

2019 Regular Session

HOUSE BILL NO. 248

BY REPRESENTATIVE CHAD BROWN

(On Recommendation of the Louisiana State Law Institute)

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CHILDREN/CUSTODY: Provides for parenting coordinators in child custody proceedings

1 AN ACT

2 To amend and reenact R.S. 9:358.1, 358.2, 358.3(A)(1) and (C), 358.4, 358.5, 358.6, and
3 358.7 and to enact R.S. 9:358.3(F), relative to parenting coordinators; to provide for
4 the appointment of parenting coordinators; to provide for qualifications; to provide
5 for the authority and duties of parenting coordinators; to provide for confidentiality;
6 to provide for communication with the court; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 9:358.1, 358.2, 358.3(A)(1) and (C), 358.4, 358.5, 358.6, and 358.7
9 are hereby amended and reenacted and R.S. 9:358.3(F) is hereby enacted to read as follows:

10 §358.1. Appointment of parenting coordinator; term; costs

11 A. On motion of a party or on its own motion, the court may appoint a
12 parenting coordinator in a child custody case for good cause shown ~~if the court has~~
13 ~~previously entered a judgment establishing child custody, other than an ex parte~~
14 ~~order~~. The court shall make the appointment on joint motion of the parties.

15 B. The initial term of the appointment of the parenting coordinator shall not
16 exceed ~~one year~~ two years unless all parties consent in writing to a different term.
17 For good cause shown, the court may extend the appointment of the parenting
18 coordinator for additional ~~one year~~ one-year terms.

19 C. The court shall ~~order each party to pay a portion of~~ apportion the costs of
20 the parenting coordinator between the parties and may, after a hearing, reassess costs

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 upon motion of a party or written recommendation of the parenting coordinator. No
 2 parenting coordinator shall be appointed by the court if ~~a party has~~ both parties have
 3 been granted pauper status or ~~is~~ are unable to pay ~~his~~ their apportioned ~~cost~~ costs of
 4 the parenting coordinator, unless the parenting coordinator volunteers on a pro bono
 5 basis or is a court employee designated by the court as a parenting coordinator.

Revision Comments - 2019

7 Under this revision, a parenting coordinator may be appointed even before
 8 the entry of a child custody plan. This provision does not modify the court's
 9 authority to appoint a mediator in accordance with the law.

10 §358.2. ~~No appointment~~ Appointment in family violence cases

11 ~~Unless good cause is shown, the court shall not appoint a parenting~~
 12 ~~coordinator if it finds that a party has a history of perpetrating family violence. If the~~
 13 ~~court finds there has been domestic abuse or a history of perpetrating family~~
 14 ~~violence, a parenting coordinator shall not be appointed unless the parties consent.~~
 15 The court shall offer each party an opportunity to consult with an attorney or
 16 domestic violence advocate before accepting the party's consent and shall hold a
 17 hearing to determine whether consent is given freely and whether good cause has
 18 been shown for the appointment of the parenting coordinator.

19 Revision Comments - 2019

20 This provision is intended to cover domestic violence as it is variably defined
 21 in a number of Louisiana statutes, including R.S. 9:361 et seq. ("family violence");
 22 R.S. 14:35.3 ("domestic abuse battery"); R.S. 46:2132 ("domestic abuse"); R.S.
 23 46:2151 ("dating violence"); R.S. 46:2172 ("stalking"); R.S. 46:2184 ("sexual
 24 assault"); Children's Code Article 1565 ("domestic abuse"); and Code of Criminal
 25 Procedure Article 313 ("domestic abuse battery").

26 §358.3. Qualifications

27 A. A person appointed as a parenting coordinator shall meet all of the
 28 following qualifications:

- 29 (1) ~~Possess a master's, Ph.D., or equivalent degree, in a mental health field,~~
 30 ~~such as psychiatry, psychology, social work, marriage and family counseling, or~~
 31 ~~professional counseling, hold a Louisiana license in the mental health profession, and~~
 32 ~~have no less than three years of related professional post-degree experience. Have~~

1 no less than five years of related professional post-licensure experience and satisfy
 2 either of the following:

3 (a) Be a member in good standing of the Louisiana State Bar Association.

