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Ohio Adopts Parenting Coordination

By Craig P. Treneff, Esq.^{a0}

What is a parenting coordinator? In the early 1990s, courts in Denver, Colorado, and Marin County, California, began experimenting with an approach to managing high conflict post-decree custody disputes through the concept of parenting coordination.¹ The position goes by a variety of names in the various states: parenting coordinator, special master, custody commissioner, parenting facilitator, co-parenting coordinators, and others. In general, though, the parenting coordinator attempts to teach and model more appropriate, healthier problem-solving skills to the parents. The parenting coordinator also attempts to help parents resolve disputes in interpretation of their parenting orders and with conflicts that arise post-decree. To the extent that the disputes cannot be mediated, the parenting coordinator can take on the role of an arbitrator, making a decision or recommendation that the parents must accept unless it is appealed to the court. The goal, though, is to keep the family from returning to court and to address their problems collaboratively through a structured use of assessment, education, conflict management, and dispute resolution.²

Depending upon jurisdiction, parenting coordinators may be agreed by the parties or ordered by the court. It is designed to "... help parents implement and comply with court orders or parenting plans, to make timely decisions in a manner consistent with children's developmental and psychological needs, to reduce the amount of damaging conflict between caretaking adults to which children are exposed, and to diminish the pattern of unnecessary re-litigation about child-related issues."³

Effective April 1, 2014, the Ohio Supreme Court adopted a parenting coordination rule, Rule 90 of the Rules of Superintendence. Rule 90(c) defines "parenting coordination" as "...a child-focused dispute resolution process ordered by a court of common pleas or division of the court to assist parties in implementing a parental rights and responsibilities or companionship time order using assessment, education, case management, conflict management, coaching, or decision-making." Sup.R. 90(c). Parenting coordination is specifically defined as not being mediation subject to R.C. 2710 or Sup.R. 16. A "parenting coordinator" means "...an individual appointed by the court to conduct parenting coordination."

Sup.R. 90.01 requires local courts which choose to use parenting coordination to adopt a local rule which will include the following provisions:

- Selection and referral of a case to parenting coordination at any point after a parenting rights or companionship time order is filed;
- Addresses domestic violence or abuse before and during parenting coordination;
- Referrals to legal counsel, counseling, parenting courses, and other support services for all parties;
- Allows parties and their attorneys to participate in parenting coordination session;
- Prohibits a parenting coordinator from acting in multiple roles, even with the consent of the parties;

- Allows a mediator to also serve as a parenting coordinator with written consent and court approval;
- Addresses issuance of written parenting coordination agreements and reports or decisions by the parenting coordinator;
- Allows for objections to the decision of a parenting coordinator;
- Establishes procedures for hearing of complaints regarding a parenting coordinator.

Parenting coordination may be ordered when one or more of the following factors are present:

- The parties have ongoing disagreements about the implementation of parental rights orders and need ongoing assistance;
- There is a history of extreme or ongoing parental conflict that has been unresolved by previous litigation from which a child of the parties is adversely affected;
- The parties have a child whose parenting time schedule requires frequent adjustments to maintain age-appropriate contact and the parties have been unable to reach agreement without court intervention;
- The parties have a child with a medical or psychological condition or disability that requires frequent decisions regarding treatment and the parties have been unable to reach agreement without court intervention;
- One or both parties suffer from a medical or psychological condition that results in an inability to reach agreements in their parenting time schedule without assistance, even when minor in nature. Sup.R 90.02(A)-(E).

Parenting coordination may not be ordered to determine whether to grant, modify, or terminate a protection order; the terms of a protection order; the penalty for violation of a protection order; changes in the designation of primary residential parent or legal custodian; or, changes in the primary placement of a child. Sup.R.90.03(A)-(C).

Sup.R. 90.04 provides that if domestic abuse or violence is alleged or present, parenting coordination may proceed only if the victim of the abuse or violence is fully informed about the parenting coordination process and of the option to have a support person present at sessions; appropriate safety procedures are in place; and, that procedures are in place to terminate a parenting coordination session if there is a continued threat of domestic abuse or violence.

Parenting coordinators are typically licensed mental health or legal professionals who have become qualified in family mediation and have additional training in parenting coordination. Sup. R. 90.05 requires the following qualifications:

- Master's degree or higher or law degree.
- At least two years of professional experience with situations involving children, including counseling, legal representation in family law cases, and serving as a guardian ad litem.
- Completion of at least twelve hours of basic mediation training.
- Completion of at least forty hours of specialized family or divorce mediation training.
- Completion of at least fourteen hours of specialized training in domestic abuse and dispute resolution.
- Completion of at least twelve hours of specialized training in parenting coordination.

- In order for a parenting coordinator to be involved in a case with abuse, neglect or dependency, at least thirty-two hours of specialized child-protection mediation training has been completed. Sup.R. 90.06.

