

SECOND REGULAR SESSION

SENATE BILL NO. 865

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATORS WILSON AND KEAVENY.

Read 1st time January 28, 2010, and ordered printed.

TERRY L. SPIELER, Secretary.

3097S.04I

AN ACT

To amend chapter 452, RSMo, by adding thereto four new sections relating to parenting coordinators.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 452, RSMo, is amended by adding thereto four new sections, to be known as sections 452.432, 452.434, 452.436, and 452.438, to read as follows:

452.432. As used in sections 452.432 to 452.438, the following terms shall mean:

(1) "High-conflict case", any action for dissolution of marriage, legal separation, paternity, guardianship, or modification where minor children are involved and the parties demonstrate a pattern of ongoing:

(a) Litigation;

(b) Inability to comply with parenting agreements and orders;

(c) Difficulty in communicating about and cooperating in the care of their children; or

(d) Other conditions that in the discretion of the court warrant the appointment of a parenting coordinator;

(2) "Parenting coordination", a child-focused dispute resolution process in which a qualified parenting coordinator assists parents or persons exercising parental authority to implement a parenting plan by facilitating a resolution of their disputes in a timely manner and by reducing the child-related conflict so that the children may be protected from the impact of that conflict;

(3) "Parenting coordinator", an impartial third party qualified under subsection 2 of section 452.438, and appointed by the court to assist parties in promoting the best interests of the children by

21 resolving issues and deciding disputed issues under the provisions of
22 sections 452.432 to 452.438 relating to parenting and other family issues
23 in any action for dissolution of marriage, legal separation, paternity,
24 guardianship, or modification where minor children are involved.

452.434. 1. At any time after the entry of an order concerning
2 parental responsibilities and upon notice to the parties, the court may,
3 upon an agreement of the parties, appoint a parenting coordinator as
4 a neutral third party to assist in high-conflict cases with the resolution
5 of disputes between the parties concerning parental responsibilities,
6 including but not limited to, implementation of the court-ordered
7 parenting plan. The parenting coordinator shall be an individual with
8 appropriate training and qualifications acceptable to the court as
9 outlined in section 452.438.

10 2. Prior to appointing a parenting coordinator, the court shall
11 consider the effect of any evidence of domestic violence on the
12 appropriateness of parenting coordination for the parties and the
13 minor children. If there is a judgment or order regarding the
14 confidentiality of address or telephone information of a party, the
15 parenting coordinator shall maintain the confidentiality.

16 3. A parenting coordinator shall assist the parties in
17 implementing the terms of the parenting plan. Duties of a parenting
18 coordinator include, but are not limited to, the following:

19 (1) Assisting the parties in creating an agreed-upon, structured
20 guideline for implementation of the parenting plan;

21 (2) Developing guidelines for communication between the parties
22 and suggesting appropriate resources to assist the parties in learning
23 appropriate communication skills;

24 (3) Informing the parties about appropriate resources to assist
25 them in developing improved parenting skills;

26 (4) Assisting the parties in realistically identifying the sources
27 and causes of conflict between them, including but not limited to
28 identifying each party's contribution to the conflict, when appropriate;
29 and

30 (5) Assisting the parties in developing parenting strategies to
31 minimize conflict.

32 4. (1) The court shall grant to the parenting coordinator
33 authority to resolve disputes between the parties as to implementation

34 or clarification of existing orders concerning the parties' minor
35 children, including but not limited to disputes concerning parenting
36 time and specific parental decisions. The parenting coordinator may
37 authorize temporary departures from a parenting plan in a manner
38 that is consistent with the substantive intent of the court order
39 containing the plan, and that is within the scope of matters on which
40 the parenting coordinator is authorized to determine. The parenting
41 coordinator's authority is subject to a party's right to file an objection
42 under section 452.436.

43 (2) The parenting coordinator shall not make any modification
44 to any order, judgment, or decree; except that, the parenting
45 coordinator may make temporary departures from a parenting plan as
46 specified in subdivision (1) of this subsection. The appointment order
47 shall specify those matters which the parenting coordinator is
48 authorized to determine. However, the appointment of a parenting
49 coordinator shall not divest the court of its exclusive jurisdiction to
50 determine fundamental issues of custody, visitation, and support, and
51 the authority to exercise management and control of the case.

52 5. A parenting coordinator shall not have served in any capacity
53 with the parties except as a mediator, and once appointed as a
54 parenting coordinator, shall not later serve in any capacity related to
55 family disputes except as a mediator, with the agreement of the parties,
56 in order to address matters outside of the scope of his or her authority
57 as a parenting coordinator.

