

PARENTING COORDINATION LAW IN THE U.S. AND CANADA: A REVIEW OF THE SOURCES AND SCOPE OF THE PC'S AUTHORITY

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The development of parenting coordination has continued from its informal beginnings in the 1980s to the present where more than twenty states and provinces have enacted statutes or rules regarding parenting coordinator appointments. Parenting coordination evolved as a tool for courts attempting to manage the conflicts between parents that placed children of divorce and parental separation at risk for behavioral, emotional, and psychological problems. Use of parenting coordinators (PCs) in some form now occurs in almost every jurisdiction, even those with no formal statute or rule. This review examines the legal foundations for court authority to order parenting coordination interventions as well as the legal efforts to define the scope of the PC's authority in individual cases. Included is the examination of the statutes, rules, and case law illustrating many of the controversies and psycholegal flashpoints in the field. AFCC's updated Guidelines for Parenting Coordination (2019) reflect maturation and professionalization of the intervention via suggestions for training, professional competence, and ethical guidance. The authors offer assistance and suggestions for those working to develop or improve legal parenting coordination frameworks.

Key Points for the Family Court Community:

- Parenting coordination law consists of statutes and rules that are jurisdiction-specific.
- Parenting coordination models range from those similar to mediation to those that combine mediation with limited arbitration-like authority over day-to-day issues.
- No state or province allows PCs to change custody or court orders without a process of judicial review.
- The scope of the PC's authority is often tailored to meet the needs in individual cases.

Keywords: *Parenting Coordination; Parenting Coordination Law; Parental Rights; Parenting Coordination Statutes; Parenting Coordination Rules; Parenting Coordinator Authority; Scope of Parenting Coordinator Authority; Court as Conflict Manager.*

I. INTRODUCTION

Parenting coordination has evolved from its informal beginnings in the 1980s to a frequently used tool in family courts. For many parents, education, mediation, and therapy, either alone or in combination, are not effective in curtailing post-separation parental conflict. Significant numbers of parents remain in conflict two to three years after the divorce.¹ Parenting coordination developed to help parents resolve on-going child-related disputes through a combination of both mediation and decision-making techniques and is used as an alternative to the conflict escalation and high expenses of continuing adversarial litigation.²

Development of parenting coordination laws and rules has lagged behind use of parenting coordinators (PCs). Parenting coordination laws and rules have developed piecemeal based on local preferences, politics, and differences in the manner with which delegation of judicial authority to nonjudges is handled.³ Two early models of parenting coordination, the mediation-arbitration model from Colorado and the Special Masters approach in California, relied upon stipulations or private consent agreements between the parties.⁴ In some states and in much of Canada, this remains true. In some jurisdictions, PCs continue to be appointed without specific state statutes or local rules. "The specific nature of the role of a parent coordinator varies significantly both within and among

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jurisdictions that permit such appointments. In certain circumstances, the role of parent coordinator may be analogous to that of a mediator, in others to that of a master, and still in others, the parent coordinator's role combines multiple functions."⁵

Parenting coordination occurs in all fifty states and several Canadian provinces. In 2001, Oklahoma enacted the first parenting coordination statute. Twenty-one states and two Canadian provinces have parenting coordination statutes or rules regarding appointment of PCs, but large numbers of PCs function without a specific parenting coordination court rule or statutory authority. Parenting coordination case law has developed in those jurisdictions with rules or statutes as well as those without such formal legal authority.

Parenting coordination law reflects a legal balancing act. On the one hand, it involves expanding the reach of the state's use of best interests of the child principles and the state's *parens patriae* responsibilities as this relates to children. On the other hand, these principles and responsibilities often directly challenge parental rights to privacy including the right to care and provide for one's children without state intervention. Appellate courts have dealt with a host of issues including, *inter alia*, challenges to traditional notions of parental rights – particularly due process rights, questions about the scope of the court's authority to intervene, and how much authority the court may delegate to a neutral third party such as a PC. Parenting coordination laws strive to define, standardize, and regulate the intervention within each jurisdiction. Parenting coordination in the United States, when it exists in a jurisdiction, is a part of state family law. In Canada, parenting coordination law is a combination of federal and provincial law.

II. WHY PARENTING COORDINATION AND PARENTING COORDINATION LAW ARE NEEDED

Parenting coordination has developed as a response to three sets of perceived needs. First, early social science research showed that many children of divorce and parental separation needed help.⁶ Significant numbers of these children and their parents were at risk for adjustment, behavioral, and emotional problems. These risks were much higher when separating parents were in conflict and failed to cooperate. Conflict between parents, not the divorce itself, came to be seen as the source of risks to children.⁷ The terms "high conflict divorce," "high conflict families," and, more recently, "high conflict coparenting dynamics," have been used to reference a significant subgroup of separating parents who consumed disproportionate amounts of the time and resources of family courts under the guise of fighting for their child. As many as twenty percent to twenty-five percent of parents remain in high conflict three to four years after separation or divorce.⁸ The development of parenting coordination and the demands of high conflict families are intricately linked both in time and function.

Second, family courts need parenting coordination as an option. A number of social and legal trends increased the numbers of parents using the adversarial legal system to settle disputes regarding custody and access.⁹ Increases in joint legal (decision-making) custody and joint physical custody orders grew from research on the benefits to the child of relationships with both parents. But these developments did not come without costs. "Litigation between parents increasingly focused on the extent of the paternal involvement and shared custody as well as disputes regarding parental abilities."¹⁰

These sharp increases in the volume of cases coming to family court necessitated development and use of more efficient dispute resolution alternatives to litigation. Increasing numbers of families were ordered into educational and mediation interventions designed to benefit the children and families, control the conflict via enforcement of the parenting plan, and lessen the burdens on the court and the legal system. In many instances, courts and judges became conflict managers.¹¹ The needs of family courts for help have resulted in parenting coordination, or other interventions similar to

it,¹² being used in almost every jurisdiction, regardless of whether there are rules or statutes to govern it.

In addition, “high conflict” cases often tie up disproportionate amounts of system resources. These obsessive litigants take an enormous amount of time and energy from family courts and judges. Parents with high conflict coparenting dynamics repeatedly find their way to court where courts are asked to function as a last resort to make decisions because these parents cannot make their own, to act in loco parentis monitoring day-to-day care of their children, and to resolve family dilemmas that other professionals cannot resolve.¹³

And finally, most professionals and parties perceive the need for guidelines and regulation of parenting coordination. Two major U.S. professional organizations have promulgated aspirational guidelines. AFCC has been a leader in developing guidelines for parenting coordination practice.¹⁴ The new Guidelines for Parenting Coordination, approved by the AFCC Board of Directors in May 2019, reflect the organization’s third formal report since the initial effort in 2003. APA published aspirational guidelines in 2012.¹⁵ Both sets of guidelines are aspirational rather than standards of practice per se and are similar in that they focus on training, professional competence, ethical guidance, and role functions.¹⁶ Three professional organizations in Canada have published Standards of Practice: the British Columbia Parenting Coordinator’s Roster Society,¹⁷ the Family Dispute Resolution Institute of Ontario (FDRIO),¹⁸ and the Prince Edward Island legislature.¹⁹

III. LEGAL TRENDS SUPPORTING PARENTING COORDINATION

Legal regulation of parenting coordination has steadily grown. The law of parenting coordination, as implemented by individual courts, family court systems, and state legislatures, has developed in fits and starts depending upon the jurisdiction. Use of PCs preceded development of specific parenting coordination statutes or court rules. Appellate cases quickly appeared and increased in volume, both in jurisdictions where there were state statutes as well as in jurisdictions where parenting coordination was ordered absent any statutory foundation. Many of the cases reflected dissatisfaction and problems with the intervention and the performance of PCs.

Most opposition or resistance to parenting coordination is related to concerns about the due process rights of parents and whether the PC appointment represents an improper delegation of judicial authority. Because of differing parenting coordination models, “[w]hether a Parenting Coordinator’s appointment is an improper delegation of judicial authority depends on the authority for the appointment in the given jurisdiction and the terms governing the specific appointment.”²⁰ The nature of any due process challenge depends upon the nature of the PC appointment and the nature of the court’s delegation of its authority over these rights and the best interests of the child.

Parenting coordination’s emergence as a tool for family courts is also directly linked to two broad legal developments related to the above due process and jurisdiction issues. The first set of developments include the notion that there are limits to the rights parents have to the care and custody of their children. In addition, not every element of parental rights is a fundamental liberty interest deserving of the same kinds of due process protections. Finally, courts may delegate non-substantive decisions to third parties such as PCs without being found to have abrogated their judicial authority over issues of custody and the best interests of the child. At one time, this prohibition against delegation of judicial authority was absolute.²¹ Now it differs from jurisdiction to jurisdiction.

