

MAINE STATE LEGISLATURE

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**REPORT TO THE JOINT STANDING COMMITTEE ON THE JUDICIARY
FOR THE 126th MAINE LEGISLATURE**

ON

PARENTING COORDINATORS

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INTRODUCTION

The Supreme Judicial Court is required to submit an annual report to the Joint Standing Committee of the Legislature having jurisdiction over judiciary matters describing the use of parenting coordinators in domestic relations actions pursuant to Maine Revised Statutes, Title 19-A, Section 1659. P.L. 2009, ch. 345, § 4. The Family Division, on behalf of the Supreme Judicial Court, is pleased to provide this report on parenting coordinators to the Joint Standing Committee on the Judiciary for the 126th Maine Legislature.

STATUTORY CONTEXT

The Family Division was created as part of the Maine Judicial Branch (MJB) in 1997 to provide a system of justice that is responsive to the needs of families and the support of their children. 4 M.R.S. § 183 (2012). The enabling legislation identified case management, education for the parties, and mediation and other forms of alternative dispute resolution as important tools in family matter proceedings. *Id.*

In 2009, the State of Maine Legislature enacted Public Law Chapter 345, codifying 19-A M.R.S. § 1659 which authorized the creation of a position known as a “parenting coordinator.” Section 1659 authorized the courts to appoint parenting coordinators in family matter cases, including divorce and parental rights and responsibilities actions. P.L. 2009, ch. 345, § 4. A “[p]arenting coordinator” is defined as “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...”. 19-A M.R.S. § 1659 (1)(A) (2012). Section 1659 requires that parenting coordinators be listed on the roster of guardians ad litem maintained by the Chief

Judge of the District Court and meet other qualifications and requirements established by the Supreme Judicial Court. 19-A M.R.S. § 1659(1)(A)(1) (2) (2012).

Chapter 345, section 3 authorized the Supreme Judicial Court to enter into an agreement with a professional organization of guardians *ad litem* as well as to establish a process to collect and review evaluations and complaints about parenting coordinators. P.L. 2009, ch. 345, § 3. However, Chapter 345 was clear that the Judicial Branch was not required to establish a complaint process nor could there be any cost to the Judicial Branch. *Id.* Chapter 345 was specific on these points because no funding was provided to the Judicial Branch to train, roster or oversee parenting coordinators. *Id.*

The court may appoint a parenting coordinator when the court makes certain findings about the parents' persistent inability or unwillingness to engage in productive co-parenting and finds that the appointment of a parenting coordinator is in the child's best interest. 19-A M.R.S. § 1659(2). Specifically, "[i]n 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."

19-A M.R.S. § 1659(2)(A)(1)-(2) (2012).

"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.” 19-A M.R.S. § 1659(3) (2012). Chapter 345, section 4 became effective on September 12, 2009 and is slated for repeal on January 1, 2014. 19-A M.R.S. § 1659(9) (2012).

2012 INFORMATION

Parenting Coordinators Appointments

This report describes activities during calendar year 2012, during which there were appointments of parenting coordinators in approximately 49 of the 14,460 family matters (with children) actions filed. Pursuant to statute, the court may appoint a parenting coordinator with or without the consent of the parties. 19-A M.R.S. § 1659(2)(A) (2012). The appointment of a parenting coordinator is effective upon the issuance of a final divorce judgment, a final parental rights and responsibilities judgment or the final ruling on a post judgment motion. 19-A M.R.S. 1659(3) (2012). A majority of the parenting coordinator appointments, 76% (37), were made by agreement of the parties.¹ The remaining 24% (12) of parenting coordinator appointments were made subsequent to a contested hearing and after the court’s finding that the appointment of a parenting coordinator would be in the child’s best interest.

Complaints Against Parenting Coordinators

As noted above, no complaint process is required by Chapter 345, no complaint resolution process was funded and no complaint process has been established. Although the

¹ In past reports, the Maine Judicial Branch (MJB) calculated the number of parenting coordinator appointments based upon reports from Judicial Officers and Clerks. Due to changes in docketing practices, the MJB is able to provide a more precise number of parenting coordinator appointments than in previous years. However, the MJB’s current case management system is not able to capture data related to the number of appointments made by agreement versus the number of appointment entered after a contested hearing. Therefore, the percentages are based upon internal polling to determine the approximate ratios within the total number of appointments.

Office of the Chief Judge serves as the repository for post-proceeding complaints in other matters, it does not resolve complaints regarding parenting coordinators. Therefore, any individuals submitting complaints regarding parenting coordinators to the Office of the Chief Judge of the District Court were redirected to the judicial officer presiding over the underlying court case.

Beyond an administrative complaint process, however, the parties have the statutory right to object to the recommendations of the parenting coordinator. 19-A M.R.S. § 1659(5) (2012). Judges report that two complaints and several motions seeking review of a parenting coordinator's recommendations—most frequently that one party disagreed with the parenting coordinator's recommendations—were filed in 2012. Two orders appointing parent coordinators were vacated. In addition, the Family Division is aware that several hearings related to fee issues were conducted. These hearings involved challenges to parent coordinator fees and/or requests to (re)allocate parent coordinator fees among the parties.

Finally, the Judicial Branch has not entered into an agreement with any professional organization of guardians *ad litem* to collect and review evaluations and complaints with regard to parenting coordinators as permitted by Chapter 345. P.L. 2009, ch. 345, § 4. Notwithstanding a lack of formal obligation to collect such information, the Maine Guardian *ad litem* Institute (MEGALI) may have additional information to supplement this Report.

EARLY INDICATORS

In 2012, 49 parenting coordinators were appointed. The small number of appointments² and resulting data set do not allow for an in-depth evaluation of the effectiveness of the parenting

² There were a total of 106 parenting coordinators appointed in the four years between 2009-2012.

coordinator process. However, there are indicators that are worth tracking over time. For example, while the number of appointments remains limited, the number of contested appointments is slowly increasing. By way of illustration, in 2011 approximately 13% (6) of the parenting coordinator appointments were contested.³ In 2012 the number of contested appointments increased to approximately 24% (13).

Although the Judicial Branch received no formal complaints against parenting coordinators in 2012, the parties have the statutory right to file a “motion for review” if they disagree with the recommendations of the parenting coordinator. 19-A M.R.S. § 1659(5) (2012). Several motions to review were filed. In addition, multiple contested hearings were held to resolve fee disputes or to revise fee allocation among the parties.

CONCLUSION

The Judicial Branch anticipates that unless new funding for case management system upgrades or staffing to conduct one-on-one participant interviews becomes available in upcoming years, the Family Division will be unable to conduct a thorough review describing the use of parenting coordinators and the of the impact of parenting coordinators on Maine families.

³ Based on the results of internal polling, 6 of the 45 appointments in 2011 were ordered after contested hearing.