

# MAINE STATE LEGISLATURE

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# 123rd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2007

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Legislative Document

No. 1771

H.P. 1237

House of Representatives, March 28, 2007

### An Act To Authorize the Use of Parenting Coordinators in Maine

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Reference to the Committee on Judiciary suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative HAYES of Buckfield.

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

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

3 **5-A. Coordinator.** "Coordinator" means a parenting coordinator appointed by a  
4 court pursuant to section 1743, subsection 1.

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

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

8 A. Excessive litigation;

9 B. Anger and distrust;

10 C. Verbal abuse;

11 D. Physical aggression or threats of physical aggression;

12 E. Difficulty communicating about and cooperating in the care of the child; or

13 F. Any other behavior, as the court determines appropriate.

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

15 **§1743. Parenting coordinator**

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

20 A. At any time during the proceeding if all parties consent to the appointment. The  
21 parties may agree to limit the role of the coordinator to specific issues or areas that  
22 the court determines appropriate; or

23 B. Upon entry of a custody order other than an ex parte order if the court makes  
24 specific findings that:

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

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

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

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

32 **2. Qualifications; list of coordinators.** The Supreme Judicial Court shall by rule  
33 establish qualifications for a coordinator pursuant to Title 4, section 8. The court shall  
34 maintain a list of coordinators who meet the qualifications. A coordinator must be  
35 impartial and may not have a separate connection to either party. To remain on the list

1 under this subsection, a coordinator must complete parenting coordinator instruction by  
2 or approved by and in an amount and frequency determined by the Supreme Judicial  
3 Court.

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

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

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

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

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

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

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

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

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

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

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

21       **8. Report.** The coordinator shall promptly report in writing to the court, the parties,  
22       the attorneys for the parties and a guardian ad litem if the coordinator determines that the  
23       existing custody order is not in the best interests of the child or that the coordinator is not  
24       qualified to address or resolve certain issues in the case. The court shall schedule a  
25       hearing and review the matter no more than 2 weeks following receipt of the report. If  
26       the parties have agreed to a fundamental change in the child custody order, the  
27       coordinator shall present the agreement to the court. The coordinator remains appointed  
28       to the case until relieved by the court.

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

35       A. A written summary of a meeting and a development in the case following each  
36       meeting; and

37       B. A copy of any written communication.

38       **10. Modification or termination of a coordinator appointment.** For good cause  
39       shown, the court may terminate or modify a coordinator appointment upon motion of a

1 party or the coordinator or the court on its own motion. Good cause under this subsection  
2 includes:

3 A. Lack of reasonable progress over a significant period of time despite the best  
4 efforts of the parties and the coordinator;

5 B. A determination that the parties no longer need the assistance of the coordinator;

6 C. Impairment of a party that significantly interferes with the party's participation in  
7 the process;

8 D. The coordinator is unable or unwilling to continue to serve; or

9 E. If the appointment was made upon an agreement of the parties under subsection 1,  
10 paragraph A. If a motion is made under this paragraph, the court may modify or  
11 terminate the coordinator appointment according to a subsequent agreement of the  
12 parties.

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

16

## SUMMARY

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