A parent’s rights to the care, custody, and control of their children is considered a fundamental liberty interest.²² A parent cannot be deprived of his or her right to the care, custody, and control of his or her child without due process of law. But parental authority is not absolute.²³ Due process balances (1) the private interests affected by the proceeding, (2) the risk of error created by the jurisdiction’s chosen procedures as well as the value of additional or substitute procedures, and (3) the countervailing governmental interest supporting use of the challenged procedure.²⁴ “[I]n

determining whether the order or statute constituted a substantive due process violation, a balance must be struck between the right protected and the demands of society.²⁵ In addition to the state's obvious interest in protecting children from the parental conflict,²⁶ courts have noted interest in the regulation of divorce and in the fiscal and administrative demands of frequent litigators as legitimate state interests.²⁷

Indeed, several early appellate cases distinguished between the kinds of issues courts authorize PCs to address from matters still considered part of a parent's fundamental liberty interests. For example, in 2011, in *Jordan v. Jordan*, the appellate court in D.C. performed a due process analysis and concluded that the PC could only resolve "day-to-day conflicts between the parties that do not affect the court's exclusive jurisdiction to determine fundamental issues of custody and visitation."²⁸ In 2008, in *Yates v. Yates*, a Pennsylvania appellate court endorsed the trial court's use of a PC where the court "maintained authority over the majority of custody issues and provided the PC with decision making discretion only on minor custody and visitation issues."²⁹ These minor issues included temporary variation from the custody schedule for a special event or particular circumstance and issues regarding discipline and behavior management of the child.

In 2014 while reviewing the different parenting coordination approaches, the Massachusetts Supreme Court noted that,

The specific nature of the role of a parent coordinator varies significantly both within and among jurisdictions that permit such appointments. In certain circumstances, the role of parent coordinator may be analogous to that of a mediator, in others to that of a master, and still in others, the parent coordinator's role combines multiple functions.³⁰

At least in theory, this would mean different PC approaches might have slightly different due process analyses. Imposing appropriate limitations on the PC's role can incrementally diminish the argument that the appointment is an improper delegation of judicial authority.³¹ Achieving an appropriate balance of benefits and limitations, in light of the basis for appointment authority, can achieve a sustainable appointment.³²

The second development relates to the court's exclusive jurisdiction over the adjudication of the liberty interests of parents and the best interests of the children. In the United States, this development extends beyond the issue of parenting coordination to issues related to arbitration. Parenting coordination and family law arbitration have developed separately. In Canada, each province has an Arbitration Act that is used in all aspects of family law cases – including child custody. This has affected use of PCs where these provincial Arbitration Acts are seen as support for the arbitral functions in parenting coordination cases.

Historically, states in the United States have considered it unlawful for trial courts to delegate judicial authority over child-related matters in custody cases.³³ But this historical resistance against arbitrating child-related matters has lessened in the past twenty years. While most states have applied the Uniform Arbitration Act (UAA) or the Revised Uniform Arbitration Act (RUAA) to many family law matters, child-related arbitration has traditionally been excluded because of the state's *parens patriae* responsibilities.³⁴

The trend towards more acceptance of arbitration has included changing child-related exclusions. In 2005, the American Academy of Matrimonial Lawyers promulgated a Model Family Law Arbitration act. In 2009, the New Jersey Supreme Court found parents have a constitutional right to resolve their child custody and parenting time disputes by arbitration.³⁵ In July 2016, the Uniform Family Law Arbitration Act (UFLAA) received final approval from the Uniform Law Commission (ULC) and directly addressed child-related issues.

The UFLAA recognizes the state's *parens patriae* responsibility for children and vulnerable family members in several nonwaivable provisions.³⁶ For example, sections 16 and 19 provide that a court cannot confirm an award determining child custody or child support unless it finds that the award complies with applicable law and is in the child's best interests.³⁷ The arbitration is terminated if the arbitrator has a reason to believe a child is the subject of abuse or neglect.³⁸ A court

must decide whether arbitration may proceed if domestic violence is evident and, if necessary, find adequate procedures protecting parties from risk of harm or intimidation.³⁹ Any award regarding children must spell out the underlying reasons.⁴⁰

Several states clearly allow arbitration of all family law matters including child custody and parenting time,⁴¹ but others clearly do not.⁴² States have been more willing to permit arbitration of child-related disputes so long as meaningful judicial review of the award is provided.⁴³ Arizona, Hawaii, and North Dakota have enacted the UFLAA.⁴⁴

IV. THREE CASE EXAMPLES OF DUE PROCESS AND JUDICIAL DELEGATION CONCERNS

An examination of the history of parenting coordination in Pennsylvania illustrates the need for carefully planning how to structure and address concerns about the delegation of judicial authority and the due process rights of parents. The Pennsylvania experience reflects, among other things, concerns that had frequently been voiced about possible improper delegation of decision-making authority to a PC.⁴⁵

Most agree that the legal foundation for parent coordination was established in Pennsylvania through the case of *Yates v. Yates*.⁴⁶ In that 2008 case, the trial court's parenting coordination order was considered to be a reasonable exercise of discretion that served the best interests of the child. The father had argued the PC appointment was an improper delegation of judicial authority. This decision relied heavily upon recommendations from a custody evaluator, referenced the 2005 version of the AFCC Guidelines for Parenting Coordination, and favorably compared parenting coordination to courts' use of masters in domestic matters. The *Yates* trial court's decision was upheld because the court-maintained authority over the majority of custody issues and provided the PC with decision making authority only on minor custody and visitation issues in a detailed order. Among other things, parenting coordination was hailed as an intervention to "shield children from the effects of parenting conflicts and help parents in contentious cases comply with custody orders and implement parenting plans."⁴⁷ In a separate case in 2012, the Superior Court of Pennsylvania upheld a parenting coordination order that allowed parents to review the PC's decisions.⁴⁸

On May 23, 2013, however, the Pennsylvania Supreme Court eliminated parenting coordination via Rule 1915. 11-1, titled, "Elimination of Parent Coordination." This elimination directly addressed concerns with delegation of judicial authority by stating,

Only judges may make decisions in child custody cases. Masters and hearing officers may make recommendations to the court. Courts shall not appoint any other individual to make decisions or recommendations or alter a custody order in child custody cases. Any order appointing a parenting coordinator shall be deemed vacated on the date this rule becomes effective. Local rules and administrative orders authorizing the appointment of parenting coordinators also shall be deemed vacated on the date this rule becomes effective.

Some viewed the passing of this rule as a direct response to a scandal involving judicial officers, hypothesizing that the parenting coordination issue got included in the general efforts to restore judicial accountability.⁴⁹ There were additional concerns that mental health professionals were altering court-ordered parenting plans.⁵⁰ Opponents of parenting coordination noted that, if a PC's decisions were final, it would infringe upon the due process rights of the parties since they would not get an opportunity to have their day in court. There were also concerns about who was qualified to be a PC, what authority the PC had and what limits there might be to that authority, and whether the PC's decisions were final or reviewable.⁵¹

In 2019, the Supreme Court of Pennsylvania revived parenting coordination with a rule that detailed PC appointment procedures, established qualifications, and mandated minimum training requirements. Of special note, efforts to restrict PC appointments to experienced attorneys were overcome. Both qualified and trained attorneys and mental health professionals can perform as a PC in Pennsylvania. The rule also outlines issues PCs are permitted to address as well as issues they are not permitted to address.

In 2014, events in Massachusetts again highlighted the concerns about due process and the delegation of judicial authority when courts appoint PCs and allow them binding decision-making authority. In *Bower v. Bournay-Bower*, the Massachusetts Supreme Court vacated the Probate and Family Court order appointing a PC after concluding the judge exceeded “the bounds of inherent judicial authority and unlawfully delegated judicial authority in appointing, without all parties’ approval, a PC with binding decision-making authority.”⁵² At the time of this decision, the Court noted, “Despite the increasing use of parent coordinators in Massachusetts, the specific functions of a parent coordinator, including the parent coordinator’s duties, necessary qualifications, or scope of authority, have not been set forth by statute or court rule.”⁵³ The Massachusetts Probate and Family Court, following the instructions set forth in the *Bower* decision, subsequently promulgated Standing Order 1–17. Parenting Coordination, detailing its’ approach to parenting coordination. This Court Rule became effective July 1, 2017.

Ohio has taken a unique approach. The Ohio Supreme Court’s rules on PCs are permissive and outline standards Ohio courts must follow when developing local rules and standards for using PCs. In 2019, in *Gregory v. Gregory*,⁵⁴ an Ohio appellate court found that a father was deprived of due process when the trial court overruled without a hearing his objection to the PC’s decisions regarding child-related expenses, a parent’s use of vacation days on the other parent’s scheduled time, and father’s request for a suspension of mother’s “one-on-one time” with the children. The appellate court found Father was entitled to an independent review of the PC’s factual findings and his objections should have stayed when the PC’s decisions might become effective.

