiday scheduling, discipline, health issues, school and extracurricular activities, and managing problematic behaviors by the parents or child(ren).

**Utah.** The Judicial Administration Rules of Utah. RULE 4-509(3) details the many issues a *PC* may address with the parents: The parent coordinator may consult with the parties on a wide variety of issues related to child custody/parent-time as well as other needs of the children. The focus will be the developmental and other needs of the children. The goal will be to preserve relationships and protect the children from the disruption and conflict that can occur with divorce. Specific topics that may be covered include: (3)(A) methods of communication between the parents; (3)(B) responsibility of each parent regarding decision-making and delivery of care; (3)(C) methods of resolving conflict or disagreement without child involvement; (3)(D) ways in which the parents can support the child's relationship with the other parent; (3)(E) parental agreement and consistency regarding the parents' expectations of the child and discipline techniques; (3)(F) dates and times of pick-up and delivery; (3)(G) parent-time during vacations and holidays; (3)(H) method of pick-up and delivery; (3)(I) transportation to and from each other's home; (3)(J) selection of child care and baby-sitting; (3)(K) adherence to special diet, clothing, bedtime, and recreational requirements; (3)(L) child's participation in recreational and other activities with each parent; (3)(M) notification of other parent when surrogate care is needed; (3)(N) selection of surrogate care; (3)(O) alterations in the parent time schedule; (3)(P) participation of relatives and friends during parent-time; (3)(Q) execution of daily routines; (3)(R) adherence to conditions for parent-time (e.g., supervision by a third party, drug monitoring, etc.); (3)(S) school attendance; (3)(T) selection of school; (3)(U) access to information about the child (e.g., from school, physician); (3)(V) step-parent issues; (3)(W) administration of medication; and (3)(X) any other issues as agreed upon by the parties.

<sup>10</sup> If there are provisions in a current civil protection or restraining order, a child abuse order, or the terms of bail or probation in a criminal case that preclude or limit contact or communication of the abusive parent with the other parent or child, the custody court may be compelled by law to defer to terms of the other court's orders. However, most state laws do not prevent judges of the various branches of the court from issuing inconsistent provisions regarding contact, communication and access to the other parent or children. Where there are court orders that include different directives

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as to access and communication by the abusive parent, parents may want to advise the custody court of the contradictions and ask for resolution of the differences.

<sup>11</sup> **Florida.** Section 6125 (6)(b) of FL Statutes precludes an appointment if parents are unable to pay unless there are public funds to cover the fees and costs of the PC: “(b) If a party is found to be indigent ..., the court may not order the party to parenting coordination unless public funds are available to pay the indigent party’s allocated portion of the fees and costs or the non-indigent party consents to paying all of the fees and costs.”

<sup>12</sup> **Maine.** Maine Revised Statutes. Title 19-A sec.1659.2(B). “... State funds may not be used to pay PC fees.”

<sup>13</sup> **Florida.** Section 6125 (6) of the FL Statutes provides: “The court may not order the parties to parenting coordination without their consent unless it determines that the parties have the financial ability to pay the parenting coordination fees and costs. (a) In determining if a non-indigent party has the financial ability to pay the parenting coordination fees and costs, the court shall consider the party’s financial circumstances, including income, assets, liabilities, financial obligations, resources, and whether paying the fees and costs would create a substantial hardship.”

<sup>14</sup> Assessment tools should take into consideration the income, debt, expenses, historical costs of children’s educational, athletic, religious activities, etc., extraordinary costs of healthcare, relocation, replacement of property destroyed by one parent, the income and employment prospects of each parent, the costs of counsel and divorce/custody litigation and lifestyle necessities.

<sup>15</sup> **Florida.** Eligibility for appointment as a PC in Florida is detailed in Title VI, Chapter 61, § 6125 (4). A person may be appointed as a PC if he/she is a licensed mental health professional, a licensed physician certified by the American Board of Psychiatry and Neurology, a person certified by the Florida Supreme Court as a family law mediator, with at least a master's degree in a mental health field, or a member in good standing of The Florida Bar, but only after completion of three years of post-licensure or post-certification practice, completion of a family mediation training program certified by the Florida Supreme Court, or completion of a minimum of 24 hours of parenting coordination training in parenting coordination concepts and ethics, family systems theory and application, family dynamics in separation and divorce, child and adolescent development, the parenting coordination process, parenting coordination techniques, and Florida family law and procedure, and a minimum of 4 hours of training in domestic violence and child abuse related to parenting coordination. Further, the court may require additional qualifications necessary to address the issues presented in the particular case. A person who otherwise qualifies must also be in good standing or in active status with the appropriate licensing or certification board.