Typically, parenting coordinators may not serve in a matter which presents a clear conflict of interest, i.e., the parenting coordinator may not serve in multiple roles such as guardian ad litem, custody evaluator, or therapist. Further, if a psychologist is acting as a parenting coordinator, he or she may not provide formal psychological diagnoses or render therapy or counseling services to the family.⁴

Parenting coordination typically is not a confidential process for communications between the parties and their children or for communications with other relevant parties or the court. The “Guidelines for Parenting Coordination” of the Association of Family and Conciliation Courts notes that “[p]arenting coordination is an unusual type of intervention that does not fit within the existing framework of rules and laws dealing with the subjects of ‘statutory privileges,’ ‘rules of evidence,’ and ‘professional codes of ethics’ related to the subject of ‘confidentiality’ and statements made by parents or people involved in any disputed parenting case. . . . However, the essence of the PC concept is that all such confidentiality protections need to be stripped away, so the PC is free to make quick decisions based upon all knowledge the PC has obtained from the parties and sources.” Sup.R. 90.12 specifically provides that communication made as part of parenting coordination, including communications between the parties and their children and the parenting coordinator, communications between the parenting coordinator with other relevant parties or the court are not confidential.

The parenting coordinator has a variety of specific functions.

- **Assessment:** reviewing custody evaluations, relevant records, court orders, interviews with parents and children, educational records, and the like.
- **Educational:** educating the parents about child development, divorce research and the impact of their behavior on their children. The parenting coordinator may coach the parties about parenting skills, communication and conflict resolution.
- **Coordination/case management:** the parenting coordinator should work with all the professionals involved with the family (e.g., mental health, education, legal, etc.) to coordinate services to the family.
- **Conflict management:** the primary role is to work out disagreements regarding the children. This may involve negotiation, mediation or arbitration. The parenting coordinator may monitor all communications between the parents and suggest more productive forms of communication.
- **Decision-making:** when parents are not able to resolve disputes on their own, the parenting coordinator may be empowered to make decisions to the extent described in the court order or to make reports or recommendations to the court for further consideration.⁵

Planning coordinators serve by parental agreement and/or formal orders. The court order provides the authority for the parenting coordinator to work with parents outside the adversarial process by a written agreement between the parenting coordinator and the parties. It is also necessary in the court order to address the description of services, decision-making processes, fees, involvement in litigation, and length of service. Typical appointments are from one to two years and, depending upon state statute or rules, the parenting coordinator may not be called to provide records in a judicial proceeding or to testify. A parenting coordinator cannot be unilaterally discharged by one party.

Perhaps the most significant aspect of parenting coordination has to do with the scope of the decisions parenting coordinators are permitted to make. In general, parenting coordinator decision-making is intended to keep a situation from escalating but not to make decisions that substantively alter legal and physical custody. The specific authority should be delineated in the order and agreement but may address the following:

- Minor changes or clarification of parenting time or schedules, including holidays, vacation and temporary variation from the current parenting orders.
- Transitions and exchanges of the children.
- Health care management including medical, dental, orthodontic, and vision care of the children.
- Child-rearing issues.
- Psychotherapy or mental health care of the children.
- Psychological testing or assessment of the children and the parents.
- Educational or daycare including school choice, tutoring, summer school, participation in special education testing or other major educational decisions.
- Enrichment and extracurricular activities.
- Religious observances and education.
- Children's travel and passport arrangements.
- Clothing, equipment, and personal possessions of the children.
- Communication between the parents about the children.
- Alteration of appearance of the children including haircuts, tattoos, and piercings.
- Role of and contact with significant others and extended families.
- Substance abuse assessment or testing for parents or children, including access to the results.
- Parenting classes.⁶

In some jurisdictions, the planning coordinator must notify the parties of the intent to proceed to an arbitration phase. The dissemination of the planning coordinator's recommendation varies by jurisdiction but where the planning coordinator is appointed by the court, it would be expected that the court as well as the parties and their counsel receive copies. Time sensitive decisions could be made orally followed by a written decision. Decisions are considered binding until changed by a court. Although the standards for appeal and judicial review vary by jurisdiction, typically judicial review is included.

In sum, parenting coordination is a growing method of attempting to keep high conflict parents from continuous rounds of litigation which impact their children by delegating decision-making in significant areas other than substantive reallocation of parental rights. It is a tool available to the family law bar and judiciary.⁷

a0 OSBA Certified Specialist, Family Relations Law
Fellow, American Academy of Matrimonial Lawyers

Footnotes

- 1 Eve Orlow, “Working with Parenting Coordinators.” Family Advocate, Vol. 30, No. 1.
- 2 Arnold T. Shienvold, Ph.D, “The High-Conflict Divorce & Your Children’s Adjustment.” Family Advocate, Vol. 34, No. 1.
- 3 American Psychological Association, “Guidelines for the Practice of Parenting Coordination.” American Psychologist, January 2012.
- 4 American Psychological Association, “Guidelines for the Practice of Parenting Coordination.” American Psychologist, January 2012.
- 5 Guideline VI, “Guidelines for Parenting Coordination.” Association of Family and Conciliation Courts. 2005.
- 6 Guideline XI, “Guidelines for Parenting Coordination.” Association of Family and Conciliation Courts. 2005.
- 7 On April 23, 2013, the Pennsylvania Supreme Court adopted Rule 1915.11-1 of the Pennsylvania Rules of Civil Procedure which abolished the use of parenting coordinators in child custody cases. The rule specifically provides: “Only judges may make decisions in child custody cases. Masters and hearing officers may make recommendations to the court. Courts shall not appoint any other individual to make decisions or recommendations or alter a custody order in child custody cases. Any order appointing a parenting coordinator shall be deemed vacated on the date this rule becomes effective. Local rules and administrative orders authorizing the appointment of parenting coordinators also shall also be deemed vacated on the date this rule becomes effective.”

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