

CHAPTER 14-09.2 PARENTAL RIGHTS AND RESPONSIBILITIES

14-09.2-01. Parenting coordinator - Definition.

A parenting coordinator is a neutral individual authorized to use any dispute resolution process to resolve parenting time disputes. The purpose of a parenting coordinator is to resolve parenting time disputes by interpreting, clarifying, and addressing circumstances not specifically addressed by an existing court order. A parenting coordinator:

1. May assess for the parties whether there has been a violation of an existing court order and, if so, recommend further court proceedings.
2. May be appointed to resolve a one-time parenting time dispute or to provide ongoing parenting time dispute resolution services. Parenting time dispute also means a visitation dispute under existing orders.
3. Shall attempt to resolve a parenting time dispute by facilitating negotiations between the parties to promote settlement and, if it becomes apparent that the dispute cannot be resolved by an agreement of the parties, shall make a decision resolving the dispute.

14-09.2-02. Appointment of parenting coordinator.

In any action for divorce, legal separation, paternity, or guardianship in which children are involved, the court, upon its own motion or by motion or agreement of the parties, may appoint a parenting coordinator to assist the parties in resolving issues or disputes related to parenting time. A party, at any time before the appointment of a parenting coordinator, may file a written objection to the appointment on the basis of domestic violence having been committed by another party against the objecting party or a child who is a subject of the action. After the objection is filed, a parenting coordinator may not be appointed unless, on the request of a party, a hearing is held and the court finds that a preponderance of the evidence does not support the objection. If a parenting coordinator is appointed, the court shall order appropriate measures be taken to ensure the physical and emotional safety of all parties and children.

14-09.2-03. Qualifications.

The supreme court shall establish qualifications and maintain and make available to the public a roster of individuals eligible to serve as a parenting coordinator. The roster must include each individual's name, address, and telephone number.

14-09.2-04. Agreement or decision binding.

Within five days of notice of the appointment, or within five days of notice of a subsequent parenting time dispute between the same parties, the parenting coordinator shall meet with the parties together or separately and shall make a diligent effort to facilitate an agreement to resolve the dispute. The parenting coordinator may confer with the parties through a telephone conference or other means. A parenting coordinator may make a decision without conferring with a party if the parenting coordinator makes a good-faith effort to confer with the party. If the parties do not reach an agreement, the parenting coordinator shall make a decision resolving the dispute as soon as possible but not later than five days after receiving all of the information necessary to make a decision and after the final meeting or conference with the parties. The parenting coordinator shall put the agreement or decision in writing and provide a copy to the parties. An agreement of the parties or a decision of the parenting coordinator is binding on the parties until further order of the court.

14-09.2-05. Fees.

Before the appointment of the parenting coordinator, the court shall give the parties notice that the fees of the parenting coordinator will be apportioned between the parties. In its order appointing the parenting coordinator, the court shall apportion the fees of the parenting coordinator between the parties, with each party bearing the portion of the fees that the court determines is just and equitable under the circumstances. If a party files a pro se motion

regarding a parenting time dispute and there is not a court order that provides for apportionment of the fees of a parenting coordinator, the court may require the party requesting the appointment of a parenting coordinator to pay the fees of the coordinator in advance. Neither party may be required to submit a dispute to a parenting coordinator if the party cannot afford to pay the fees of a parenting coordinator or an affordable coordinator is not available, unless the other party agrees to pay the fees. After the fees are incurred, a party may by motion request that the fees be reapportioned on equitable grounds. The court may consider the resources of the parties, the nature of the dispute, and whether a party acted in bad faith. Notwithstanding the provisions of section 14-09.2-06, the court may consider information from the parenting coordinator in determining bad faith.

14-09.2-06. Confidentiality.

Statements made and documents produced as part of the parenting coordinator process which are not otherwise discoverable are not subject to discovery or other disclosure and are not admissible into evidence for any purpose at trial or in any other proceeding, including impeachment. Parenting coordinators and lawyers for the parties, to the extent of their participation in the parenting coordinator process, may not be subpoenaed or called as witnesses in court proceedings. Notes, records, and recollections of parenting coordinators are confidential and may not be disclosed unless:

1. The parties and the parenting coordinator agree in writing to the disclosure; or
2. Disclosure is required by law or other applicable professional codes. Notes and records of parenting coordinators may not be disclosed to the court unless after a hearing the court determines that the notes or records should be reviewed in camera. Unless the court determines that the notes and records contain information regarding acts that may be a violation of a state or federal criminal law, the notes and records may not be released.

14-09.2-07. Immunity.

A parenting coordinator is immune from civil liability for damages for acts or omissions of ordinary negligence arising out of that individual's duties and responsibilities as a parenting coordinator.

14-09.2-08. Modification or termination of appointment.

The court may terminate or modify the parenting coordinator appointment upon agreement of the parties, upon motion of either party, at the request of the parenting coordinator, or by the court on its own motion for good cause shown. Good cause includes:

1. Lack of reasonable progress over a significant period of time despite the best efforts of the parties and the parenting coordinator;
2. A determination that the parties no longer need the assistance of a parenting coordinator;
3. Impairment on the part of a party that significantly interferes with the party's participation in the process; or
4. The parenting coordinator is unwilling or unable to serve.