



**Senate Fiscal Agency**  
P. O. Box 30036  
Lansing, Michigan 48909-7536



**Telephone: (517) 373-5383**  
**Fax: (517) 373-1986**

House Bill 5082 (Substitute H-1 as passed by the House)  
Sponsor: Representative Kurt Heise  
House Committee: Judiciary  
Senate Committee: Judiciary

Date Completed: 5-30-14

### **CONTENT**

**The bill would amend the Child Custody Act to do the following:**

- **Authorize a court to order the appointment of a parenting coordinator, with the consent of the parties, to help implement the court's parenting time orders and to help resolve parenting disputes.**
- **Require the State Court Administrative Office (SCAO) to develop standards for the qualifications and training of parenting coordinators, and require coordinators to complete the training within two years of the promulgation of the standards.**
- **Establish requirements for a court order appointing a parenting coordinator, including identifying the scope of the coordinator's duties in resolving disputes and giving him or her access to certain information.**
- **Provide for the costs of a parenting coordinator to be the responsibility of the parties.**
- **Require a parenting coordinator to inquire about any history of a coercive or violent relationship between the parties and to take certain actions if there were such a history.**
- **Require a parenting coordinator to report to the Department of Human Services if he or she had reasonable cause to suspect child abuse or neglect.**
- **Require a parenting coordinator to make written recommendations to the parties, but specify that the recommendations would not be considered evidence unless agreed to by the parties.**
- **Specify that communications with a parenting coordinator would not be privileged and confidential, but a coordinator would not have to disclose information that would compromise the safety of a party or a child.**
- **Specify that the court could allow the testimony of the parenting coordinator, but he or she could not testify about a child's statements if disclosure would be damaging to the child.**

#### **Parenting Coordinator**

The bill would allow a court to enter an order appointing a parenting coordinator, if the parties and the parenting coordinator agreed to the appointment and its scope. A parenting coordinator would be a person appointed by the court for a specified term to help implement the court's parenting time orders and to help resolve parenting disputes that fell within the scope of the parenting coordinator's appointment.

Before appointing a parenting coordinator, the court would have to consider any history of a coercive or violent relationship between the parties. The court would have to ensure that the order appointing a parenting coordinator provided adequate protection to the victim of a coercive or violent relationship.

The court could terminate the appointment of a parenting coordinator if it found that the appointment was no longer helpful to the court in resolving parenting disputes or if the process were no longer safe for a party or a child.

A parenting coordinator could resign at any time, with notice to the parties and to the court. If the court found that a party had refused to pay its share of the parenting coordination costs as a means to force the parenting coordinator to resign, the court could use contempt sanctions to enforce payment of the parenting coordinator's fee.

A parenting coordinator would be immune from civil liability for an injury to a person or damage to property if he or she were acting within the scope of his or her authority as parenting coordinator.

As directed by the Supreme Court, the SCAO would have to develop standards for the qualifications and training of parenting coordinators, including training regarding violent and coercive domestic relationships. Parenting coordinators would have to complete the training within two years of the promulgation of those standards.

#### Order Appointing Parenting Coordinator

An order appointing a parenting coordinator would have to include an acknowledgment that each party had had the opportunity to consult with an attorney and a domestic violence counselor. It also would have to include an acknowledgment that the parenting coordinator was neutral; that the parenting coordinator could have ex parte communications with the parties, their attorneys, and third parties; that, except as otherwise provided in the bill, communications with the parenting coordinator were not privileged or confidential; and that by agreeing to the order, the parties were giving the parenting coordinator authority to make recommendations regarding disputes.

The order would have to include a specific duration of the appointment and provide that the parenting coordinator could resign at any time due to nonpayment of his or her fee. The order could include a provision for extension of the parenting coordinator's term by consent of the parties for specific periods.

The order would have to include an explanation of the parenting coordinator's costs, and each party's responsibility for those costs, including any required retainer and fees for any required court appearances. The order could include a provision allowing the parenting coordinator to allocate specific costs to one party for cause.