**Arizona.** AZ Rule 74 of the Family Court Rules provides:

B. Persons Who May Serve as Parenting Coordinators. A Parenting Coordinator may be an attorney who is licensed to practice law in Arizona; a psychiatrist who is licensed to practice medicine or osteopathy in Arizona; a psychologist who is licensed to practice psychology in Arizona; a person who is licensed by the Arizona Board of Behavioral Health Examiners as a social worker, professional counselor, marriage and family therapist, or substance abuse counselor; any other Arizona licensed or certified professional with education, experience, and special expertise regarding the particular issues referred; or professional staff of conciliation services. The court may prescribe additional requirements for service as Parenting Coordinator.

<sup>16</sup> **Florida.** Rule 12.742(C). If the parties agree upon a PC who is not a qualified professional and submit their written agreement to the court, the court may appoint that person, but is not compelled to do so.

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<sup>17</sup> **Florida.** Section 6125 (4) of the Florida Statutes specifies that a professional otherwise eligible for appointment as a parent coordinator must: be in good standing with the licensing agency; have completed three (3) years of post-licensure or post-certification practice; achieved a Florida Supreme Court certificate of completion of a family mediation training program; have completed a minimum of 24 hours of parenting coordination training in parenting coordination concepts and ethics, family systems theory and application, family dynamics in separation and divorce, child and adolescent development, the parenting coordination process, parenting coordination techniques, and Florida family law and procedure; and completed a minimum of 4 hours of training in domestic violence and child abuse which is related to parenting coordination.

**Multnomah, Oregon.** Multnomah County Local Rules. Rule 8.137. Parenting coordinators. Although not specifying the number of hours, the local rules require - b) Training. A Parenting Coordinator must have experience and/or professional training in the following areas: (i) Parenting coordination; (ii) Conflict resolution; (iii) Child development and psychology; (iv) Mental health and substance abuse; (v) Domestic violence and child abuse; (vi) Domestic relations legal issues; (vii) Ethical standards including confidentiality, dual roles and objectivity.

**Texas.** § 153.610. Qualifications of Parenting Coordinator.

(b) a parenting coordinator must complete at least:

(1) eight hours of family violence dynamics training provided by a family violence service provider;

(2) 40 classroom hours of training in dispute resolution techniques in a course conducted by an alternative dispute resolution system or other dispute resolution organization approved by the court; and

(3) 24 classroom hours of training in the fields of family dynamics, child development, family law and the law governing parenting coordination, and parenting coordination styles and procedures.

<sup>18</sup> In some states, custody cases with a history of domestic violence or child abuse are deemed not appropriate for *PC services* or appropriate under delimited circumstances. *PCs* must be able to distinguish “high conflict” from “domestic violence-involved” custody cases, and should screen for domestic violence throughout the duration of their appointments. If “domestic violence” was not identified by the court at the time of issuance of the order, a *PC* should give the court notice of the abuse or coercive controls recognized during the *PC’s* oversight of the case. A court appointed *PC* in a “domestic violence-involved” custody case must be familiar with: 1) specialized processes for performing *PC* functions; 2) the implications of domestic violence and exposure of children thereto for devising/revising specialized parenting plans; 3) threat management strategies for abused parents and children; 4) confidential safety planning with abused parents and children; 5) alternative methods of addressing conflict between the parents; 6) monitoring for recurrent abuse, manipulation, coercive controls and custodial interference by the abusive party; and 7) assessing compliance with provisions of the custody order.

