

COMPARISON OF THE 2009 TEXAS LAW DEFINING PARENTING COORDINATION AND PARENTING FACILITATION

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My interpretation of the differences in the 2009 PC and PF laws are briefly as follows:

1. Both identify the same duties "to assist parties in resolving parenting issues" [Sec 153.601(3)(B)(i)] through effective communication [Sec 153.606 (1-10)]. These duties are a combination of family therapy, co-parenting education, and mediation typical goals.
2. However the PF duties add another duty to "monitor compliance with court orders." [Sec 6061(a) This added duty seems to shift the structural foundation of the service by shifting the client from parents as the PC clients to the court as the PF client. This shifts all the ethical guidelines from ADR requirements for confidentiality and self-determination to litigation ethical requirements which are external control with no confidential protection for the right to privacy.
3. The intended difference and the achieved result of the amendment is to create a litigation tool [PF] which can replace the ADR processes currently used if trial lawyers desire to avoid ADR distractions from litigation.
4. There are no directives for what techniques are to be used in fulfilling the assigned duties. The PC or PF would presumably use their skill base from other professional mental health or legal training, as well as take additional brief training in each. The prior training would be consistent with the practice of PC but in conflict with the practice of PF.
5. The requirement of licensure for PF providers creates a clear conflict of interest for providers because all of the licenses identified require confidentiality as a fundamental requirement for treatment services. Family therapy, co-parenting education, and mediation are all defined by statute as confidential services, not forensic services. Professional ethical guidelines for licensees also prohibit combining duties which provide treatment and forensic services to the same family. As a forensic service, the PF is also making a recommendation to the court without following the established standards for doing evaluations, thus requiring licensed professionals to violate ethical requirements in place for forensic work as well as violate ethical requirements for treatment services.
6. Both PC and PF requirements include mediation training, though PF operating procedures require a violation of the fundamental confidentiality and self-determination requirements of mediation.

Much more work needs to be done to clarify the inherent though not so obvious dramatic differences in the services as outlined by the current statute. In my view, it goes back to the fundamental constitutional 14th amendment right to privacy and the mental health principles of serving people through empowerment for self determination as the guiding principles for intervention with families.