V. PARENTING COORDINATION IN THE ABSENCE OF A STATUTE OR COURT RULE

At times, parenting coordination has developed without specific statutes or rules, but instead through references to existing legislation related to arbitration, mediation, or special masters.⁵⁵ For example, there is no statute or state-wide parenting coordination court rule in California⁵⁶ or the District of Columbia. California PC appointments require stipulations by the parties and are considered a hybrid with elements of parent education, coaching, mediation, arbitration, judicial reference and child custody evaluation.⁵⁷ Despite repeated calls for legislative enactment of a parenting coordination statute, California PC appointments are made under a number of different statutory provisions.

In Washington, D.C., the Office of the Parenting Coordinator (OPC) began in 2002 as an effort among psychologists, attorneys, and the D.C. Court.⁵⁸ The authority for PCs originated from Rule 53 regarding Special Masters. In *Jordan v. Jordan*,⁵⁹ the D.C. Court of Appeals affirmed the PC appointment under the Special Masters statute as well as the court’s provision that,

... the Special Master Order specified that the parenting coordinator may make decisions resolving day-to-day conflicts between the parties that do not affect the court’s exclusive jurisdiction to determine fundamental issues of custody and visitation.

Rather, the day-to-day decisions made by the parenting coordinator are analogous to the subsidiary decisions that special masters routinely make in other contexts[.]⁶⁰

VI. EXISTING PARENTING COORDINATION STATUTES AND STATE-WIDE RULES

As the benefits of parenting coordination become more widely understood, more and more states have adopted parenting coordination statutes or rules.⁶¹ This review examines those statutes and rules in the United States⁶² and Canada.⁶³ Table 1 (see Appendix A) reports issues related to PC

Table 1
Laws Regarding Parenting Coordinator Appointments

U.S.A.	Statute (or Related Rule)	Parental Consent Required	By Court Order Absent an Agreement	Specific Findings or Criteria For PC	Domestic Violence Considerations	PC Training & Qualifications	Length of Appointment	Provisions for Termination of PC Appointment
Arizona	Ariz. R. Fam. Law. Proc. 74	By agreement only	No			Rule 74(c) set by court (Atty, MD, PHD, licensed MHP, CSO or seen as qualified by judge) plus other court criteria.	Appt. cannot exceed 1 year unless parents & PC agree.	Parents can agree to discharge or replace PD by showing good cause
Colorado	C.R.S. § 14-10-128.1	By agreement or, absent an agreement, by court order	Yes	Yes. Parties have failed to implement parenting plan, mediation not appropriate, & PC in best interests of the child.	Court may consider the effect of any claim or documented evidence of DV	Neutral person with "appropriate training and qualifications" and independent perspective acceptable to the Court. Specific rules about PCs serving in multiple roles.	Court may specify term but not longer than 2 years	
Florida	Fla. Stat. § 61.125 & Fla. Stat. FLRP* 12.742	By agreement or, absent an agreement, by court order	Yes		IF DV present, both parents allowed to consult with an attorney or DV advocate and both must consent to PC. If DV present, court shall order safeguards	Licensed MHP, MD, family law mediator or attorney, plus 3 years post-licensure practice, family mediation training program, & 24 hours PC training, & any requirements court may require.		PC may be disqualified if convicted of child abuse/neglect, DV, parental kidnapping or interference with custody, or adjudicated in child protection proceeding, or been respondent in final order or injunction against DV Party may be disqualified if removal if PC exceeded scope of authority, abused discretion, or acting inconsistent with PC rule, or by party stipulation
Idaho	Idaho Code § 32.17D	By agreement or, absent an agreement, by court order	Yes	Issues appear to be intractable or subject of frequent litigation, well-being of child is at risk, one or both parents committed DV or chemically dependent or mentally ill, or exceptional circumstances to	20+ hours of training in DV or violence in families & completion of training lethality assessment, child abuse, anger management, future dangerousness, or causes of violence	Be on list of mediators, participated in 20+ hours of training in: DV & lethality assessment, child abuse, anger management, future dangerousness, or causes of violence		

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Table 1 (Continued)

U.S.A.	Statute (or Related Rule)	Parental Consent Required	By Court Order Absent an Agreement	Specific Findings or Criteria For PC	Domestic Violence Considerations	PC Training & Qualifications	Length of Appointment	Provisions for Termination of PC Appointment
Indiana	Ind. Par. Time. Guid. V	PC shall serve by agreement of parties or formal order of court.	Yes	<p>protect child's best interests</p> <p>Court must provide written explanation for appointments when both parties do not consent.</p>	<p>PC may not be appropriate in cases involving DV and victim should be fully informed and may have support person present during PC sessions. PC must have procedures to terminate sessions if there is a continued threat of DV, abuse or coercion between the parties.</p>	<p>PC shall be registered Indiana Domestic Relations Mediator with additional PC training satisfactory to the court making appointment.</p> <p>Previous PCs "grandfathered" in. PCs shall avoid multiple roles & conflicts of interest.</p>	<p>Shall not exceed 2 years, but court may extend for good cause shown.</p>	<p>After 6 months, parties may jointly request termination of PC process. Court may modify or terminate at any time if services are no longer needed, are contrary to best interests of the child, or for good cause</p>
Kansas	Supreme Court Rule 909	By agreement or, absent an agreement, by court order	Yes	<p>Court must find parents are persistently in conflict over child-related issues, PC is in best interests of the child, and one of following: parental problem-solving or communication is ineffective, parent has history of substance abuse, a history of DV is present, concerns over mental health of behavior of a parent, child has special needs, or court views PC as appropriate.</p>	<p>PC must screen for DV & should adapt methods to avoid coercion or power & control. If not competent in DV issues, PC must not accept PC appointment</p>	<p>Must be qualified to conduct domestic mediation, have mediated at least 10 domestic cases, and completed 16 hours of approved parenting coordination training</p>	<p>Not to exceed 24 months, although court may reappoint if appointment is still appropriate</p>	<p>Court may permit withdrawal or removal for: loss of neutrality, nonpayment by a party, lack of cooperation by a party, threat to party or PC, retirement or case load reduction by PC, any other reason found by court</p>

Louisiana	La. R.S. § 9:358.1 to 9:358.9	Yes	By agreement or, absent an agreement, by court order	Unless good cause is shown, court shall not appoint PC if it finds that a party has a history of perpetrating family violence.	PC must possess a master's or Ph.D. and license MHP plus 3 years of related professional post-degree experience plus 40 hours training in PC. Minimum of 20 hours of continuing education in PC every 2 years.	Shall not exceed 1 year but, for good cause shown, court may extend for additional 1 year terms.	For good cause shown by court or on motion of a party or request by PC
Maryland	Md. Fam. Law. Actions 9-205.2	Yes	By agreement of the parties, which may be (but does not have to be) approved by court.	If custody or visitation is in issue and the level of conflict between the parents so warrants	If there are allegations or findings of DV committed against party or child, court shall make provisions to address the safety and protections of parties, children, & PC	Until entry of judgment or, if post-judgment, shall not exceed 2 years unless PC and parties agree to extensions in writing	Court shall remove PC if on motion of party or attorney for child court finds good cause, or continuation of appointment is not in the best interests of the child. PC may give notice & resign
Massachusetts	Prob. & Fvt. Rules Standing Order 1-17	Yes	By agreement of the parties (and approved by the court) or by court order or judgment without agreement of the parties.	If ordered by court without agreement of the parties, court must find it is in best interests of the children involved in parenting plan, parties have failed to successfully implement the parenting plan, and level of parental conflict is, or may become, detrimental to the children.	PC shall be licensed as attorney or MHP. Attorneys, LMFT, or LMHC must have 4 years professional experience. Licensed psychiatrist, psychologist, or social worker must have 2 years related professional experience. Must have at least 30 hours of mediation training, at least 6 hours of IPV training, and 35 hours of specialty training related to PC, plus 6 hours of continuing education each year. PC shall not have a conflict of interest.	Post-judgment PC appointment shall not exceed two years with subsequent extensions for not more than one year each.	Parties may agree to early termination or move the court upon good cause shown, or replace PC with different PC by agreement. PC may resign

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Table 1 (Continued)