4 (b) Possess a master's, Ph.D., or equivalent degree in a mental health field
 5 such as psychiatry, psychology, social work, marriage and family counseling, or
 6 professional counseling and hold a Louisiana license in the mental health profession.

7 * * *

8 C. In order to remain qualified, a parenting coordinator shall complete, every
 9 two calendar years, a minimum of ~~twenty~~ ten hours of continuing education in
 10 parenting coordination.

11 * * *

12 F. A parenting coordinator shall discontinue services as a parenting
 13 coordinator and immediately report to the court and the parties if he no longer meets
 14 the minimum qualifications of Subsection A or C of this Section. In that event, the
 15 court may appoint another parenting coordinator.

16 §358.4. Authority and duties of parenting coordinator

17 A. A parenting coordinator shall assist the parties in resolving disputes and
 18 in reaching agreements regarding children in their care including, but not limited, to
 19 the following types of issues:

20 ~~(1)~~ (6) ~~Minor changes or clarifications of access~~ custody or visitation
 21 schedules from the existing custody plan.

22 ~~(2)~~ (7) Exchanges of the children including date, time, place, means of
 23 transportation, and the transporter.

24 ~~(3) Health care~~ Healthcare management including medical, dental,
 25 orthodontic, and vision care.

26 ~~(4)~~ (19) Child-rearing issues.

27 ~~(5)~~ (4) Psychotherapy or other mental health care including substance abuse
 28 or mental health assessment, testing, or counseling for the children.

29 ~~(6)~~ (5) Psychological testing or other assessments of the children.

1 ~~(7)~~ (1) Education or daycare including school choice, tutoring, summer
2 school, participation in special education testing and programs, or other educational
3 decisions.

4 (8) Enrichment and extracurricular activities including camps and jobs.

5 ~~(9)~~ (2) Religious observances and education.

6 ~~(10)~~ (9) Children's travel and passport arrangements.

7 (10) Licensure for and use of vehicles.

8 (11) Clothing, equipment, and personal possessions of the children.

9 (12) Use of and access to electronic devices, the internet, and social media.

10 ~~(12)~~ (13) Communication between the parties about the children.

11 ~~(13)~~ (14) Means of communication by a party with the children when they
12 are not in that party's care.

13 ~~(14)~~ (15) Alteration of appearance of the children including hairstyle, ~~and~~
14 ear and body piercing, and tattoos.

15 ~~(15)~~ (16) Role of and contact with significant others and extended families.

16 ~~(16)~~ ~~Substance abuse assessment or testing of either or both parties or the~~
17 ~~child, including access to results.~~

18 (17) Parenting classes or referral for other services of either or both parties.

19 (18) Discipline of the children.

20 B. A parenting coordinator shall consider the domiciliary parent's decision-
21 making authority in all matters affecting the child in accordance with the standards
22 of R.S. 9:335(B)(3).

23 C. A parenting coordinator shall:

24 ~~(1) Refrain from facilitating an agreement by the parties that would change~~
25 ~~legal custody from one party to the other or that would change the physical custody~~
26 ~~or visitation schedule in a way that may result in a change in child support.~~

27 ~~(2)~~ Notify the court of a conflict of interest of the parenting coordinator.

28 ~~(3)~~ (2) Prepare interim and final reports as ordered by the court and other
29 reports when necessary.

1 ~~C.D.~~ When the parties are unable to reach an agreement, the parenting
2 coordinator may make a recommendation in a report to the court for resolution of the
3 dispute.

4 §358.5. Testimony and ~~report~~ confidentiality

5 A. ~~The~~ With prior written notice to the parties, the court may call the
6 parenting coordinator ~~shall not be called~~ as a witness in ~~the a~~ child custody
7 proceeding. A party may not call the parenting coordinator as a witness without
8 prior court approval.

9 B. ~~The parenting coordinator shall distribute all reports to the court, the~~
10 ~~parties, and their attorneys.~~ Notes, records, and recollections of a parenting
11 coordinator are confidential and may not be disclosed unless one of the following
12 applies:

13 (1) The parties and the parenting coordinator agree in writing to the
14 disclosure.

15 (2) Disclosure is required by law or other applicable professional code.
16 Notes and records of a parenting coordinator may not be disclosed under this
17 Paragraph unless the court reviews the material in camera and determines after a
18 hearing that it should be disclosed.

19 (3) The disclosure is otherwise ordered by the court.