<sup>19</sup> **Florida.** Section 6125 of the FL Statutes incorporates some of these disqualifiers in (5)(a), “The court may not appoint a person to serve as parenting coordinator who, in any jurisdiction: 1. Has been convicted or had adjudication withheld on a charge of child abuse, child neglect, domestic violence, parental kidnapping, or interference with custody; 2. Has been found by a court in a child protection hearing to have abused, neglected, or abandoned a child; 3. Has consented to an adjudication or a withholding of adjudication on a petition for dependency; or 4. Is or has been a respondent in a final order or injunction of protection against domestic violence. And (5)(b) A parenting coordinator must discontinue service as a parenting coordinator and immediately report to the court and the parties if any of the disqualifying circumstances ... occur, or if he or she no longer meets the minimum qualifications... .”

<sup>20</sup> **Idaho.** Title 32 Domestic Relations; Chapter 7 Divorce Actions: 32-717D(2)(a): Parenting Coordinator.

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**North Dakota.** § 14-09.2-01. Parenting coordinator—Definition.

<sup>21</sup> **Utah.** RULE 4-509(5) Court-Appointed Parent Coordinator. Impartiality means freedom from favoritism or bias in word, action, or appearance, and includes a commitment to assist all parties, as opposed to any one individual.

**New York.** NY Eighth Judicial District Parenting Coordinator Guidelines. Guideline II. Impartiality. “A PC shall maintain impartiality in the process of parenting coordination. Impartiality means freedom from favoritism or bias in word, action, or appearance, and includes a commitment to assist all parties, as opposed to any one individual.”

<sup>22</sup> **Florida.** Instructions for Florida Family Law Rules of Procedure. FORM 12.984. The instructions also direct that “if a conflict of interest substantially impairs a parenting coordinator’s ability to serve, the parenting coordinator shall decline the appointment or withdraw regardless of the express agreement of the parties.”

<sup>23</sup> *Supra*, footnote 4.

<sup>24</sup> Association of Family and Conciliation Courts. “Guidelines for Parenting Coordination.” FAMILY COURT REVIEW, Vol. 44 No. 1, January 2006, p. 164-181. The Task Force on Parenting Coordination noted that the “field of parenting coordination” is too new for issuance of “standards of practice.”

<sup>25</sup> *Id.*

<sup>26</sup> National Council of Juvenile and Family Court Judges. **Family Violence: A Model State Code.** Chapter 4. Family and Children. Sec. 408(A)(2)(b) and 408 (B)(1)(b) and (2) (1994).

<sup>27</sup> *See*, AFCC Guidelines, footnote 22, which articulate the importance of safety for parents and children both in the process and the outcomes of the *PC* engagement.

<sup>28</sup> **Vermont.** ADMINISTRATIVE ORDER NO. 42. QUALIFICATIONS AND TRAINING OF PARENT COORDINATORS. Vermont uniquely provides for supervision of *PCs*. Rule 6 (b) The parent coordination case supervisor shall supervise the initial cases to which a new parent coordinator is assigned. At a minimum, the case supervisor shall closely supervise three cases with a new parent coordinator. The initial case supervision requirement may be increased at the discretion of the case supervisor in consultation with the program manager.

<sup>29</sup> *Cf.* **Vermont.** ADMINISTRATIVE ORDER NO. 42. QUALIFICATIONS AND TRAINING OF PARENT COORDINATORS. “Rule 8. Complaint Process; Removal from Panel of Qualified Parent Coordinators. (a) All complaints concerning a parent coordinator or the parent coordination program from litigants, judges, court personnel, or attorneys involved in a parent coordination case shall be referred to the Vermont Family Court Mediation Program...” Subsequent sections detail the process.

<sup>30</sup> **Arizona.** Rules of Family Law Procedure. Rule 74 (C). Complaints about the Parenting Coordinator shall be addressed in the manner specified in the Order of Appointment. If such complaints remain unresolved after following the procedures specified in the order, a motion may be filed with the court requesting removal of the Parenting Coordinator.

**Maine.** Maine Revised Statutes, Title 19-A § 1659 (5). If a party objects to the recommendations of the parenting coordinator, a party or the parenting coordinator may file a motion for review.

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<sup>31</sup> **Arizona.** Rule 74. Parenting Coordinator. K. Immunity. The Parenting Coordinator has immunity in accordance with Arizona law as to all acts undertaken pursuant to and consistent with the appointment order of the court.