U.S.A.	Statute (or Related Rule)	Parental Consent Required	By Court Order Absent an Agreement	Specific Findings or Criteria For PC	Domestic Violence Considerations	PC Training & Qualifications	Length of Appointment	Provisions for Termination of PC Appointment
Michigan	MCL 722.27c	Parties & PC must agree to appointment & scope	No		Court shall consider any history of a coercive or violent relationship between the parties. PC must make reasonable inquiry into DV & use DV screening protocol. Each party has had opportunity to consult with an attorney & DV counselor.	State court administrative office shall develop standards for the qualifications & training of parenting coordinators, including training regarding violent & coercive domestic relationships. PCs must complete training in 2 years of promulgation of the standards.	A specific duration of the appointment is required but no time limitation is noted.	Court may terminate PC appointment if it is no longer helpful to the court or if the process is no longer safe for the child. PC may resign with notice
Minnesota	Minn. Stat. § 518.1751 (Parenting time expeditor)	Upon request by either party, parties' stipulation, or court's own motion.	Yes		Party may not be required to participate with parenting time expeditor if parties claims to be DV victim or if there is probable cause regarding child abuse or threats of physical harm	PE shall complete a minimum of 40 hours of certified family mediation training and certified training in domestic abuse.		If parenting time expeditor's appointment is long-term, party or expeditor may motion for removal for good cause shown
North Carolina	N.C. Gen. Stat. § 50-90 to 50-100	All parties may consent to PC appointment. Court may appoint PC without consent with specific findings	Yes	Court appointment of a PC requires specific findings that the case is high conflict, that appointment is in best interests of any minor child, & parties can pay.		PC must meet all of the following requirements: masters or doctorate degree and license in MHP, 5 years related professional post-degree experience, and 24 hours of training.		Court may terminate for good cause shown, or modify upon motion of either party or PC or court's motion. Good cause may be lack of reasonable progress, parties no longer need PC, impairment of parties interferes with participation, or PC is unable or unwilling to continue to serve

North Dakota	N.D.C.C. § 14-09.2-01 to 14-09.2-08	By agreement or, absent an agreement, by court order	Yes	<p>Party may object to PC on basis of DV having been committed by another party against objecting party or child. If PC is appointed, court shall order appropriate measures to ensure physical & emotional safety of all parties & children</p>	<p>Rule 8.11. Must be on Supreme Court Roster, have either Associates Degree or 2 years experience in child related field or bachelor's degree, 12 hours PC training, 40 hours domestic mediation training, & 18 hours continuing education every 3 years</p>	<p>Court may terminate or modify PC appointment for good cause shown, such as lack of reasonable progress, PC no longer needed, or impairment of party, or PC unable or unwilling to serve</p>
Ohio: PCs shall comply with Guidelines for Parenting Coordination developed by AFCC. Rules control if there is a conflict between rules and guidelines.	Ohio R. Superint. Ct. 90 to 90.12	Courts may adopt PC via local rule.	Yes, if criteria are met	<p>To appoint PC, court must find one of several factors present: ongoing disagreements, extreme or ongoing parental conflict, frequent adjustments to parenting time schedule, child has medical or psychological condition requiring frequent adjustments to schedule or any other factor as determined by court or division.</p>	<p>PC must possess master's degree or high, law degree, or education & experience satisfactory to court or division. Plus 2 years relevant professional experiences. Has completed training: 12 hours of basic mediation training, 40 hours of specialized family or divorce mediation training, 14 hours of DV training, & 12 hours of PC training. If case involves abuse, neglect, or dependency, 32 hours of child protection mediation training. Multiple roles & professional conflicts prohibited. Three hours per year of continuing education relating to children. Must avoid multiple or dual roles</p>	<p>Order must specify term of appointment</p>

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Table 1 (Continued)

U.S.A.	Statute (or Related Rule)	Parental Consent Required	By Court Order Absent an Agreement	Specific Findings or Criteria For PC	Domestic Violence Considerations	PC Training & Qualifications	Length of Appointment	Provisions for Termination of PC Appointment
Oklahoma	Okla. Stat. tit. 43, § 120.1 to 120.7	By agreement of the parties, or upon motion by either party or court's own motion.	Yes	Case must be high conflict & involve minor children & be in best interests of child. Parties demonstrate pattern of ongoing litigation, anger & distrust, verbal abuse, physical aggression or threats of physical aggression, difficulty communicating about & cooperating regarding care of children, conditions that warrant PC	In any case involving DV, stalking or harassment, the court expert shall have completed 16 hours of DV training.	PC's shall have a master's degree in mental health field, training in family mediation, and shall be a certified mediator Or, be a licensed MHP or attorney practicing in an area related to families.		
Oregon	O.R.S. 107.425(3)(a)	Court may appoint on own motion or motion of a party	Yes			Court may require PC to possess and utilize mediation skills. Presiding judge of each judicial district shall establish qualifications with consideration of guidelines recommended by statewide family law advisory committee.		

Pennsylvania	231 Pa. Code § 1915.01, 1915.22, & 1915.23	By agreement of the parties or on court's own motion.	Yes	Unless parties consent and appropriate safety measures are in place, PCs shall not be appointed when the parties to the custody action have a protection from abuse order in effect or court makes a finding that a party has been the subject of DV perpetrated by a party in the custody matter either during the action or within 36 months preceding the filing of the action.	PC qualifications - practice family law for 5 years or 5 years professional post-graduate experience in psychiatry, psychology, counseling, family therapy or comparable behavioral or social science field, & specialized training: 5 hours in PC process, 10 hours mediation, & 5 hours DV	Not to exceed 12 months.	Parties may not terminate PC without approval, party may petition for termination, or PC may petition to withdraw
South Dakota	SDCL 25-4-63 to 74	By agreement or, absent an agreement, by court order	Yes		PC must be licensed attorney or MHP. PC must have 4 hours DV training, 40 hours PC training and knowledge requirements, or 5 years experience and 20 hours of training	Order is to designate term, but there is no minimum or maximum mentioned.	Court may terminate PC at any time

(Continues)

Table 1 (Continued)

U.S.A.	Statute (or Related Rule)	Parental Consent Required	By Court Order		Specific Findings or Criteria For PC	Domestic Violence Considerations	PC Training & Qualifications	Length of Appointment	Provisions for Termination of PC Appointment
			Absent an Agreement	Yes					
Texas	Tex. Fam. Code § 153.605 to 611	By agreement or, absent an agreement, by court order		Yes	Court must make specific finding that case is high conflict & appointment is in the best interests of the child, * that PC has minimum qualifications (unless waived)	Party may file objection at any time on basis of family violence committed by party against party or child. Court shall order appropriate measures to ensure physical or emotional safety of party while filed objection	PC qualifications determined by court but at least a MHP bachelor's degree or graduate degree in MHP with emphasis on family and children's issues, or licensed attorney. Additional training: 8 hours family violence dynamics training, 40 hours in dispute resolution techniques & 24 hours of training in family dynamics, child development, family law, PC law, & parenting coordination styles & procedures. Court may appoint PC who does not satisfy requirements if it finds that the person has sufficient legal or other professional training or experience.	PC shall removed PC on request of all parties, on request of PC, on motion of party if good cause is shown, or PC ceases to meet qualifications	
Utah	Utah Code Jud. Admin. 4-509	PC may be appointed to serve		Yes			Minimum qualifications: Licensed Ph.D. psychologists, social workers, psychiatrists, LMFT plus 3 years of post-licensure experience, plus 18 hours of continuing education every 3 years in relevant areas. Shall avoid dual or sequential roles and conflicts of interest.		

Vermont	Vt. R. Fam. Proc. 4.3 (e)	At the request of a party or upon its own motion.	Yes	Appoint PC if it will serve the best interests of the children and one or more of the following conditions is met: high conflict between parents, domestic abuse in relationship, substance abuse by either or both parties, or any other condition that significantly impedes resolution of parent-child contact issues.	DV is a possible reason for PC referral. Initial intake & informational meeting must take place with each party separately at a facility with security. Meetings must also be in secure setting unless parties agree to hold joint meetings.	PC must have at least 5 years of experience working with high-conflict families in specified situations (CPS, GAL, education, child care, mental health services, family law, guidance counseling, special education, or family home-based services plus 60 hours mediation training (28 hours basic and 32 domestic), 8 hours domestic abuse and 8 hours advanced domestic abuse, & 8 hour substance abuse training	Authority of PC to act ends 2 years after agreement or order is made unless order or agreement specifies an earlier date or event
CANADA							
British Columbia	Family Law Act [SBC 2011] Chapter 25, Division 3	Fam Rel Act R.S.B.C. 19986, c.128; Commercial Arbitration Act, R.S.B.C., 1986	Yes	By agreement or order of court			
Prince Edward Island	Pursuant to section 15.5 of the Custody Jurisdiction and Enforcement Act R.S.P.E.I. 1988, Cap. C-33		Yes			PC certificate required. Member of law society, psychologist or psychological associate, social worker or other equivalent experience. Pre-service PC training.	

appointments; Table 2 (see Appendix B) reports a summary of the authority, scope, and duties of the PC.

Unless otherwise specified, reference to “rules” in this article refers to jurisdiction-wide rules as opposed to local rules. With the exception of Idaho, rules in states that have statutes are not discussed. Throughout the United States, there are also various local court rules governing parenting coordination,⁶⁴ which are not discussed here.

