

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

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IN THE MATTER OF THE ADOPTION)
OF A NEW RULE RELATING TO) RULE 13-07
PARENTING COORDINATORS)

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A hearing was held on February 13, 2013, at Pierre, South Dakota, concerning the adoption of a new rule relating to parenting coordinators and the Court having considered the proposed rule and the oral presentation relating thereto and being fully advised in the premises, now, therefore, it is

ORDERED that the adoption of new rules to be added to SDCL Ch. 25-4. relating to parenting coordinators be and they are hereby adopted to read in their entirety as follows:

Section 1. That a NEW SECTION be added to SDCL Ch. 25-4 to read as follows:

At the request of either party, or on the court's own motion, a parenting coordinator may be appointed in any custody or visitation proceeding. The parties may agree to use a parenting coordinator, subject to approval by the court, or the court may designate a parenting coordinator for the parties.

Section 2. That a NEW SECTION be added to SDCL Ch. 25-4 to read as follows:

A parenting coordinator must satisfy the following minimum qualifications:

- (1) A parenting coordinator must file an approved application on the prescribed form with the presiding judge for the circuit in which the parenting coordinator will provide parenting coordinator services;
- (2) A parenting coordinator shall have a minimum of four hours of domestic violence training;
- (3) A parenting coordinator must have a minimum of forty (40) hours parenting coordination training. In place of forty (40)

hours training, a person may, with court approval, qualify as a parenting coordinator if that person has had five years' experience in parenting coordination with a minimum of twenty (20) cases during that period. A parenting coordinator must have competence in the following areas:

- (a) General knowledge of the South Dakota court system and its procedures in contested family matters;
- (b) General knowledge of South Dakota family law, especially as applied to custody and visitation issues;
- (c) Knowledge of child development and specifically the impact of divorce or separation on family members;
- (d) Knowledge of resources available in the state to which the parties and the children can be referred for assistance;
- (e) Knowledge of interviewing and problem-solving techniques applicable to the family setting.

(4) A parenting coordinator must be committed to and participate in continuing education courses.

(5) A parenting coordinator must either be an attorney who is licensed to practice law in South Dakota; a psychologist who is licensed to practice in South Dakota; a psychiatrist who is licensed to practice in South Dakota; a social worker, family therapist or substance abuse counselor licensed to practice in South Dakota; or any other South Dakota licensed or certified professional with education, experience and specialized expertise relevant to the duties of a parenting coordinator.

Section 3. That a NEW SECTION be added to SDCL Ch. 25-4 to read as follows:

Persons not meeting the requirements of section 2 may be appointed as a parenting coordinator by the court upon consent of the parties.

Section 4. That a NEW SECTION be added to SDCL Ch. 25-4 to read as follows:

The prescribed form for a person seeking approval as a parenting coordinator is as follows:

PARENTING COORDINATOR APPLICATION FORM

UNIFIED JUDICIAL SYSTEM OF SOUTH DAKOTA

Instructions: To be considered for approval as a parenting coordinator an applicant must complete this application form fully and accurately. This information must be filed with the Presiding Judge for the circuit in which the parenting coordinator will provide parenting coordinator services. You will be notified if any additional information is required and if your application is approved.

Name: _____

Address: _____

Daytime Phone: _____

Fax Number: _____

Email: _____

- 1) Provide your professional background including degree(s), certificate(s), practice specialization(s), years of experience, special training, and any licensures held and dates obtained:
- 2) Provide a full and complete description of your experience in the following areas:
 - (a) knowledge of the South Dakota court system and its procedures in contested family matters;
 - (b) knowledge of South Dakota family law, especially as applied to custody and visitation issues;
 - (c) knowledge of child development and specifically the impact of divorce or separation on family members;
 - (d) knowledge of resources available in the state to which the parties and the children can be referred for assistance;
 - (e) knowledge of interviewing and problem-solving techniques applicable to the family setting.