**Maine.** Maine Revised Statutes Title 19-A: §1659(7). 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.

**North Carolina.** NC General Statutes - Chapter 50, Article 5: Parenting Coordinator. § 50-100. Parenting coordinator immunity. A parenting coordinator shall not be liable for damages for acts or omissions of ordinary negligence arising out of that person's duties and responsibilities as a parenting coordinator. This section does not apply to actions arising out of the operation of a motor vehicle.

**Vermont.** On the other hand, Vermont rules require *PCs* to carry a minimum of \$250,000 of professional liability insurance and provide proof of insurance annually to the program manager. Rule 7.

<sup>32</sup> It is important to note that the practices of custody evaluation, guardian ad litem and mediator are governed or guided by "standards of practice" and "codes of ethical conduct" devised by professional associations, court rules, statutes and caselaw. *Parent Coordination* practice is not defined or constrained similarly. It is an emerging practice largely based on the predilections of the *PC*.

<sup>33</sup> Judges should assess whether a request by a parent or an agreement by both parents is informed and voluntary. Attorneys report that clients are often eager to accommodate what they believe the court thinks is best for post-dispositional implementation of custody orders. Some attorneys advise that clients have been coerced into agreement for an appointment of a *PC* by the other parent who is seemingly confident that s/he can manipulate the *PC* and achieve more favorable treatment from the *PC* than from a judge. In some jurisdictions, courts have directed pro se litigants to consult with a legal advice clinic, a parent advocate, or consumers of *PCS* to learn about the purpose, costs, authority, duration, discharge procedures, quality and efficacy of *PC* court-referred services.

<sup>34</sup> **Florida.** Section 6125 of the Florida Statutes limits judicial discretion regarding *PC* appointments as follows: "(3)(a) If there has been a history of domestic violence, the court may not refer the parties to parenting coordination unless both parents consent. *The court shall offer each party an opportunity to consult with an attorney or domestic violence advocate before accepting the party's consent.* (Emphasis added.) The court must determine whether each party's consent has been given freely and voluntarily.

<sup>35</sup> Personal communications with several lawyers about *PC* practice in their respective jurisdictions.

<sup>36</sup> **North Carolina.** NC General Statutes - Chapter 50 Article 5: Parenting Coordinator. §50.94. Appointment Conference.

(a) The parties, their attorneys, and the proposed parenting coordinator must all attend the appointment conference.

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

(1) Explain to the parties the parenting coordinator's role, authority, and responsibilities as specified in the appointment order and any agreement entered into by the parties.

(2) Determine the information each party must provide to the parenting coordinator.

NC General Statutes - Chapter 50 Article 5 3

(3) Determine financial arrangements for the parenting coordinator's fee to

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be paid by each party and authorize the parenting coordinator to charge any party separately for individual contacts made necessary by that party's behavior.

(4) Inform the parties, their attorneys, and the parenting coordinator of the rules regarding communications among them and with the court.

(5) Enter the appointment order.

(c) The parenting coordinator and any guardians ad litem shall bring to the appointment conference all necessary releases, contracts, and consents. The parenting coordinator must also schedule the first sessions with the parties. (2005-228, s. 1.)

<sup>37</sup> **Texas.** § 153.605(c). Notwithstanding any other provision of this subchapter, a party may at any time file a written objection to the appointment of a parenting coordinator on the basis of family violence having been committed by another party against the objecting party or a child who is the subject of the suit. After an objection is filed, a parenting coordinator may not be appointed unless, on the request of a party, a hearing is held and the court finds that a preponderance of the evidence does not support the objection. If a parenting coordinator is appointed, the court shall order appropriate measures be taken to ensure the physical and emotional safety of the party who filed the objection. The order may provide that the parties not be required to have face-to-face contact and that the parties be placed in separate rooms during the parenting coordination.