58 6. A court order appointing a parenting coordinator shall be for
59 a specified term; except that the court order shall not appoint a
60 parenting coordinator for a period of longer than two years. If an
61 order fails to specify the length of the court-ordered appointment, it
62 shall be construed to be two years from the date of appointment. Upon
63 agreement of the parties, the court may extend, modify, or terminate
64 the appointment, including extending the appointment beyond two
65 years from the date of the original appointment. The court may
66 terminate the appointment of the parenting coordinator at any
67 time. The court shall allow the parenting coordinator to withdraw at
68 any time.

69 7. (1) No parenting coordinator shall be appointed unless the
70 court finds that the parties have the means to pay the fees of the

71 parenting coordinator. The state shall assume no financial
72 responsibility for payment of fees to the parenting coordinator, except
73 that the court, if feasible may:

74 (a) Appoint a parenting coordinator to serve on a volunteer
75 basis, with the consent of the parenting coordinator; or

76 (b) Subsidize the fees of a parenting coordinator from other
77 authorized court fees, grants, or other similar funds received by the
78 court.

79 (2) The court shall allocate fees for parenting coordination
80 between the parties, taking into consideration relevant factors,
81 including but not limited to, the relative post-judgment incomes of the
82 parties. The court may allocate the fees between the parties differently
83 upon a finding of good cause by the court or good cause set forth in the
84 parenting coordinator's report.

85 8. In a judicial proceeding, administrative proceeding, or other
86 similar proceeding between the parties to the action, a parenting
87 coordinator shall not be competent to testify about the parenting
88 coordination process and shall not be required to produce records as
89 to any statement, conduct, or decision that occurred during the
90 parenting coordinator's appointment. Nothing in this subsection shall
91 be construed to prohibit a parenting coordinator from testifying or
92 producing records to the extent testimony or production of records by
93 the parenting coordinator is necessary in an action by the parenting
94 coordinator to collect fees from a party to the action.

95 9. A parenting coordinator shall be immune from liability in any
96 claim by the parties or children subject to the order for parenting
97 coordination for injury that arises out of a decision of the parenting
98 coordinator occurring during the performance of his or her duties or
99 during the performance of an act that the parenting coordinator
100 reasonably believed was within the scope of his or her duties unless the
101 act or omission causing such injury was willful and wanton. Nothing
102 in this subsection shall be construed to bar a party from asserting a
103 claim related to the reasonableness or accuracy of any fee charged or
104 time billed by a parenting coordinator.

452.436. 1. A written report of the decisions made by the
2 parenting coordinator shall be provided to the parties or their counsel
3 within twenty days of a decision being made. There shall be no ex

4 **parte communication with the court.**

5 **2. Any decisions made by the parenting coordinator authorized**
6 **by the court order and issued under sections 452.432 to 452.438 shall be**
7 **binding on the parties until further order of the court.**

8 **3. Any party may file an objection to any report or decision made**
9 **by the parenting coordinator with the court within fifteen days after**
10 **the parenting coordinator provides the report to the parties, with**
11 **notice being provided to both the parenting coordinator and all**
12 **parties. Any objection shall be accompanied by any written report or**
13 **decision made by the parenting coordinator. Responses to the**
14 **objections shall be filed with the court with notice to the parenting**
15 **coordinator and all other parties within fifteen days after the objection**
16 **is served. The court may expand the time allowed to file any objection**
17 **or response of any party.**

18 **4. The court shall review any objections to any report of a**
19 **parenting coordinator and any responses submitted to such objections**
20 **to the report and shall set the matter for a hearing de novo or enter**
21 **other appropriate orders within ten days of an objection being made.**

452.438. 1. Nothing in sections 452.432 to 452.438 shall be
2 **construed to require a circuit court or judge to appoint a parenting**
3 **coordinator. Each judicial circuit may adopt local rules and guidelines**
4 **governing the appointment, qualifications, and training of parenting**
5 **coordinators. In the absence of a supreme court rule, required training**
6 **shall consist of a minimum of sixteen hours in parenting coordination**
7 **including a domestic violence component.**

8 **2. A parenting coordinator shall be either a licensed mental**
9 **health professional or a licensed attorney. The parenting coordinator**
10 **shall also be qualified under Missouri supreme court rules governing**
11 **family mediation.**

12 **3. Parenting coordinators who are not licensed attorneys shall**
13 **not be considered as engaging in the unauthorized practice of law**
14 **while performing actions within the scope of their duties as a parenting**
15 **coordinator.**

✓