20 §358.6. Communication with court

21 The parenting coordinator shall not communicate ex parte with the court,
22 except in an emergency situation. The parenting coordinator may inform the court
23 of an emergency situation without notice to the parties.

24 Revision Comments - 2019

25 The communication of an emergency situation without notice to the parties
26 is designed to allow the court to act swiftly and effectively when, for instance, the
27 parenting coordinator suspects that a party will wrongfully remove the child from the
28 jurisdiction of the court without prior court approval.

29 §358.7. Access to information

30 The court shall order the parties to cooperate with the parenting coordinator
31 and to provide relevant ~~non-privileged~~ records and information requested by the

1 parenting coordinator. The parenting coordinator may communicate with the child
2 and other persons not a party to the litigation.

3 Revision Comments - 2019

4 This revision is not intended to change the law. Privileged records and
5 information remain subject to the rules governing the relevant privilege.

6 Section 2. The Louisiana State Law Institute shall place the list in R.S. 9:358.4(A)
7 in numerical order.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 248 Reengrossed

2019 Regular Session

Chad Brown

Abstract: Provides for parenting coordinators in child custody proceedings.

Present law (R.S. 9:358.1) authorizes the court to appoint parenting coordinators in certain child custody cases for one-year terms and apportion the cost between the parties.

Proposed law authorizes the appointment of parenting coordinators prior to entering a judgment establishing custody and extends the initial term of appointment to up to two years.

Proposed law further authorizes the court to reassess costs upon the recommendation of the parenting coordinator and to appoint a volunteer or court-employed parenting coordinator to pauper litigants.

Present law (R.S. 9:358.2) prohibits the appointment of a parenting coordinator in family violence cases unless there is good cause shown.

Proposed law instead allows the court to name a parenting coordinator when there has been domestic abuse or a history of perpetrating family violence if the parties consent after consultation with an attorney or domestic violence advocate.

Proposed law further requires the court to hold a hearing to determine that there is good cause to appoint a parenting coordinator and to determine that the parties freely consented.

Present law (R.S. 9:358.3) provides the qualifications for parenting coordinators and requires three years post-degree experience and 20 hours of continuing education every two years.

Proposed law changes present law to five years post-licensure experience and 10 hours of continuing education and further extends the qualifications to include Louisiana attorneys.

Proposed law also requires parenting coordinators to immediately notify the court if they no longer meet the qualifications.

Present law (R.S. 9:358.4) provides an illustrative list of the type of issues with which a parenting coordinator may assist the parties.

Proposed law retains present law but rearranges the list to emphasize certain issues and explicitly adds issues related to vehicles, the internet and social media, tattoos, and discipline

of the children. Proposed law further removes substance abuse testing from the list and removes the requirement that the parent coordinator refrain from facilitating an agreement by the parties that would change the legal custody between parties or would change the physical custody or visitation schedule in a way that would result in a change in child support.

Proposed law requires the parenting coordinator to consider the domiciliary parent's right to make all decisions affecting the child in accordance with the implementation order and to presume that all major decisions the domiciliary parent makes are in the best interest of the child.

Present law (R.S. 9:358.5) prohibits the parenting coordinator from being called as a witness without prior court approval and requires all reports of the parenting coordinator to be distributed to the court, the parties, and their attorneys.

Proposed law retains present law and clarifies that while a party may not call the parenting coordinator as a witness without prior court approval, the court may call the parenting coordinator as long as it gives prior written notice to the parties.

Proposed law also adds that the notes, records, and recollections of the parenting coordinator are confidential and may only be disclosed in certain limited circumstances.

Present law (R.S. 9:358.6) prohibits the parenting coordinator from communicating ex parte with the court except in emergency situations.

Proposed law allows the parenting coordinator to inform the court of an emergency without notice to the parties.

Present law (R.S. 9:358.7) requires the parties to share certain information with the parenting coordinator.

Proposed law retains present law and deletes unnecessary language.

(Amends R.S. 9:358.1, 358.2, 358.3(A)(1) and (C), 358.4, 358.5, 358.6, and 358.7; Adds R.S. 9:358.3(F))

Summary of Amendments Adopted by House

The House Floor Amendments to the engrossed bill:

1. Make technical changes.
2. Narrow the scope of a parenting coordinator's review of custody or visitation schedules.