

Analysis of Parenting Coordination/Parenting Facilitation 2009 Legislation¹

By Gay G. Cox, J.D.

The author appreciates the assistance of Kalisia Findley, LLB, LLM candidate, in the writing and editing of this paper.

Texas is a leader in providing statutory parenting coordination and parenting facilitation services to families. These processes were primarily developed as a means to diminish the damaging effects of high conflict cases on children. There are several styles and approaches to the involvement of professionals in these roles which are continuously evolving in the United States.

The Association of Family and Conciliation Courts (AFCC) approved “*Guidelines for Parenting Coordination*” in May 2005, the year Texas enacted its first parenting coordination statute. The term “Guidelines” was intentionally selected “to indicate the newness of the field of parenting coordination and the difficulty of coming to consensus in the United States and Canada on ‘standards’ at this stage in the use of parenting coordination.”² “As the parenting coordination model has been implemented in various jurisdictions, there has been variation in the manner in which the PC [Parenting Coordinator, hereinafter referred to as the PC] practices, the authority of the PC, the stage of the legal process when the PC is appointed and the functions, the various roles of the PC, the qualifications and training of the PC, and the best practices for the role.”³ Accordingly, when comparing what is published about parenting coordination in other jurisdictions, one must interpret the application of the principles in light of the Texas model.

One notable difference between jurisdictions is the authorization to make decisions. Parenting Facilitators (hereinafter referred to as PFs) (and, of course, PCs) in Texas are granted no decision-making authority. The limited duties they may be assigned to fulfill by the appointing court do not include decision-making.⁴ In Texas, family law courts may refer suits affecting the parent-child relationship to binding (or non-binding) arbitration, but only with the written agreement of the parties.⁵ According to the Texas Rules of Civil Procedure, Rule 171, a master in chancery may be appointed, but the master’s decision is not binding on the court which “may confirm, modify, correct, reject, reverse or recommit the

[master’s] report, after it is filed, as the court may deem proper and necessary in the particular circumstances of the case.”

The 2009 amendments to the parenting coordination statute⁶ added a statutory non-confidential process, called parenting facilitation, to the confidential parenting coordination process adopted in 2005. Before passage of the amendments, the now-codified process of parenting facilitation was being conducted in Texas without statutory guidelines as courts referred parents to what became known within the state as “parenting facilitation” to distinguish it from confidential parenting coordination. Parenting facilitation is not confidential and envisions the PF having the ability to monitor compliance with court orders and to testify.⁷ Parenting coordination remains a court-appointed alternative dispute resolution process that is confidential and in which the PC does not testify, but rather reports to the court only whether the process should continue or not.⁸

If the court appoints an individual to help parents resolve parenting issues in a confidential capacity and does not specifically appoint the individual under some other statute (such as, in the role of mediator⁹ or family counselor¹⁰), then the person serves by definition as a PC subject to the qualifications and requirements of the parenting coordination provisions of the statute.¹¹ If the court appoints an individual to help parents resolve parenting issues in a non-confidential capacity and does not specifically appoint the individual under some other statute (such as, in the role of amicus attorney,¹² guardian ad litem,¹³ attorney ad litem,¹⁴ volunteer advocate,¹⁵ social study evaluator,¹⁶ or friend of the court¹⁷), the person serves by definition as a PF subject to the qualifications and requirements of the parenting facilitation provisions of the statute.¹⁸ One may not serve in the capacity of a PC and a PF on the same case, regardless of which role one serves first.¹⁹ The prohibition is even stricter on the PF, since the PF may not ever serve in any other professional capacity with the parties, the subjects of the suit, or any member of their family.²⁰ The Texas statute brings clarity to these processes by giving them different names and applying different standards, as appropriate.

¹ Texas Family Code (TFC) §153.600, et seq.

² *AFCC Guidelines*, Foreword, 1, available at <http://www.afccnet.org/pdfs/AFCCGuidelinesforParentingCoordinationnew.pdf> (last visited June 26, 2010)

³ *AFCC Guidelines*, Overview and Definitions, 2.