The order would have to include the scope of the parenting coordinator's duties in resolving disputes between the parties, which could include any of the following:

- Transportation and transfers of the child between parents.
- Vacation and holiday schedules and implementation.
- Daily routines.
- Activities and recreation.
- Discipline.
- School-related issues.
- Alterations in the parenting schedule, as long as the basic time-sharing arrangement was not changed by more than a specified number of days per month.
- Phase-in provision of court orders.

- Participation of other people in parenting time.
- Child care and babysitting issues.
- Any other matters submitted to the parenting coordinator jointly by the parties before his or her appointment expired.

The scope of the parenting coordinator's duties also could include health care management, including determining and recommending appropriate medical and mental health evaluation and treatment, including psychotherapy, substance use disorder and batterer intervention treatment or counseling, and parenting classes, for the child and the parents. The parenting coordinator would have to designate whether any recommended counseling was or was not confidential, and could recommend how any health care provider would be chosen.

An order appointing a parenting coordinator would have to include authorization for the parenting coordinator to have access that could include all of the following:

- Reasonable access to the child.
- Notice of all proceedings, including requests for examinations affecting the child.
- Access to any therapist of any of the parties or the child.
- Access to school, medical, and activity records.
- Copies of all evaluations and psychological test results performed on any child or any parent, custodian, guardian, or other person living in the parent's households, including Friend of the Court reports and psychological evaluations.
- Access to the child's principal, teachers, and teachers' aides.
- The right to interview the parties, attorneys, or the child in any combination, and to exclude any party or attorney from an interview.
- The right to interview or communicate with any other person the parenting coordinator considered relevant to resolve an issue or to provide information and counsel to promote the best interests of the child.

The order would have to include the dispute resolution process that the parenting coordinator would use, explaining how he or she would make recommendations on issues and the effect to be given to those recommendations. The process would have to ensure that both parties had an opportunity to be heard on issues under consideration by the parenting coordinator and an opportunity to respond to relevant allegations against them before a recommendation was made. The parties could agree that on specific types of issues they would have to follow a parenting coordinator's recommendations until modified by the court.

#### Coercive or Violent Relationship & Child Abuse or Neglect

A parenting coordinator would have to make reasonable inquiry as to whether either party had a history of a coercive or violent relationship with the other party. A reasonable inquiry would include the use of the domestic violence screening protocol for mediation provided by the State Court Administrative Office.

If the parenting coordinator determined that there was a history of a coercive or violent relationship between the parties, he or she could not bring the parties within proximity of each other unless the party at risk requested it and the parenting coordinator determined with that party what reasonable steps, if any, could be taken to address concerns regarding coercion or violence.

A parenting coordinator who had reasonable cause to suspect child abuse or neglect immediately would have to make oral and written reports, or cause them to be made, to the Department of Human Services as required under the Child Protection Law.

### Parenting Coordinator's Recommendations

A parenting coordinator would have to make his or her recommendations in writing and give copies of them to the parties in the manner specified in the parenting coordination order. If a party attached the recommendation to a motion or other filing, the court could read and consider the recommendation, but it would not be evidence unless the parties stipulated that it was evidence.

The parenting coordinator could not recommend relief that was less protective than any other order related to the parties.

### Disclosure of Information & Testimony

A parenting coordinator would not be required to disclose information if disclosure would compromise the safety of a party or a child.

Subject to the Michigan Rules of Evidence, the court could allow the testimony of the parenting coordinator if the court found the testimony useful to the resolution of a pending dispute. The parenting coordinator could not testify regarding statements received from a child involved in the parenting coordination if the coordinator believed that the disclosure would be damaging to the child.

Proposed MCL 722.27c

Legislative Analyst: Patrick Affholter

### **FISCAL IMPACT**

The bill would result in cost to State government by requiring the State Court Administrative Office to create and implement standards for the qualification and training of parenting coordinators. There would be no fiscal impact on local government.

Fiscal Analyst: John Maxwell

S1314\5082sa

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.