

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE

FIRST REGULAR SESSION
December 3, 2008 to June 13, 2009

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 12, 2009

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Augusta, Maine
2009

Sec. E-2. Effective date. This Act takes effect January 1, 2010.

Effective January 1, 2010.

CHAPTER 345

H.P. 457 - L.D. 643

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

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

Sec. 1. 19-A MRSA §1653, sub-§2, ¶D, as amended by PL 2001, c. 329, §2, is further amended to read:

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

- (1) Allocated parental rights and responsibilities, shared parental rights and responsibilities or sole parental rights and responsibilities, according to the best interest of the child as provided in subsection 3. An award of shared parental rights and responsibilities may include either an allocation of the child's primary residential care to one parent and rights of parent-child contact to the other parent, or a sharing of the child's primary residential care by both parents. If either or both parents request an award of shared primary residential care and the court does not award shared primary residential care of the child, the court shall state in its decision the reasons why shared primary residential care is not in the best interest of the child;
- (2) Conditions of parent-child contact in cases involving domestic abuse as provided in subsection 6;
- (3) A provision for child support as provided in subsection 8 or a statement of the reasons for not ordering child support;
- (4) A statement that each parent must have access to records and information pertaining to a minor child, including, but not limited to, medical, dental and school records and other information on school activities, whether or not the child resides with the parent, unless that access is found not to be in the best interest of the child or that access is found to be sought for the purpose of causing detriment to the other parent. If that access is not ordered, the court shall state in the order its reasons for denying that access;

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

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

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

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

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

§1659. Parenting coordination and assistance

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

A. "Parenting coordinator" means 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 and who:

(1) On July 1, 2009 is listed in the roster of guardians ad litem maintained by the Chief Judge of the District Court pursuant to rules adopted by the Supreme Judicial Court, or who holds one or more of the licenses listed in the rules and is listed on the roster after July 1, 2009 after completing the other requirements set forth in the rules; and

(2) Meets any other qualifications and requirements established by the Supreme Judicial Court.

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

2. Appointment. A court may appoint a parenting coordinator pursuant to this subsection.

A. In 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.

B. The order of appointment must include apportionment of responsibility for payment of the parenting coordinator's fee, if any, between the parties. State funds may not be used to pay parenting coordinator fees.

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

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

3. Timing of appointment; post-judgment. 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.

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

5. Judicial review. If a party objects to the recommendations of the parenting coordinator, a party or the parenting coordinator may file a motion for review. Pending review, the parties shall follow the order as interpreted or implemented by the parenting coordinator.

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

7. Quasi-judicial immunity. 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.

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

A. The parties consent to the appointment;

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

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

9. Repeal. This section is repealed January 1, 2014.

Sec. 3. Accountability and complaint process. The Supreme Judicial Court may enter into an agreement with a professional organization of guardians ad litem, the purpose of which is to improve the practice of guardians ad litem, to establish a process to collect and review evaluations and complaints about parenting coordinators established pursuant to the Maine Revised Statutes, Title 19-A, section 1659. The organization may charge the parenting coordinators a fee, approved by the Supreme Judicial Court, for the work, but there may not be a cost to the judicial branch. A person who has not paid the required fee may not be designated as a parenting coordinator on the guardian ad litem roster established by the Supreme Judicial Court. The judicial branch is not required to establish a complaint process.

Beginning in 2010, the organization shall make an annual report by February 1st of each year to the Supreme Judicial Court and the joint standing committee of the Legislature having jurisdiction over judiciary matters. The report must include information about comments and complaints regarding parenting coordinators made to the organization, any investigation or review undertaken by the organization in response to comments and complaints and any recommendations for action by the Supreme Judicial Court and the Legislature.

Sec. 4. Report. Beginning March 1, 2010, the Supreme Judicial Court shall 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 the Maine Revised Statutes, Title 19-A, section 1659. The committee may report out legislation relating to parenting coordinators to the 124th Legislature and the 125th Legislature based on information and any recommendations in the reports.

See title page for effective date.