⁴ TFC §§ 153.606 and 153.6061

⁵ TFC §153.0071(a)

⁶ TFC §153.600, et seq.

⁷ TFC §153.6083(a)

⁸ TFC §§ 153.601(3)(B)(i) and 153.608

⁹ TFC §153.0071

¹⁰ TFC §153.010

¹¹ TFC §153.601(3)(B)

¹² TFC §107.001-.023

¹³ *Id.*

¹⁴ *Id.*

¹⁵ TFC §107.031

¹⁶ *Id.* at §107.0501 et seq.

¹⁷ TFC §202.001-.005

¹⁸ §153.601(3-a)(B)

¹⁹ TFC §153.605 (d)

²⁰ TFC §153.6102(e)

Contrasting Parenting Coordination and Parenting Facilitation

Duties. A PF may be assigned all the same duties of a PC, with the additional possibility of being assigned the duty to monitor compliance with court orders.²¹ The duties in either process are limited to those enumerated in the statute. The duties are largely facilitative of the development of co-parenting skills. Typically, the duties will include helping the parents settle parenting issues and reaching a proposed joint resolution or statement of intent regarding those disputes.²² The processes can be instituted at any time. Participants may agree to the process in a court order that finally disposes of the case, providing that the services will continue post-divorce / post-suit affecting the parent child-relationship. They may seek the court appointment early in the pendency of the suit to help them settle parenting issues to be included in their parenting plan. If the court specifically finds there is good cause for the appointment and it is in the child's best interest, after notice and hearing on the motion of a party or the court's own motion, then the appointment may be made whether or not the case is a high-conflict one.²³ Participants may want to agree to the appointment and the finding on this alternate best interest ground to avoid the court labeling the case a "high conflict" case.

Agreements Reached. PCs and PFs are both prohibited from drafting legal documents,²⁴ but a written report to the parties and lawyers (not to the court) may describe the terms of the proposed resolution or statement.²⁵ Courts should not be apprised of settlement discussions, compromise and offers to compromise.²⁶ Parents should not sign the report submitted by the coordinator or facilitator, since it cannot be a binding agreement and should not have the formalities of such. There is no agreement unless the legal document is prepared by the lawyers, if any, and meets the requirements of a Rule 11, Texas Rule of Civil Procedure, or a mediated, collaborative or other written settlement agreement and it is incorporated in an order signed by the court.²⁷ This prohibition remedies reported circumstances in which parents signed agreements during a parenting coordination-type process which were treated as binding on the parties without the benefit of counsel.²⁸ If the process is not court-appointed, then the provisions pertaining to parenting coordination and parenting facilitation do not apply,²⁹ so lawyers and clients

entering into contracts to have services provided without the benefit of court orders may still face enforceable agreements executed in a process without the statutory protections. Professionals who are not licensed attorneys and who are involved in the drafting of any such agreement may be sanctioned for the unauthorized practice of law.³⁰

Guidelines and Standards. The qualifications and training requirements of PFs, since they are potential litigation witnesses with a degree of power not granted PCs, are more rigorous and detailed than those required of PCs.³¹ PCs essentially serve as specialized parenting dispute resolution professionals who assist clients' efforts to reach resolution by agreement of issues in matters affecting the parent-child relationship. As such, PCs, under the new amendments, are expected to adhere to Texas' "*Ethical Guidelines for Mediators*" (*Mediator Guidelines*).³²

In contrast, a PF must be a licensed mental health professional or lawyer³³ and adhere to standards that must be adopted by that professional's licensing agency and which must be as "rigorous and detailed" as the *AFCC Guidelines*.³⁴ The *AFCC Guidelines* are not applicable to

³⁰ Texas Government Code §81.101

³¹ Compare TFC §§153.610 and 153.6101

³² TFC §153.606(f), These *Mediator Guidelines* are available at

<http://www.supreme.courts.state.tx.us/MiscDocket/05/05910700.pdf> (last visited June 26, 2010). The Texas Supreme Court adopted these guidelines in 2005, after the original parenting coordination statute was enacted.