In Canada, two provinces have formal parenting coordination law (i.e., British Columbia, Family Law Act, S.B.C. 2011, c. 25, and Prince Edward Island, S.P.E.I. 2017, c. 62). In other provinces, however, PC orders are accomplished based upon the agreement of the parties.⁶⁵ In Alberta and Ontario, for example, authority for the arbitral component of parenting coordination derives from a combination of provincial arbitration legislation and the consent of the parties.⁶⁶ In Alberta, parenting coordination is a part of family arbitration governed by the Alberta *Family Law Act*⁶⁷ and the *Arbitration Act*.⁶⁸ In Ontario, parenting coordination is viewed as a form of family arbitration and is governed by a number of overlapping laws:

... any family arbitration, including that occurring in parenting coordination, is governed by Provincial and Federal Law, specifically, the *Arbitration Act, 1991*, the *Family Law Act*, the *Divorce Act*, the *Children's Law Reform Act*, and the *Family Statute Law Amendment Act, 2006*, which amends the Arbitration Act, 1991, and the *Family Law Act*. (citations omitted).⁶⁹

A. COURT AUTHORITY TO APPOINT A PC (ROLE OF CONSENT)

In the twenty one states that have a parenting coordination statute or rule, only five require the consent of both parents for the appointment.⁷⁰ In most states, the court has authority to order parenting coordination on its own motion as well as upon agreement of the parents or upon motion by a party. Vermont has a unique hybrid consent rule. Initially, the court may appoint a PC with or without the consent of the parents. After the court's Order of Referral, the PC and parents participate in an Intake and Informational meeting. If an agreement to continue is reached in this meeting, a stipulation and proposed order of appointment is submitted to the court by the PC. In the two Canadian provinces with formal parenting coordination law, British Columbia and Prince Edward Island, courts can order parenting coordination without the consent of the parties. Parenting coordination orders require the agreement of the parties in all other provinces.⁷¹

B. CRITERIA FOR COURT TO ORDER PARENTING COORDINATION

Specific findings may be required for the court to order parenting coordination on its own motion. In Colorado, Kansas, Massachusetts, North Carolina, Oklahoma, Texas, and Vermont, the criteria for appointment of a PC includes that the court must find that parenting coordination is in the best interests of the child. Repetitive litigation or high conflict parental relationship is included in the criteria for Kansas, Massachusetts, North Carolina, Ohio, Oklahoma, Texas, and Vermont. Colorado also includes in the criteria that mediation was unsuccessful and that parents are unable to implement the parenting plan. In Vermont, the court must find that parenting coordination is in the best interests of the child, and that there is a high level of conflict, substance abuse, domestic violence, or a condition that impedes resolution of a parent/child contact issue.

Ability of the coparents to pay for the PC is a common requirement. Florida, Louisiana, North Carolina, North Dakota, and Oklahoma require that the court find that at least one party has the ability to pay for parenting coordination. Massachusetts requires that at least one party agrees to pay. Neither Canadian statute authorizing courts to order parenting coordination outlines specific findings that must be made prior to the order.

Table 2
Laws Regarding Authority, Scope, & Duties in PC Role

U.S.A.	Statute (or Related Rule)	Scope of Authority: Custody	Scope of Authority: Minor Changes	Court Review	Confidentiality & Privilege	Mandated Reporting Status	Immunity for PC
Arizona	Ariz. R. Fam. Law. Proc. 74	PC cannot make a decision changing legal decision-making authority, substantially change parenting time, or affect child support, maintenance or debt or property distribution.	Parents agree to be bound by PC decisions within PC's authority and appointment order. PC authority can make decisions implementing, clarifying, or making minor adjustments to parenting time orders. Parent can object within 20 days & request a hearing if they believe PC exceeded scope of authority	Parent has 20 days to object to PC decision if they believe PC exceeded scope of appointment or order.	PC is not a confidential process. PC communications with parents, child, other relevant parties, and court are not confidential. PC can interview anyone with relevant information.	No	PC has immunity for all acts taken under & consistent with court's appointment order
Colorado	C.R.S. § 14-10-128.1	PC may make nonbinding recommendations to the parties in the event that they are unable to resolve a dispute themselves. In re Rozzi, 190 P.3d 815 (Colo. App. 2008).	PC cannot make decisions or resolve disputes that the parents are unable to resolve. In re Dauwe, 148 P.3d 282 (Colo. App. 2006).		PC shall not be competent to testify and may not be required to produce records to the same extent as a judge of the court (who is acting in judicial capacity). Parties may agree in writing to PC testifying.	Attorney PCs - No. Mental health PCs - yes	Immune from civil liability if acting within scope of duties.
Florida	Fla. Stat. § 61.125 & Fla. Stat. FLRP* 12.742	Assists parents in creating or implementing parenting plan by providing education, making recommendations, & with prior approval, making limited decisions within the scope of court's order of referral	With prior approval of parents & the court, PC can make limited decisions within the scope of the court's order of referral		Parties may agree that PC testimony or evidence is permitted. PC communications confidential except to confirm written agreement, testimony to identify issues for resolution by court, & a party's compliance with orders for psychological evaluation, court-ordered counseling, or substance abuse testing or treatment.	Yes	Immunity if acting within scope of order unless PC acted in bad faith, with malicious purpose, or with disregard for rights, safety & property of parties.

(Continues)

Table 2 (Continued)

U.S.A.	Statute (or Related Rule)	Scope of Authority: Custody	Scope of Authority: Minor Changes	Court Review	Confidentiality & Privilege	Mandated Reporting Status	Immunity for PC
Idaho	Idaho Code § 32.717D	If authorized by court order, PC may make recommendations to parties & court but these recommendations are not binding on the parties or court.	Parties may delegate to PC by stipulation authority to resolve any legal or physical custody issue regarding their children as set forth in order. Without parental consent, PC's authority limited to list of issues outlined in statute & must act consistent with custody order. PC decisions are effective immediately upon service	Within 14 days of PC decision, parties may file motion to set aside or modify PC's decision. Filing a motion does not stay implementation of decision unless the court orders otherwise. Motion must claim PC exceeded scope of authority in order or abused his/her discretion	PC proceedings are not confidential.	Yes	PC has qualified judicial immunity as to all acts undertaken pursuant to & consistent with the order of appointment
Indiana	Ind. Par. Time. Guid. V		PC submits reports and recommendations to court.	Court may immediately approve PC recommendation, in whole or in part, take no immediate action, and/or set the matter for court hearing. If parties object within 10 days, court shall set hearing for party's objection to PC recommendation.	Communications made as part of parenting coordination shall not be confidential except as provided by law. PC may communicate with parties, counsel, children & to protection orders and ensure safety of parties, children & PC. Nothing in PC Guideline is intended to create a privileged or therapist-client privileged communication.	Yes	
Kansas	Supreme Court Rule 909	PC must not make decisions that would change legal or physical custody from one parent to the other or substantially change the parenting plan.	PC helps the parties implement court orders & with daily parenting matters. PCs may make recommendations (unspecified as to nature) and file reports with court	A party may object to a PC's report or filing a motion with the court.	PC is not a confidential process.	Yes	Actions are part of judicial proceedings & immunity same as that extended to others involved in official court duties

Louisiana	La. R.S. § 9:358.1 to 9:358.9	When parties are unable to reach an agreement, the parenting coordinator may make a recommendation in a report to the court for resolution of the dispute. PC shall refrain from facilitating an agreement by the parties that would change legal custody or that would change physical custody or visitation schedule in a way that may result in a change in child support.	PC shall assist parties in resolving disputes & reaching agreements including minor changes or clarifications to access schedules in existing plan, exchanges, health care management, child-rearing issues, mental health care, psychological assessments of children, education & daycare issues.	PC shall not be called as a witness in the child custody proceeding without prior court approval. Court shall order parties to cooperate and provide relevant non-privileged records and information requested by PC, and may communicate with the child & other persons not a party to the litigation.	Yes	Immunity if acting within scope and no gross negligence or willful or wanton misconduct
Maryland	Md. Fam. Law. Actions 9-205.2	PCs may be used in an initial action to determine custody or visitation & an action to modify an existing order or judgment as to custody or visitation.	PC may decide post-judgment disputes by making minor, temporary modifications to child access provisions if order authorizes such decision-making & parties have agreed in writing or on the record that the PC may do so	PC may not communicate orally or in writing with court or court personnel, testify in action as an expert witness, or make parenting decisions on behalf of the parties unless, the court has authorized the PC to make minor, temporary modifications to child access provisions ordered by the court. PC may not disclose confidential information to anyone else without consent of the party who provided the information or consented to a third person providing it.	Yes	

(Continues)

Table 2 (Continued)