- 3) Provide a full and complete disclosure of all professional employment experiences whether related to the role of a parenting coordinator or in any other field:
- 4) Provide complete information regarding any training, seminars, workshops, etc., you deem pertinent to family law, custody and visitation disputes, interviewing and dispute resolution techniques, child-rearing, child development, domestic violence or abuse or any other areas relevant to the services of a parenting coordinator that you have received:
- 5) Provide the number of proceedings in which you have been involved as a family court mediator or parenting coordinator giving approximate dates if available:
- 6) Describe your approach to resolving high-conflict situations and the methods of dispute resolution you have used:
- 7) Please describe how fees and costs will be calculated for your services as a parenting coordinator:
- 8) Please describe the requirements for payment of fees:
- 9) Please indicate if you are willing to accept pro bono cases or cases at a reduced rate? If so, please explain:

I am aware of and agree to abide by the rules for parenting coordinators as promulgated by the Supreme Court of South Dakota.

I understand that being approved and placed on the roster does not guarantee or ensure my appointment to any specific case or cases.

Signature

Date

NOTE: This form must be updated as changes to the information occur or at least annually.

Approved:

Presiding Judge

Date

Section 5. That a NEW SECTION be added to SDCL Ch. 25-4 to read as follows:

The term of the parenting coordinator will be designated in the order of appointment. The parenting coordinator may resign upon notice to the parties and the court. Absent an order of the court, one or both parties cannot discharge a parenting coordinator. The court may terminate the service of the parenting coordinator at any time.

Section 6. That a NEW SECTION be added to SDCL Ch. 25-4 to read as follows:

A parenting coordinator shall disclose how fees and costs will be calculated for any services rendered and such fees and costs are subject to the approval of the court. The fees and costs for any parenting coordinator shall be at the sole expense of the parties. The court will determine the allocation of any fees between the parties in the order of appointment and may through subsequent court order change the allocation of fees and reallocate fees already paid based on the circumstances of any particular case.

Section 7. That a NEW SECTION be added to SDCL Ch. 25-4 to read as follows:

The court order appointing the parenting coordinator shall specify the scope of the appointment and authority of the parenting coordinator. Additionally, a parenting coordinator may be ordered to do one or more of the following:

- 1) Inform the parties of the role of the parenting coordinator;
- 2) Monitor implementation of a voluntary or court-ordered parenting plan, the schedule, or parenting time issues provided such resolution does not involve a substantive change to the court's order;
- 3) Recommend strategies for implementing the parenting plan or resolving other parenting issues that may be impacting the parenting plan;
- 4) Assist the parties in developing communication and cooperation for the purpose of effective co-parenting of the children;

5) Assist with implementation of court orders and make recommendations to the court regarding implementation, clarification, modification, and enforcement of any temporary or permanent parenting time orders;

6) Exclude counsel for the parties from participating in any parenting coordinator sessions;

7) Implement domestic violence safeguards as the court deems necessary. For example, ordering no direct communications or no joint meetings, ensuring compliance with all provisions of any protection order or order in a criminal proceeding;

8) Document the services provided and record agreements reached;

9) Recommend appropriate community resources to one or both parents;

10) Educate the parties to effectively parent in a manner that minimizes conflict, develops appropriate parenting skills, identifies sources of conflict, and works to lessen the effect of conflict on the children;

11) Make recommendations on the day-to-day issues experienced by the parties;

12) Act to empower the parties in resuming parental controls and decision-making, and minimize the degree of conflict between the parties for the best interests of the children;

13) Facilitate the ability of both parents to maintain ongoing relationships with the children;

14) Only with the prior consent of the court as specified in the order of appointment, make limited decisions subject to review by the court upon motion of the parties as specified in the order of appointment. By way of example only, these issues include disagreements around exchanges, time-sensitive issues, holiday scheduling, discipline, health issues, school and extracurricular activities, and managing problematic behaviors by the parents or children; and

15) Interview law enforcement, social workers, health care providers, daycare providers, teachers and family members as necessary to fulfill the terms of the court order. The parties shall be required to sign releases authorizing the parenting coordinator to speak to specific third parties about specific events.

A parenting coordinator shall not have the authority to make any decision affecting child support, a change of custody, or a substantial change in parenting time.

The order appointing the parenting coordinator shall provide direction to the parenting coordinator regarding information or records, if any, which the parenting coordinator is to file with the court. The parenting coordinator shall not engage in ex-parte communication with the court and all documents sent to or filed with the court shall also be sent to the parties in the case.