³³ §153.6101(b)(1)

³⁴ Chapter 1113, Acts of the 81st Legislature, Regular Session, 2009 [HB 1012, Section 32(a)], which can be found at

<http://www.lrl.state.tx.us/legis/billChapter/searchProc.cfm> (last visited June 26, 2010). Section 32 of this session law is non-amendatory, and thus not codified in Texas Family Code, but nevertheless constitute the law of the State of Texas. It states:

SECTION 32. (a) Not later than March 1, 2011, each state agency listed in this subsection shall adopt rules establishing parenting facilitator practice standards consistent with Section 153.6101, Family Code, as added by this Act, applicable to the agency's license holders who serve as parenting facilitators. The practice standards must be at least as detailed and rigorous as those contained in the report entitled "Guidelines for Parenting Coordination" developed by the Association of Family and Conciliation Courts Task Force on Parenting Coordination, dated May 2005. The practice standards required by this section must contain a minimum number of hours of classroom training in the practice standards that must be completed by each license holder who wishes to be eligible to serve as a parenting facilitator. This subsection applies to the:

- (1) State Bar of Texas;
- (2) Texas State Board of Examiners of

Psychologists;

²¹ TFC §153.6061(a)

²² See note 4 supra.

²³ TFC §§153.605(b) and 153.6051(b)

²⁴ TFC §§153.6082(b)-(c)

²⁵ TFC §§153.6082(a). See also 153.608 and 153.6081

²⁶ Texas Rules of Evidence, Rule 408

²⁷ TFC §§153.6082(b)

²⁸ See TFC §6.604 which provides circumstances in which a written settlement agreement reached in an informal settlement conference is binding on the clients without the presence of the parties' attorneys.

²⁹ TFC §§153.601(3)-(3)(a)

parenting coordination in Texas. They specifically state: “parenting coordination [the term used in the *AFCC Guidelines*, but which should be modified in the standards to be adopted by Texas licensing agencies to reflect applicability only to parenting facilitation] is not a confidential process, either for communications between the parties and their children and the PC [in Texas, the PF], or for communications between the PC [PF] and other

(3) Texas State Board of Examiners of Marriage and Family Therapists;

(4) Texas State Board of Examiners of Professional Counselors; and

(5) Texas State Board of Social Worker Examiners.

(b) Notwithstanding Section 153.6101(b), Family Code, as added by this Act, after March 1, 2011, a person who holds a license from a state agency listed in Subsection (a) of this section may not be appointed to serve as a parenting facilitator if:

(1) the agency has not adopted parenting facilitator practice standards as required by Subsection (a) of this section; or

(2) the license holder has not completed the minimum number of hours of classroom training contained in the practice standards.

(c) Notwithstanding any other provision of this section or any other law, a person who satisfies the qualifications to be a parenting coordinator in effect immediately before the effective date of this Act is not required to comply with the requirements imposed by Section 153.610, Family Code, as amended by this Act, until September 1, 2010, to be qualified to serve as a parenting coordinator under Subchapter K, Chapter 153, Family Code, as amended by this Act, and the former law is continued in effect for that purpose.

(d) Notwithstanding Section 153.610, Family Code, as amended by this Act, or Section 153.6101, Family Code, as added by this Act, a person who is employed by a domestic relations office, as defined by Section 203.001, Family Code, before September 1, 2009, may serve as a parenting coordinator or parenting facilitator under Subchapter K, Chapter 153, Family Code, as amended by this Act, if, on the effective date of this Act, the person satisfies the qualifications to be a parenting coordinator under Subchapter K, Chapter 153, Family Code, in effect immediately before the effective date of this Act.

