

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



STATE LAW LIBRARY
AUGUSTA, MAINE

124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 643

H.P. 457

House of Representatives, February 19, 2009

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

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 §1653, sub-§2, ¶D,** as amended by PL 2001, c. 329, §2, is
3 further amended to read:

4 D. The order of the court awarding parental rights and responsibilities must include
5 the following:

6 (1) Allocated parental rights and responsibilities, shared parental rights and
7 responsibilities or sole parental rights and responsibilities, according to the best
8 interest of the child as provided in subsection 3. An award of shared parental
9 rights and responsibilities may include either an allocation of the child's primary
10 residential care to one parent and rights of parent-child contact to the other
11 parent, or a sharing of the child's primary residential care by both parents. If
12 either or both parents request an award of shared primary residential care and the
13 court does not award shared primary residential care of the child, the court shall
14 state in its decision the reasons why shared primary residential care is not in the
15 best interest of the child;

16 (2) Conditions of parent-child contact in cases involving domestic abuse as
17 provided in subsection 6;

18 (3) A provision for child support as provided in subsection 8 or a statement of
19 the reasons for not ordering child support;

20 (4) A statement that each parent must have access to records and information
21 pertaining to a minor child, including, but not limited to, medical, dental and
22 school records and other information on school activities, whether or not the
23 child resides with the parent, unless that access is found not to be in the best
24 interest of the child or that access is found to be sought for the purpose of causing
25 detriment to the other parent. If that access is not ordered, the court shall state in
26 the order its reasons for denying that access;

27 (5) A statement that violation of the order may result in a finding of contempt
28 and imposition of sanctions as provided in subsection 7; and

29 (6) A statement of the definition of shared parental rights and responsibilities
30 contained in section 1501, subsection 5, if the order of the court awards shared
31 parental rights and responsibilities; and

32 (7) If the court appoints a parenting coordinator pursuant to section 1659, a
33 parenting plan defining areas of parental rights and responsibilities within the
34 scope of the parenting coordinator's authority.

35 An order modifying a previous order is not required to include provisions of the
36 previous order that are not modified.

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

38 **§1659. Parenting coordination and assistance**

39 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
40 following terms have the following meanings.

1 A. "Parenting coordinator" means a neutral 3rd party appointed by the court to
2 oversee and resolve disputes that arise between parents in interpreting and
3 implementing the parenting plan set forth in the court's order and who, at a minimum,
4 meets the qualifications and requirements established by the Supreme Judicial Court
5 for guardians ad litem and any other qualifications and requirements established by
6 the Supreme Judicial Court.

7 B. "Parenting plan" means a plan defining areas of parental rights and
8 responsibilities within the scope of a parenting coordinator's authority included in an
9 order of the court pursuant to section 1653.

10 2. Appointment. A court may appoint a parenting coordinator pursuant to this
11 subsubsection.

12 A. In a proceeding under this chapter, on the motion of a party or on the court's own
13 motion, the court may appoint a parenting coordinator, with or without consent of the
14 parties, in a case in which:

15 (1) The parents have demonstrated a pattern of persistent inability or
16 unwillingness to:

17 (a) Make parenting decisions on their own;

18 (b) Comply with parenting agreements and orders;

19 (c) Reduce their child-related conflicts; or

20 (d) Protect their child from the effects of those conflicts; and

21 (2) Appointment of the parenting coordinator is in the best interest of the child.

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

24 C. Prior to appointing a parenting coordinator, the court shall consider any evidence
25 of domestic abuse that may affect the parties' ability to engage in parenting
26 coordination and shall tailor the order accordingly, including, without limitation,
27 declining to appoint a parenting coordinator.

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

29 3. Timing of appointment; post-judgment. The appointment of a parenting
30 coordinator is effective upon issuance of the final divorce judgment, the ruling on a post-
31 judgment motion or the final parental rights and responsibilities judgment.

32 4. Authority; failure to comply. A parenting coordinator may make
33 recommendations that interpret and implement the parenting plan. A party's failure to
34 comply with the parenting coordinator's recommendations is admissible in a proceeding
35 concerning compliance with an order of the court, including the parenting plan, and a
36 contempt proceeding. A parenting coordinator's interpretation or implementation of the
37 court order may not change the order.

38 5. Judicial review. If a party objects to the recommendations of the parenting
39 coordinator, a party or the parenting coordinator may file a motion for review. Pending

1 review, the parties shall follow the order as interpreted or implemented by the parenting
2 coordinator.

3 **6. Confidentiality.** The activities of a parenting coordinator are not confidential,
4 except that the parenting coordinator has discretion to keep any communications with
5 children confidential.

6 **7. Quasi-judicial immunity.** An individual serving as a parenting coordinator acts
7 as the court's agent and is entitled to quasi-judicial immunity for acts performed within
8 the scope of the duties of the parenting coordinator as set forth in the court's order.

9 **8. Other parenting assistance.** Nothing in this section limits the court's authority to
10 appoint a person who is not qualified as a parenting coordinator to assist the parties in
11 implementing specifically identified issues in the parenting plan as set forth in the terms
12 of the court's order if:

13 A. The parties consent to the appointment;

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

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

17 **SUMMARY**

18 This bill authorizes a court to appoint a parenting coordinator to oversee and resolve
19 disputes that arise between parents in interpreting and implementing the final court order
20 in a divorce judgment or a parental rights and responsibilities judgment. A parenting
21 coordinator is a neutral 3rd party and must meet the qualifications and requirements
22 established for guardians ad litem, as well as any other qualifications and requirements
23 the Supreme Judicial Court may establish for parenting coordinators.

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

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

32 The parenting coordinator may make recommendations that interpret and implement
33 the parenting plan made part of the order. A party's failure to comply with the
34 recommendations of the parenting coordinator is admissible in a proceeding concerning
35 compliance with a court order, including the parenting plan, and a contempt proceeding.
36 The parenting coordinator's recommendations interpreting and implementing the
37 parenting plan may not change the court's order. If a party objects to the
38 recommendations, a party or the parenting coordinator may file a motion for review by

1 the court. Pending review, the parties shall follow the order as interpreted and
2 implemented by the parenting coordinator.

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

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