U.S.A.	Statute (or Related Rule)	Scope of Authority: Custody	Scope of Authority: Minor Changes	Court Review	Confidentiality & Privilege	Mandated Reporting Status	Immunity for PC
Massachusetts	Probr. & FV: Rules Standing Order 1-17	PC may not facilitate an agreement that would change legal custody from one party to the other or that would change the physical custody or parenting plan in a way that may result in a change of child support.	PC may assist the parties in amicably resolving disputes and in reaching agreements about implementation and compliance with the order regarding the children in their care. PC appointment does not divest court of authority or jurisdiction even where parties have agreed to binding decision-making authority of PC		PC may not communicate orally or in writing with the court or any court personnel regarding the substance of the action or testify in the action as an expert witness. A PC may produce documents and testify in the action as a fact witness in response to a subpoena issued at the request of a party or an attorney for a child of the parties, or upon action of the court. PC shall have access to all non-impounded case records in the action, but PC may not require parties or an attorney for the child to release any confidential or privileged information that is not in the case record. A party may release records to PC, but privilege of records of a child must be waived by an attorney for the child.	PC may file a motion or complaint to request an immediate hearing if concerned that a party or child is in imminent physical or emotional danger.	
Michigan	MCL 722.27c	Parties may agree that on specific types of issues they must follow a parenting coordinator's recommendations until modified by the court. PC may make limited decisions on issues outlined in statute, including alterations in parenting schedule so long as time-sharing arrangement is not changed by more than a specified number of days per month	Parties may agree that on specific types of issues they must follow a parenting coordinator's recommendations until modified by the court. PC may make limited decisions on issues outlined in statute, including alterations in parenting schedule so long as time-sharing arrangement is not changed by more than a specified number of days per month		Communications with the parenting coordinator are not privileged or confidential. PC has access to entire court file. PC has the right to interview or communicate with any other person the PC considers relevant to resolve an issue or to provide information & counsel to promote the best interests of the child. Court may allow testimony of PC, if court finds the testimony useful to resolution to a pending dispute. PC shall not testify regarding statements received from a child if PC believes the disclosure would be damaging to the child.	Yes	Immune if acting within scope of PC authority outlined in court order

Minnesota	Minn. Stat. § 518.1751	<p>If parties do not reach an agreement, PE shall make a decision resolving the dispute after receiving information & conferring with both parties. PE can award compensatory time</p>	<p>Unless the parties agree, PE shall not make a decision that is inconsistent with an existing parenting time order, but may make decisions interpreting or clarifying a parenting time order, including the development of a specific schedule when the existing court order grants "reasonable parenting time."</p>	<p>Statements made & documents produced in parenting time expeditor process are not discoverable or admissible into evidence for any purpose at trial or in any proceeding. PE must not be subpoenaed or called as witnesses in court proceedings. PE notes, records, & recollections are confidential & must not be disclosed to parties unless: (1) the parties & expeditor agree in writing to disclosure or (2) disclosure is required by law or applicable professional codes, & must not be disclosed unless court does an in camera review. Notes or records must not be released by the court unless they disclose information showing illegal violation of the criminal law of the state.</p>	Yes	<p>PE is immune from civil liability for actions taken or not taken when acting under this section.</p>
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(Continues)

Table 2 (Continued)

U.S.A.	Statute (or Related Rule)	Scope of Authority: Custody	Scope of Authority: Minor Changes	Court Review	Confidentiality & Privilege	Mandated Reporting Status	Immunity for PC
North Carolina	N.C. Gen. Stat. § 50-90 to 50-100	PC shall promptly provide written notification to the court if existing custody order is not in the best interests of the child or PC is not qualified to address or resolve certain issues.	Authority of PC shall be specified in court order appointing PC & shall be limited to matters that will aid the parties in identifying disputed issues, clarifying priorities, exploring possible compromises, & comply with court's order for custody, visitation, or guardianship. Parties may agree to limit the parenting coordinator's decision-making authority to specific issues or areas. Court may authorize PC to decide issues regarding implementation of parenting plan that are not specifically governed by court order.	PC, party or attorney for any party may request an expedited hearing to review a PC's decision. Only judge presiding over the case may subpoena PC to appear & testify at hearing	Communications between PC & parties are not confidential. No ex parte communications between PC & court. Only the judge presiding over the case may subpoena the PC to appear & testify at the hearing. PC shall maintain records of each meeting. These records may only be subpoenaed by judge. Court must review the records in camera & may release records if court determines release of information will assist the parties with the presentation of their case at trial.	Yes	Immunity from acts or omissions of ordinary negligence from PC acts

North Dakota	N.D.C.C. § 14-09.2-01 to 14-09.2-08	PCs shall attempt to resolve parenting time dispute by facilitating negotiations &, if parents cannot resolve dispute, shall make a decision resolving the dispute. This decision is binding on the parties until further order of court.	Statements made & documents produced as part of PC process are not subject to discovery or other disclosure & are not admissible into evidence for any purpose at trial or in any other proceeding, including impeachment. PCs may not be subpoenaed or called as witnesses in court proceedings. Notes, records, & recollections of PCs are confidential & may not be disclosed unless: parties & PC agree in writing to disclosure or disclosure is required by law or applicable professional codes. Notes & records may not be released unless court's in-camera review determines there may be a violation of state or federal law.	Immunity from acts or omissions of ordinary negligence from PC acts
Ohio	Ohio R. Superint. Ct. 90 to 90.12 (PCs shall comply with AFCC Guidelines for Parenting Coordination)	Court shall not order PC to determine changes in designation of primary residential parent or legal custodian or changes in primary placement of child.	Decision of PC is effective immediately & remains effective unless ordered otherwise by the court or division.	Court using PC's must allow for objections to decisions of PCs.
				Yes

(Continues)

Table 2 (Continued)

U.S.A.	Statute (or Related Rule)	Scope of Authority: Custody	Scope of Authority: Minor Changes	Court Review	Confidentiality & Privilege	Mandated Reporting Status	Immunity for PC
Oklahoma	Okl. Stat. tit. 43, § 120.1 to 120.7	PC shall not make any modification to any order, judgment or decree.	The PC may allow the parties to make minor temporary departures from a parenting plan if authorized by the court to do so. The appointment order shall specify which determinations will be immediately effective & which will require an opportunity for court review prior to taking effect. The parties may limit the decision-making authority of the PC to specific issues or areas if the PC is being appointed pursuant to agreement of the parties. Any decisions made by the PC authorized by the court order shall be binding on the parties until further order of the court.	A party may file with the court and serve on the PC and all other parties an objection to the PC's report within 10 days. The Court shall review any objections to the report and any responses submitted to those objections to the report and shall thereafter enter appropriate orders.		Yes	
Oregon	O.R.S. 107.425(3)(a)	PC may make recommendations for new parenting time provisions.	No decision-making authority. Gathering information and monitoring compliance with court orders.				

Pennsylvania 231 Pa. Code § 1915.01, 1915.22, & 1915.23

PC's scope of authority does not include making a change in custody or a change in primary physical custody as set forth in the custody order, a change in the court-ordered custody schedule that reduces or expands the children's time with a party, a change in residence or relocation of the children, determination of financial issues, or major decisions regarding the health, education, religion or welfare of the children.

PC is authorized to recommend, when parents do not agree, resolutions to the court about (i) Places & conditions for custodial households; (ii) Temporary variation from the custodial schedule for a special event or particular circumstance; (iii) School issues, apart from school selection; (iv) The child(ren)'s participation in recreation, enrichment, & extracurricular activities, including travel; (v) Child-care arrangements; (vi) Clothing, equipment, toys, & personal possessions of the child(ren);(vii) Information exchanges (e.g. school, health, social) between the parties & communication with or about the child(ren); (viii) Coordination of existing or court-ordered services for the child(ren), e.g. psychological testing, alcohol or drug monitoring/testing, psychotherapy, anger management; (ix) Behavioral management of the child(ren); & (x) Other related custody issues that the parties mutually have agreed in

PC shall serve a copy of recommendations to the parties or, if represented, to their counsel. It becomes a final order of the court unless a party timely files an objection of the court vacates the order. A party objecting to the recommendation shall file a petition for a de novo hearing before the court within ten days of service. This petition must specifically state the issues to be review and include a demand for a de novo hearing. If no objection, court may accept recommendation, modify recommendation, send recommendation back to PC for more specific information, or vacate the recommendation and conduct a de novo record hearing on the issues.

Communications between the parties or their attorneys & the PC are not confidential.