(e) Notwithstanding Section 153.6101(b)(1), Family Code, as added by this Act, a person who has served as parenting coordinator in a case under Subchapter K, Chapter 153, Family Code, before the effective date of this Act may be appointed to serve as parenting facilitator under Subchapter K, Chapter 153, Family Code, as amended by this Act, in another case if, on the effective date of this Act, the person satisfies all other qualifications to serve as a parenting facilitator, is enrolled in a graduate course of study at an accredited college or university, and obtains a license described by Section 153.6101(b)(1), Family Code, as added by this Act, on or before September 1, 2011.

relevant parties to the parenting coordination process, or for communications with the court.”³⁵

The applicable guidelines and standards for PCs are *Mediator Guidelines*³⁶ (and presumably, any applicable professional standards for PCs who are licensed and whose licensing agencies have standards that apply to the process); and for PFs these are PF practice standards required to be adopted by their respective licensing agencies and modeled after *AFCC Guidelines* for applicability to PFs.³⁷ When PCs and PFs act in accordance with the statute and their respective referenced guidelines they are presumed to be acting in good faith.³⁸

Scope of Confidentiality. A participant in parenting facilitation is expressly not considered a patient whose records are confidential,³⁹ whereas when a mental health professional conducts parenting coordination there is no such statutory prohibition and all records are confidential. A participant in parenting coordination is not prohibited from consenting to the PC’s release of information, such as to his or her attorney (just as a mediator may speak to the attorneys involved). PFs or social study/custody evaluators who may testify in the matter would be well-advised not to receive information about a case from PCs or mediators, since the use of the confidential information could be grounds for objection if it forms the basis of the recommendations made by the PF or evaluator. On the other hand, the PC could use a release of information to obtain information from non-confidential sources.

There may be caucus sessions and private communications with a PC, since there will never be testimony by the PC. The *Mediator Guidelines* applied to PCs specifically prohibit the disclosure of information to other parties when given in confidence by the disclosing party unless authorized by the disclosing party.⁴⁰ A PC who interviews a child, should not reveal to the parents and attorneys what the child wants held in confidence, unless required to be reported as abuse or neglect.⁴¹ In contrast, with parenting facilitation the substance of any communication, including with a party, a child who is the subject of the suit, the child’s attorney or any other person, such as a collateral contact, must be disclosed to all the parties’ attorneys and pro se parties, “if the communication occurred outside a PF session and involved the substance of parenting facilitation.”⁴²

The PF, but not the PC, must keep records for seven years, unless the PF’s licensing agent prescribes a different

³⁵ *AFCC Guidelines*, Guideline V.A.

³⁶ See note 33 supra.

³⁷ See note 34 supra, Section 32(a), citing *AFCC Guidelines*, see note 2 supra.

³⁸ TFC §§ 153.607(a) and 153.6071(a)

³⁹ TFC §153.6083

⁴⁰ *Mediator Guidelines*, 8, Comment C.

⁴¹ See TFC §261.101

⁴² TFC §153.6102(f)

period.⁴³ A PC is not prohibited from destroying records, as is the practice of some mediators, unless the PC's licensing standards require records to be maintained.

These requirements to disclose and maintain records in case of a future need for disclosure imposed on PFs allow litigators to explore the basis on which their recommendations, testimony and reports concerning the parenting facilitation were made. Lawyers should inform their clients ordered to participate in parenting facilitation about the requirement that all disclosures to PFs are non-confidential and, subject to the rules of evidence, may be admissible in court. Lawyers should be cautious about what information they share with the PF, since the privileged and confidential nature of certain information will be waived when disclosed.