<sup>38</sup> **Florida.** Section 6125 (7) of the FL Statutes provides: "All communications made by, between, or among the parties and the parenting coordinator during parenting coordination sessions are confidential. The parenting coordinator and each party designated in the order appointing the coordinator may not testify or offer evidence about communications made by, between, or among the parties and the parenting coordinator during parenting coordination sessions, except if:

(a) Necessary to identify, authenticate, confirm, or deny a written agreement entered into by the parties during parenting coordination;

(b) The testimony or evidence is necessary to identify an issue for resolution by the court without otherwise disclosing communications made by any party or the parenting coordinator;

(c) The testimony or evidence is limited to the subject of a party's compliance with the order of referral to parenting coordination, orders for psychological evaluation, counseling ordered by the court or recommended by a health care provider, or for substance abuse testing or treatment;

(d) The parenting coordinator reports that the case is no longer appropriate for parenting coordination;

(e) The parenting coordinator is reporting that he or she is unable or unwilling to continue to serve and that a successor parenting coordinator should be appointed;

(f) The testimony or evidence is necessary pursuant to paragraph (5)(b) or subsection (8);

(g) The parenting coordinator is not qualified to address or resolve certain issues in the case and a more qualified coordinator should be appointed;

(h) The parties agree that the testimony or evidence be permitted; or

(i) The testimony or evidence is necessary to protect any person from future acts that would constitute domestic violence... ; child abuse, neglect, or abandonment... ; or abuse, neglect, or exploitation of an elderly or disabled adult... "

**Maine.** Maine Revised Statutes. Title 19 – A: § 1659 (6). Confidentiality. The activities of a *PC* are not confidential, except that the *PC* has discretion to keep any communications with children confidential.

**Texas.** § 153.601(3)(1) provides that *PCS* are deemed to be confidential procedures.

**Utah.** Judicial Administration Rules. RULE 4-509(8) *Communications and confidentiality.*(8)(A) All suggestions made to the parties should occur in joint sessions.(8)(B) Bearing in mind that the role of a parent coordinator is not primarily investigative, the parent coordinator may, nevertheless,

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communicate with the guardian ad litem attorney, if one is appointed, but shall only communicate with any third persons (including teachers, physicians, clergy, therapists or other extended family members) with the express written permission of both parties and only to the extent necessary to obtain information that the parties agree can be most reliably obtained in that fashion. The parent coordinator may meet and/or interview the children with the express written permission of the parents or the guardian ad litem attorney (if appointed) as part of the consultation process if the parent coordinator believes that such action will aid in issuing appropriate suggestions.(8)(C) Unless otherwise agreed by the parties, all oral or written communications between the parent coordinator and the parties, other than a formal parenting plan and the quarterly status report, are deemed confidential and may not be released unless agreed to by both parties.(8)(D) Nothing in this rule excuses mandatory reporting requirements pursuant to Utah law, federal law, and/or other professional reporting requirements.

<sup>39</sup> **Vermont.** Vermont Family Proceedings. RULE 4. Divorce, Annulment and Legal Separation; Abuse Prevention. (s)5(C) ... At the initial meeting with each party, the parent coordinator shall... inform the parties that information gained by the parent coordinator in the process will not be confidential.

<sup>40</sup> Communications of a client with an attorney are confidential. An attorney may not disclose that a person is a client or the content of any communication with her/him unless the client gives the attorney permission to share communications or any information about the client. There are limited exceptions to this broad protection of confidential communications. *ABA Model Rules of Professional Conduct*. Rule 1.6 Confidentiality of Information.

In many states, communications by a battered adult with an advocate working for a domestic violence center are also confidential; generally with an exception related to reporting of suspected child abuse. See, Battered Women’s Justice Project. (2007). *Confidentiality: An Advocate’s Guide*.

<sup>41</sup> However, where a judge decides to appoint a PC, notwithstanding the domestic violence, safeguards should be imposed by the court. FL Statutes Section 6125 (3)(c): “If there is a history of domestic violence, the court shall order safeguards to protect the safety of the participants, including, but not limited to, adherence to all provisions of an injunction for protection or conditions of bail, probation, or a sentence arising from criminal proceedings.”

<sup>42</sup> See Section 6125 of the Florida Statutes, *supra*.

<sup>43</sup> Section 6125 of the Florida Statutes limits judicial discretion regarding PC appointments as follows: “(3)(a) If there has been a history of domestic violence, the court may not refer the parties to parenting coordination unless both parents consent. *The court shall offer each party an opportunity to consult with an attorney or domestic violence advocate before accepting the party’s consent.* (Emphasis added.) The court must determine whether each party’s consent has been given freely and voluntarily.

<sup>44</sup> Cattaneo.