

USE OF PARENTING COORDINATORS AND FACILITATORS

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Introduction

Understanding Parenting Coordinators and Parenting Facilitators requires thinking outside the parameters of purely legal solutions to family issues. Parenting Coordination and Parenting Facilitation are interdisciplinary resources designed to address family conflicts which are often brought to the courthouse but for which there are no adequate legal solutions. Most family court judges and experienced practitioners will acknowledge that many of the cases and parties they deal with are not always adequately served by the judicial process. Families can be irreversibly damaged in the litigation process and conflict often continues for years after a “final” order is entered.

I. Why Do We Need Parenting Coordinators and Facilitators?

Child custody, parenting time and child support are usually the most contentious issues in family law litigation. Because these orders are subject to modification, the courthouse can be a continuous venue for family conflict until children reach the age of majority, or even longer if the children are disabled. Often the conflict is not about the designated issue at all, but merely a symptom of unresolved anger or emotion between parents. Often too, it is a result of their inability to communicate – the reason they sought divorce or separation in the first place. Since the 1980’s, the challenge of reducing parental conflict has been a major focus of family court research and legislation. Most experts agree that children are primarily damaged by ongoing parental conflict more than the actual divorce (Kelly, 1993). A variety of Alternative Dispute Resolution (ADR) processes have been developed to address this. Parenting Coordination is a relatively new process that was born out of this movement and has spread

throughout the United States under various nomenclatures.

II. History of Parenting Coordination in Texas

Parenting Coordinators (PC’s) were introduced into the Texas Family Code in 2005. A lot of controversy followed the legislation because of confusion about the role of PC’s as well as concern about the confidentiality of their services. PC’s are impartial third parties who perform the functions described in 153.606 of the Texas Family Code. Their work is confidential because it falls under ADR and complies with the ethical codes of the mental health professionals (MHP’s) who provide the service. Although TFC 153.610 allows an attorney to operate as a PC, the statute clearly contemplates the work being done by a MHP with substantial additional training. It is important to understand that the PC role is not forensic. They do not evaluate the parties or perform tests or interviews to make recommendations to the court. They work with the parents to reduce conflict and help improve communication skills (see TFC 153.606). In addition to compliance with ADR and mental health ethical codes, confidentiality effectuates the PC process. In order to establish trust in the PC and engage in the process in an authentic way, the parties must believe the sessions are confidential. When this is the case they don’t have to “impress” the PC or “win” their opinion. The PC isn’t going to tell on them in court or align with the other parent. There are already statutes that provide for forensic evaluations where-in the MHP can report to the court about the suitability of parents for conservatorship.

III. Parenting Facilitators – Hybrid Role

Nonetheless, in spite of these reasons, some lawyers continued to object to the confidential

nature of the process and thus was born a hybrid role entitled Parenting Facilitator (PF). Because PF's provide a similar function to PC's, there is confusion between the roles and functions of PC's and PF's. PFs are also impartial third parties but there are two significant differences. Parenting Facilitators are required to hold a license as a social worker, licensed professional counselor, marriage and family therapist or lawyer (see TFC 153.601), whereas PC's need only have academic credentials (TFC 153.610). Both are required to have extensive training in family violence dynamics, dispute resolution techniques and parenting coordination or parenting facilitation (see 153.610 and 153.6101). You will see from 153.606 and 153.6061 the duties of PC's and PF's are essentially the same. The only difference in practice is that the PF is required to report to the court and the work of the PC is strictly confidential other than to inform the court whether PC should continue (see 153.608). The PF on the other hand is required to submit a report that may include recommendations regarding conservatorship and possession and access (parenting time), much like a custody evaluator might do (153.6081).

IV. Parenting Plans

One of the most important services a PC or PF can provide that is not addressed in the statute is in developing a parenting plan. The Family Code has a presumptive parenting plan. The Joint Managing Conservator model with the exclusive right to establish domicile to one parent and the Standard Possession Order to the other does not suit all families however. The work schedule of many families make it impractical. Other factors include geographic proximity, special needs of children, abilities and desires of parents and of course the level of co-parenting cooperation. Some parents are able

to operate with little guidance and are flexible enough to accommodate change and honor verbal agreements with little stress. Others need very specific guidelines with a lot of details addressed in complicated plans. These are issues few lawyers are equipped to address.

Both the PC and the PF can be removed by their request, the request of the parties or by good cause or agreement (see RFC 153.607 and 153.6071). Both must be compensated by the parties or by a county agency if one is available that provides the service.

V. Models of Parenting Coordination and Facilitation

In the actual practice of PC and PF there are several models. There is the therapeutic model that utilizes principles of systemic family therapy. There are education models and educational co-parenting models. Regardless of the training and qualifications of the PC or PF, the most important qualification is personal maturity and the ability to remain impartial. Neither PC's nor PF's are authorized to make decisions for the parties. The goal should be to help the parents learn to make decisions together. Whether it's educating the parents about good parenting skills, counseling them to address interpersonal issues, utilizing therapeutic techniques to resolve anger and pain or all of the above, self determination should be the ultimate goal. Ongoing familial conflict clogs court dockets, damages children and society and ultimately cannot be adequately addressed by judges or lawyers.

Parenting Coordinators and Facilitators cannot be expected to create perfect parents out of highly dysfunctional people. They can however educate parents as to the detrimental effect of their conduct on the children and help them learn to work together. This is more than

the court and the lawyers can do. At best, the judicial system offers short term fixes in emergency situations. Parenting Coordinators and Facilitators can give families tools that help them work out their own problems.