Reports to the Court. PCs only report to the court whether or not the process should or should not continue.⁴⁴ In assisting the parties to reach a voluntary settlement, a PC may make suggestions⁴⁵ but should not offer professional advice.⁴⁶ Only PFs may make recommendations to the parties and attorneys regarding implementation or clarification of provisions of an existing court order (but not recommendations regarding the conservatorship of or possession of or access to the child); may include those recommendations in a written report to the court; and may testify as to the basis of any recommendation made to the parties that arises out of the court-appointed duties of the PF.⁴⁷

Conflicts of Interest. PCs should reference the *Mediator Guidelines* which require the PC to make "full disclosure of any known relationships with the parties or their counsel that may affect or give the appearance of affecting ... neutrality"⁴⁸ prior to commencing the parenting coordination. It would be proper to disclose the PC's prior service in a professional capacity as a mediator, co-counsel or as a hired expert witness in other cases involving one of the attorneys in the case, or if the PC and one of the attorneys is a close personal friend. Even when there is no conflict, transparency helps the clients to understand the connections and familiarity which characterize the professionals' relationship. If discovered after commencement, disclosure of potential conflicts should be made "as soon as practicable."⁴⁹ The PC should not serve if a party objects to a perceived conflict.⁵⁰ The PC's relationships are not required to be made known to the court. Like in mediation, it is left to the parties or their attorneys to object, and upon objection, the PC should

ethically decline to serve or withdraw. Nothing in the statute would prohibit a child specialist or neutral mental health professional in a collaborative case from continuing to serve the family as a court-appointed PC after the collaborative process is successfully concluded with a collaborative settlement agreement,⁵¹ because both roles are confidential roles.

The parenting facilitation statute expressly spells out the duties with regard to conflicts of interest.⁵² The general provision relating to disclosures of conflicts and previous knowledge pertain to parties and children who are subject to the suit. Certain relationships (pecuniary, trust, and others that reasonably could affect the ability of the person to act impartially) with attorneys, parties or the child in the suit must be disclosed to the court, as well as the parties and attorneys.⁵³ If the conflict or previous knowledge is discovered after commencement, it must be immediately disclosed and the PF must withdraw, unless the parties and their attorneys sign a waiver.⁵⁴ An example might be when the PF has served as a therapist for one of the attorneys or the attorney has provided legal services for the PF. In order for the PF to serve or to continue to serve, a waiver of the conflict or previous knowledge by the parties and their attorneys must be in writing.⁵⁵ This waiver will help overcome trial objections to the PF's testimony based on perceived bias.

An individual appointed as a PF who has served in any professional capacity (other than as a co-parenting skills educator in a group setting) with any member of a parties' family, may not serve as PF for such a family member. Family members are statutorily defined to include "individuals related by consanguinity or affinity, as determined under Sections 573.022 and 573.024, Government Code, individuals who are former spouses of each other, individuals who are the parents of the same child, without regard to marriage, and a foster child and foster parent, without regard to whether those individuals

⁴³ TFC §153.6083(e)

⁴⁴ TFC §153.608

⁴⁵ *Mediator Guidelines*, supra at xxxii, Guideline 1, Comment

⁴⁶ Id. at Guideline 11.

⁴⁷ TFC §§ 153.6081, 153.6082(e) and 153.6083(a)

⁴⁸ *Mediator Guidelines*, Guideline 4

⁴⁹ Id. at Comment (b)

⁵⁰ Id. at Guideline 4

⁵¹ Protocols of Practice for Collaborative Mental Health Professionals, Section 7.07-.08, promulgated by the Collaborative Law Institute of Texas, available at <http://collablawtexas.com/files/12511237737698MentalHealthProfessionalsProtocols2005-08-02.pdf> (last visited June 28, 2008). Note that these Protocols were established in 2005 and suggest duties of a PC which are now prohibited under the statute and would more properly be those of an binding arbitrator or PF (serving as a "tie-breaker" and reporting progress to a court). However, a neutral MHP in a collaborative case cannot serve subsequently as an arbitrator or PF, since a PF can never serve in any other professional capacity and this would involve having one professional first serve in a confidential role and then in a non-confidential role.