Section 8. That a NEW SECTION be added to SDCL Ch. 25-4 to read as follows:

The court may award attorney fees and allocate the fees of the parenting coordinator related to any motion of the parties.

Section 9. That a NEW SECTION be added to SDCL Ch. 25-4 to read as follows:

The appointment of a parenting coordinator does not divest the court of its exclusive jurisdiction to determine fundamental issues of custody, visitation and support, and the authority to exercise management and control of the case.

Section 10. That a NEW SECTION be added to SDCL Ch. 25-4 to read as follows:

Parenting coordinators are expected to conduct themselves by the highest ethical standards. Parenting coordinators should conduct themselves according to the following general principles:

- (1) A parenting coordinator should recognize that success is based on participation and self-determination by the parties. A parenting coordinator shall conduct any session fairly, diligently, impartially and in a manner consistent with assisting the parties under the direction of the court's order and in the best interests of the children.

- (2) A parenting coordinator shall fully disclose to all parties involved any actual or potential conflict of interest. A parenting coordinator shall not accept or shall withdraw from any matter in which the parenting coordinator has reason to believe he or she cannot proceed in an impartial manner. After full disclosure of an actual or potential conflict of interest to the parties, the parenting coordinator shall withdraw from the case if requested by any party to do so within ten days of the disclosure.
- (3) A parenting coordinator shall maintain impartiality in the process of parenting coordination. Impartiality means freedom from favoritism or bias in word, action or appearance, and includes a commitment to assist all parties, as opposed to any one individual. A parenting coordinator shall withdraw if the parenting coordinator determines he or she cannot act in an impartial or objective manner.
- (4) A parenting coordinator shall not provide any other professional services to either party or the minor children while serving as a parenting coordinator. A parenting coordinator shall also ensure that any prior history of involvement with the parties does not conflict with the role of parenting coordinator, and shall not assume a role subsequent to acting as parenting coordinator which conflicts with the prior role of parenting coordinator.
- (5) Incidents of suspected child or adult abuse or neglect that meet the mandatory reporting standards under South Dakota law shall be reported by the Parenting Coordinator to the appropriate authorities.
- (6) A parenting coordinator should make a conscious effort to recognize violence or abuse by or against the parties or children. A parenting coordinator shall consider the safety of all involved when structuring the parenting coordination process and may recommend that parenting coordination is not appropriate for the parties.

Section 11. That a NEW SECTION be added to SDCL Ch. 25-4 to read as follows:

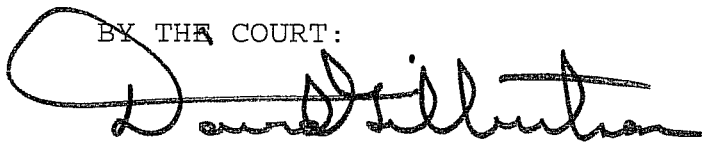
Parenting coordination is not a confidential process. There is also no evidentiary privilege for communications made as part of

the parenting coordination process. The parenting coordinator may be called to testify if ordered by the court in the case.

IT IS FURTHER ORDERED that the rule shall become effective July 1, 2013.

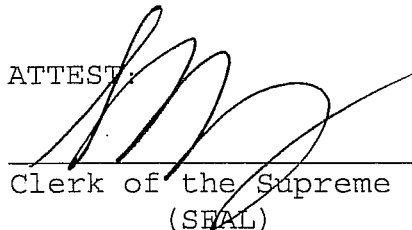
DATED at Pierre, South Dakota, this 26th day of March, 2013.

BY THE COURT:



David Gilbertson, Chief Justice

ATTEST:



Clerk of the Supreme Court
(SEAL)

SUPREME COURT
STATE OF SOUTH DAKOTA
FILED

MAR 26 2013



Clerk

STATE OF SOUTH DAKOTA
In the Supreme Court

I, Shirley A. Jameson-Forgel, Clerk of the Supreme Court of South Dakota, hereby certify that the within instrument is a true and correct copy of the original thereof as the same appears on record in my office. In witness whereof, I have hereunto set my hand and affixed the seal of said court at Pierre, S.D. this

26th day of March, 20 13.



Clerk of Supreme Court

Deputy