(Continues)

Table 2 (Continued)

U.S.A.	Statute (or Related Rule)	Scope of Authority: Custody	Scope of Authority: Minor Changes	Court Review	Confidentiality & Privilege	Mandated Reporting Status	Immunity for PC
South Dakota	SDCL 25-4-63 to 74	PC shall not have the authority to make any decision affecting child support, a change of custody, or a substantial change in parenting time.	<p>writing to submit to the parenting coordinator, which are not issues excluded in subdivision 2.</p> <p>Only with prior consent of the court as specified in the order of appointment can the PC make limited decisions subject to review by the court upon motion of the parties. By way of example only, these issues include disagreements around exchanges, time-sensitive issues, holiday scheduling, discipline, health issues, school & extracurricular activities, and managing problematic behaviors by the parents or children. May otherwise make recommendations on the day-to-day issues experienced by the parties.</p>		<p>PC is not a confidential process. There is also no evidentiary privilege for communications made as part of PC process. PC may be called to testify if ordered by the court.</p>	Yes	
Texas	Tex. Fam. Code § 153.605 to 611	PC may not modify any order, judgment, or decree.	PC duties are limited aiding the parties in, among other things, identifying disputed issues, understanding parenting plans, complying with court orders, & implementing parenting plans.				

Utah	Utah Code Jud. Admin. 4-509	<p>PC's role is to consult with the parties & make recommendations directly to the parents about how the children's needs can best be served. The role of the PC is like that of a mediator in that the PC seeks to elicit cooperation & agreement between the parents. PC suggestions are not binding on the parties. Delineate the scope of the parent coordinator's recommendations to include one or more of the following: Modification of the conditions of parent-child contact designed to improve compliance (e.g., communication between parents, pick-up and drop-off protocols, supervision requirements); minor schedule changes consistent with the percentage of time the child spends with each parent under the current parent-child contact order; modification of schedule and percentage of time spent with each parent. In postjudgment cases, the judge will not order recommendations that</p>	<p>Suggestions by PC will not be sent to the court or others unless both parents agree to their dissemination & sign written releases to that effect.</p>	<p>PC may communicate with GAL Attorney but shall communicate with other persons with the express written permission of both parties & only to the extent necessary to obtain information that the parties agree can be most reliably obtained in that fashion.</p>
Vermont	Vt. R. Fam. Proc. 4.3f	<p>If parties cannot agree on a parent-child contact plan, PC will submit a report to court. PC's recommendations cannot exceed the scope delineated in the parent coordination order.</p>	<p>A party who objects to the parent-child contact plan proposed by PC must file written objections with court within 14 days.</p>	

(Continues)

Table 2 (Continued)

U.S.A.	Statute (or Related Rule)	Scope of Authority: Custody	Scope of Authority: Minor Changes	Court Review	Confidentiality & Privilege	Mandated Reporting Status	Immunity for PC
			include modifications in the percentage of time spent with each parent unless a party has filed a motion to modify parent-child contact and the judge has determined that the moving party has made a prima facie case for a real, substantial, and unanticipated change of circumstances.				
CANADA				Yes			
British Columbia	Family Relations Act, R.S.B.C. 19986, c. 128 Commercial Arbitration Act, R.S.B.C. 1986	PC may make determinations respecting prescribed matters only and must not make a determination that would affect division or possession of property or the division of family debt.			A person must not use information obtained under this section except as necessary to resolve a family law dispute.	Yes (Everyone in CA is mandated reporter)	
Prince Edward Island	Pursuant to section 15.5 of the Custody Jurisdiction and Enforcement Act R.S.P.E.I. 1988, Cap. C-33	PC shall not make change of custody or guardianship, change in allocation of decision-making responsibilities, change affecting child support, or relocation	PC shall make determinations only only in respect to child's daily routine or schedule, education, extracurricular activities participation, routine medical or dental care, transportation and exchanges, access during vacations, personal belongings			Yes (Everyone in CA is mandated reporter)	

C. DOMESTIC VIOLENCE/INTIMATE PARTNER VIOLENCE CONSIDERATIONS

Domestic violence, or intimate partner violence, considerations are a crucial part of any discussion regarding parenting coordination. The revised AFCC Parenting Coordination Guidelines caution that,

The dispute resolution process central to a PC's role may be inappropriate and potentially misused by perpetrators of intimate partner violence (IPV) who have exhibited or are continuing to exhibit patterns of violence, threat, intimidation, and coercive control over their coparent. Accordingly, each jurisdiction should have in place a clearly delineated process to develop specialized parenting protocols, screening, procedures, and training in cases involving IPV.⁷²

Most statutes and rules contain specific references and caveats regarding parenting coordination in cases where there has been domestic violence. In Florida, Massachusetts, and Michigan, the court must allow both coparents to consult with attorneys or domestic violence victim advocates. Ohio and Indiana allow victims to have a support person present during the parenting coordination sessions and also require the PC to have procedures in place to terminate sessions if there is continued threat of abuse, coercion between the parties, or domestic violence. Both parties must consent in Florida, Massachusetts, and Pennsylvania. Indiana and Ohio require the PC to have procedures in place to terminate sessions if there is continued threat of domestic violence, abuse, or coercion between the parties. Louisiana prohibits the court from appointing a PC except for good cause shown. In Vermont, the meetings must be at the courthouse or a similarly secure facility. Many states specifically require that PCs have training regarding domestic violence. The British Columbia statute requires an assessment of possible family violence, the safety of the parties, and the ability of the parties to negotiate a fair agreement.⁷³

D. PC QUALIFICATIONS AND TRAINING

The AFCC Parenting Coordination Guidelines states that, "A Parenting Coordinator shall be qualified by education and training to undertake parenting coordination and shall continue to develop professionally in their associated roles and functions."⁷⁴ These guidelines further state that,

A PC shall be a licensed mental health or family law professional, or a certified qualified or regulated family mediator, under the rules or laws of their jurisdiction. A PC should also have extensive practical professional experience with family cases involving high conflict coparenting dynamics.

Family mediation training, parenting coordination training, familiarity with laws and guidelines, and diversity awareness and responsiveness are competencies set forth in the AFCC Guidelines on Parenting Coordination 2019. These guidelines also suggest arbitration/decision-making training for PCs in jurisdictions where PC decision-making is permissible by law. Jurisdictional PC qualification requirements set by statute or rule vary. Most jurisdictions mandate that PCs be experienced licensed mental health or legal professionals with mediation training. Utah requires that PCs be mental health professionals.

Many states require specialty PC training. Seven states require between twenty-four and forty hours of PC training (Florida, North Carolina, and Texas, 24 hours; Massachusetts, 35 hours; Louisiana, Maryland, and South Dakota, 40 hours). Of the twenty-one states identified as having a parenting coordination statute or state-wide rule, only four do not require mediation training.⁷⁵ Several states have yearly continuing education requirements: Kansas (6 hours per year), Maryland (4 per year), Massachusetts (6 per year), Ohio (3 per year), Pennsylvania (10 every 2 years), and Utah (18 every 3 years).

Several U.S. jurisdictions allow exceptions to the qualification and training requirements if a particular PC is chosen by the agreement of the parties, or if the coparents reside in an area where fully

qualified PCs are not available. This is not a settled issue. Like similar practices in family law arbitration, this practice raises questions about the scope of the PC's authority, as well as the nature of any judicial review as part of the state's *parens patriae* responsibilities to children.

In Canada, three professional organizations have developed accreditation processes for PCs. In 2011, British Columbia's Parenting Coordinators Roster Society published guidelines adapted from the AFCC (2005) Guidelines. These guidelines were revised in 2013 and require PCs to be a member of a designated professional organization, have training and experience in family mediation, and have specific training in parenting coordination processes and family dynamics – including family violence screening.⁷⁶ The Family Dispute Resolution Institute of Ontario (FDRIO), a non-profit organization, developed parenting coordination standards adapted from the AFCC (2005) and British Columbia Guidelines. The training requirements for a Certified Specialist in Parenting Coordination include 21 hours devoted to screening for power imbalances and family violence, 30 hours in family law (for non-lawyers), and 14 hours in family relationships (for non-mental health professionals).⁷⁷ The Alberta Family Mediation Society certifies the role of "Registered Parenting Coordinator and Arbitrator" (RPCA) and expects members to have a law degree or Master's level degree in a relevant field, five years post degree experience, at least 35 hours of conflict resolution courses, 25 hours of specialized mediation and arbitration training, 20 hours of family law training (for non-lawyers), and 20 hours of parenting coordination training.⁷⁸

E. LENGTH OF PC APPOINTMENT

The AFCC Guidelines on Parenting Coordination provide that PC appointment orders should define essential elements of the parenting coordination process, including term of service.⁷⁹ Most PC appointments are limited to one to two years. Some states allow re-appointment. Michigan does not have a time limit but requires that the length be specified in the order of appointment. Idaho requires that the duration be stated in the order of appointment but allows the appointment to be until the date the youngest child reaches the age of majority.

F. TERMINATION OF PC

Generally, the court may terminate the PC appointment for good cause shown. The statutes and rules in several states specifically state this principal.⁸⁰ Some of the states that specify that good cause shown is a basis for termination of PCs also specify other reasons for termination. In Indiana, the court may also terminate the appointment at any time upon finding that there is no longer a need for a PC. Maryland courts may terminate the PC appointment where the court finds that continuation is not in the best interests of the children. A PC may be removed at the court's discretion in Oklahoma. In Texas, there is a rebuttable presumption that the PC is acting in good faith, however, the court has discretion to remove the PC.