⁵² TFC §153.6102

⁵³ TFC §153.6102(a)(1)

⁵⁴ TFC §153.6102(b)

⁵⁵ TFC §153.6102(a)(2) and 153.6102(b)(2)

reside together.”⁵⁶ There is no reference in the Family Code to Section 573.023 of the Government Code limiting the application to the third degree by consanguinity (which extends to aunts and uncles, but not cousins)⁵⁷ and to the second degree by affinity. Thus, the definition in the Family Code is broader and includes foster relationships and all those who are related by consanguinity in that one is a descendant of the other or they share a common ancestor⁵⁸ (including all blood-related or related by adoption aunts, uncles, nieces, nephews and cousins). Individuals are related by affinity if they are married or the spouse of one of the individuals is related by consanguinity.⁵⁹ If a child of a marriage is living, relationships by affinity continue after divorce or death.⁶⁰ Likewise, once one has served as a PF for a member of a family, one may never serve in any other professional capacity with that person or any other member of the family as defined.⁶¹

Since there is no waiver provision, this prohibition against ever serving in a professional capacity with other family members is of particular importance for professionals who are considering offering their services as PFs in smaller communities. The circumstances where this disqualification is most likely to arise would be when a person being considered as a PF had been a therapist for a family member or is asked to serve as therapist after having served as PF for the client or another member of the client’s family. Such dual roles are strictly prohibited. Based on the interest shown in prior parenting coordination trainings, it is doubtful that more than a handful of attorneys will accept appointments as PFs, and thus the prohibition against serving as a lawyer for any other family member before or after appointment as a PF has a less chilling effect in the legal community.

Background and Training. Neither process constitutes the practice of law,⁶² but lawyers who have the required training and experience may serve.⁶³ Whether the PC is a licensed attorney in good standing with the Bar; has a bachelor’s degree in counseling, education, family studies, psychology, or social work; or has a graduate degree in a mental health profession with an emphasis on family and children issues, he or she must have worked in a field relating to families and have had practical experience with high-conflict cases or litigation between parents.⁶⁴ This life experience, coupled with training, is designed to equip PCs to help families resolve cases without court intervention.

In contrast, such educational emphasis, experience with high conflict cases or litigation between parents is not

required of PFs, unless standards to be adopted require such experience. A professional license to practice in Texas as a social worker, licensed professional counselor, licensed marriage and family therapist, psychologist, or attorney is however required of PFs,⁶⁵ but not of PCs.⁶⁶ The testimony of a PF may be outcome-determinative in a given case. The licensure board will provide recourse for an aggrieved party who has been injured by a PF’s unprofessional conduct.

An experienced family mediator with the requisite training, but without a professional license, could be qualified to serve as a PC (but not as a PF) to assist the parties in resolving parenting issues by agreement. A licensed mental health professional with the requisite training, but with no educational or experiential emphasis on high conflict or litigating parents (unless required by standards to be adopted), may serve as a PF, but not as a PC.

Both processes now require 40 hours of mediation training, as well as the 8 hours of family violence training.⁶⁷ Before the 2009 amendments, individuals with a graduate degree in a mental health discipline relating to families and children were not required to have any training other than the 8 hours in family violence. Now all PCs must also have 24 (changed from 16) classroom hours of training in the fields of family dynamics, child development, family law and the laws governing parenting coordination, and parenting coordination styles and procedures.⁶⁸ PFs must take 24 classroom hours of training in the fields of family dynamics, child development, and family law⁶⁹ (which could be the same 24 hour course required for family mediators to be appointed to serve in disputes relating the parent-child relationship⁷⁰) and an additional 16 hours of training in the laws governing parenting coordination and parenting facilitation and the multiple styles and procedures used in different models of service.⁷¹ With the agreement of the parties, the court may waive the 40 and/or 24 hour training, degree and high conflict experience requirements for PCs, and appoint an individual to serve as PC based on the individual’s legal or other professional training or experience in dispute resolution processes,⁷² but there is no provision allowing such waiver for the appointment of PFs. In some communities, courts may refer parents to PCs who are former Child Protective Services caseworkers, pastoral or school counselors, or others with high conflict case experience and the required undergraduate degrees, who have not received parenting coordination training, because

⁵⁶ TFC §71.03

⁵⁷ Tex. Government Code §573.024(c)

⁵⁸ Tex. Government Code §573.022

⁵⁹ Tex. Government Code §573.024

⁶⁰ Tex. Government Code §573.024(b)

⁶¹ TFC §153.6102

⁶² TFC §§153.610(d) and 153.6101(c)

⁶³ TFC §§153.610(a)(2) and 153.6101(b)(1)

⁶⁴ TFC §153.610(a)

⁶⁵ TFC §153.6101(b)(1)

⁶⁶ TFC §153.6101(b)(1)

⁶⁷ TFC §§153.610(b)(1)-(2) and 153.6101(b)(2)(A)-(B)

⁶⁸ TFC §153.610(b)(3)

⁶⁹ TFC §153.6101(b)(2)(C)

⁷⁰ Texas Civil Practice and Remedies Code §154.052(b).

These courses typically include information about mediation of property disputes as part of the presentation of “family law.”

⁷¹ TFC §§153.6101(b)(2)(D)

⁷² TFC §153.610(c)

there may be no individuals qualified either as PCs or as PFs.

PCs who meet the qualifications in effect as of 8/31/09 were given until 9/1/10 to receive their additional training.⁷³ Those who are employed by domestic relations offices on 8/31/09 and meet the qualifications of PCs as of that date, do not have to obtain the additional training or have any of the qualifications of a PF in order to conduct either parenting coordination or parenting facilitation.⁷⁴

Removal. Courts are required to remove PCs and PFs when all the parties agree to the removal, when the PC or PF requests removal, when one party makes a motion and shows good cause for removal, or when one no longer meets the required minimum qualifications. A court may remove a PC or PF for any other reason in the court's sole discretion.⁷⁵

Good Faith Presumption. PCs and PFs are granted a rebuttable presumption that they are acting in good faith if their "services have been conducted as provided" in the Texas Family Code, Chapter 153, and, in the case of PCs, as provided in the *Mediator Guidelines*, and in the case of PFs, as provided in the standard of care applicable to the applicable professional license.⁷⁶ After March 1, 2011, individuals whose licensing agencies have not adopted PF practice standards "at least as detailed and rigorous as those contained in the report entitled 'Guidelines for Parenting Coordination' developed by the Association of Family and Conciliation Courts Task Force on Parenting Coordination, dated May 2005," may not be appointed.⁷⁷ It thus behooves those individuals appointed in either capacity to scrutinize the court order of appointment and determine if there is anything in the order violative of the statute (such as including impermissible duties) and to decline to serve under any order that does not comply with the statute.

Conclusion. When the goal is to provide case management and feedback to the court regarding case progress, parenting facilitation is a tool that can be used in litigation. It permits recommendations to the parties and is, by nature, more evaluative and directive in its emphasis. When the goal is to avoid court altogether and to assist parents to effectively co-parent, parenting coordination provides specialized facilitative and educational services. Parents who are not in conflict may agree that parenting coordination will serve the best interest of their children. They may elect to use the process to help them develop a workable parenting plan. The most high conflict cases are the ones more likely to be referred to parenting facilitation. Care must be taken on the part of courts and professionals to strictly comply with the governing statutes, so that the scope of neither process is

exceeded. The Texas statute separates the confidential process from the non-confidential process such that the roles are not blended and clients can know what to expect when court ordered to participate. Texas families will benefit from the clarity the statute now offers concerning these two processes. It is envisaged that there will now be greater utilization of the processes to assist families in avoiding litigation and its detrimental effects on children.

⁷³ See note 34, Section 32(c), supra.

⁷⁴ See note 34, Section 32(d), supra.

⁷⁵ TFC §§153.607(a-1)-(b) and 153.6071(b)-(c)

⁷⁶ TFC §§153.607(a) and 153.6071(a)

⁷⁷ See note 34, Section 32(b)(1), supra.