Other jurisdictions have various other provisions regarding termination of PC appointments. In North Dakota, good cause includes lack of reasonable progress over a significant period of time, that the PC is no longer necessary, that a party's impairment significantly impairs their participation in parenting coordination, or that the PC is unwilling or unable to serve. Colorado PCs are allowed to withdraw at any time. In Idaho, either party may petition for termination if a PC exceeded the scope of their authority, abused discretion, or acted in a manner inconsistent with the Supreme Court Rule. Colorado courts may terminate the services if it finds that would be in the best interests of the children. Michigan courts may terminate a PC's appointment if the court finds that the appointment is no longer helpful to the court in resolving parenting disputes, or if the process is no longer safe for a party or a child. In Vermont, if a PC determines that the process should be terminated, they report to the court and a status conference is held. In Pennsylvania, a PC's services cannot be terminated without court approval.

G. SCOPE OF PC AUTHORITY FOR LIMITED DECISIONS OR RECOMMENDATIONS

Consistent with constitutional due process and equal protection and the case law, PCs in every U.S. jurisdiction are prohibited from making decisions regarding legal or physical custody or child support and from modifying court orders in any significant manner.⁸¹ The language of the Idaho Rule is a succinct example: “Orders (of Parenting Coordinator Appointment) shall not delegate the court’s exclusive, continuing jurisdiction to modify child custody or support.”⁸² Texas adds that the appointment does not divest the court of the authority to exercise management and control of the case.⁸³ Pennsylvania has a specific list of things that are outside the scope of the PC’s authority, including: making a change in custody or a change in primary physical custody as set forth in the custody order; changing in the court-ordered custody schedule that reduces or expands the children’s time with a party; changing the residence or relocating of the children; making determinations on financial issues; or, making major decisions regarding the health, education, religion or welfare of the children.⁸⁴

Notwithstanding these limits, many states provide PCs with limited decision-making authority. PCs are granted limited decision-making authority by statute or rule in Arizona, Idaho, Kansas, Minnesota, and North Dakota. They are granted decision-making authority in Florida and Maryland as well, but only with the consent of the court and the coparents. PCs who have decision-making authority usually have the authority to make *de-minimis* decisions so long as they stay within the scope of the original custody orders and the specific parenting coordination appointment orders. This includes the authority to implement, clarify, and make minor adjustments to the underlying custody order. A PC’s authority may include: decisions regarding temporary schedule changes; transportation for exchanges; telephone calls and text messages; recreation; extracurricular activities; holidays; birthdays; attendance at special events like weddings; who takes the child to medical appointments; bedtime routines; diet; homework; manner of communication between the coparents; clothing and grooming including haircuts and piercings; child responsibility when a parent is hospitalized, incapacitated, or incarcerated; contact with relatives or significant others; and, other unpredictable and significant needs of the child or the coparents.

In Florida, PCs are generally prohibited from making recommendations, but there are two exceptions. With the express written consent of the parties, the PC may make recommendations concerning modifications to the parenting plan or time-sharing.⁸⁵ In addition, on the court’s motion or the joint motion of the parties, a PC is allowed to make a substantive recommendation concerning parental responsibility if (A) there is an emergency as defined by Chapter 561 of the Florida Statutes, (B) the recommendation would be in the best interest of the child, and (C) the parties agree that communications with the PC can be used to challenge or support the recommendation.⁸⁶

PCs in British Columbia may make decisions on matters prescribed in the court’s order and must not make a determination that would affect the division or possession of property or the division of family debt.⁸⁷ Similarly, the Prince Edward Island statute prohibits PCs from changing custody, decision-making, child support, or relocation.⁸⁸

Recommendations to the parties are typically part of PC work. Recommendations to the court for modification of custody are allowed in Idaho, Indiana, and, to the extent delineated in the PC order, in Vermont. Louisiana and Massachusetts specifically *prohibit* PCs from even *facilitating* any agreement that would change legal custody from one coparent to the other or that would change the physical custody in a way that might result in a modification of child support.

Other states list possible issues PCs may address. For example, the Texas statute requires that the court order appointing the PC outline specific duties and that PCs remain limited to:

- a. assisting the coparents in identifying disputed issues;
- b. reducing misunderstandings;
- c. clarifying problems;
- d. exploring possibilities for problem solving;
- e. developing methods for problem solving and of collaboration in parenting;

- f. understanding parenting plans and reaching agreements about issues to be included in them;
- g. complying with court orders;
- h. implementing parenting plans;
- i. obtaining training in problem solving;
- j. teaching conflict management and parenting skills;
- k. settling disputes regarding parenting issues; and,
- l. reaching a joint resolution or statement of intent regarding disputes.⁸⁹

While the general scope of authority is stated in statutes and rules, the specific scope of authority for the PC in each case should be clearly spelled out in the appointment order. The AFCC Guidelines for Parenting Coordination 2019 state that,

Whenever possible, a PC should serve by formal order of the court. Any court order or consent agreement of coparents shall clearly and specifically define the PC's scope of authority and responsibilities.⁹⁰

These guidelines make it clear that PCs should have only the authority specified in the order or consent agreement, and that they list some potential types of issues over which a PC might be granted authority. The statutory or rule scope of the PC's authority may include screening and information-gathering; initial and on-going assessment of whether the case is appropriate for parenting coordination and is safe; educating coparents about child development, the effects of parental separation and conflict on children; enhancing conflict resolution and communication skills, and parenting skills; improving coordination and case-management; conflict-management and communication skills; facilitating agreements and, when necessary, making recommendations to the coparents and the court; monitoring compliance with court orders, and, where permissible, making *de minimis* decisions.⁹¹

H. COURT REVIEW OF PC DECISIONS AND RECOMMENDATIONS

Courts must retain ultimate decision-making and case-management authority over the case. To avoid impermissible delegation of core judicial authority, the parties should have an opportunity for meaningful court review of PCs' decisions, particularly if these decisions address more than simple day-to-day functioning.⁹² Many of the statutes and rules examined are surprisingly silent regarding court review, and most that do address it are silent as to the standard of review.

A PC's decision remains in effect pending court review in Arizona, Idaho, Indiana, Oklahoma, Pennsylvania, and Vermont. In Indiana, where PCs do not make decisions, the PC submits agreements and recommendations in a report to the court, after which either party has ten days to file and serve an objection, and the court must set a hearing. Kansas allows for any party to file a motion for review of a PC's recommendation. In Arizona, a coparent has twenty days to object to a PC's decision if they believe that the PC exceeded the scope of the appointment order. Idaho gives coparents fourteen days to file a motion to modify or set aside a decision if a coparent believes that the PC abused their discretion or exceeded the scope of their authority. Ten days is given to coparents to review a PC's report in Oklahoma; the court then reviews the objection and any responses and enters appropriate orders.

The British Columbia statute allows a party to apply to the court to change or set aside a determination made by a PC. The court may set aside the determination if the PC acted outside of his or her authority or made an error of law or of mixed law and fact.⁹³ In Canada, a decision by a PC is a final order, but amendments to arbitration rules no longer allow parties to waive their right to appeal to the court.⁹⁴

I. CONFIDENTIALITY OF COMMUNICATIONS WITH PC

Clarity regarding what is and is not confidential in parenting coordination is of extreme importance and is complex. As is true of most family law issues, whether PC communications are confidential is jurisdiction specific. PC communications are not confidential in Arizona, Idaho, Indiana, Michigan, North Carolina, North Dakota, or Ohio. The British Columbia statute states, “A person must not use information obtained under this section except as necessary to resolve a family law dispute.”⁹⁵ The general rule in Colorado, Florida, and Minnesota is that PC testimony is not permissible. Florida law has many exceptions to this general rule.

PCs may or may not be working under their professional licenses. They are generally serving in a hybrid psycho-legal role,⁹⁶ and may well be asking, “What is my role at this moment?”⁹⁷ Carter and Frenkel provide a detailed discussion and analysis of parenting coordination and confidentiality.⁹⁸ They describe three levels of confidentiality in parenting coordination: internal, external, and liminal.⁹⁹ They suggest further research and discussion regarding parenting coordination confidentiality and posit that “The 2019 revision of the AFCC Guidelines for Parenting Coordination may serve as a catalyst for consensus-building around confidentiality and other key variables.”¹⁰⁰

J. MANDATORY REPORTING DUTIES OF PCs

A PC may be a mandatory reporter of possible or suspected abuse or neglect based on a parenting coordination statute or rule, on their profession duties, or by jurisdictional law. In many states and in all of Canada except the Yukon Territory (where the mandated duty is limited to certain professionals who have contact with children),¹⁰¹ all PCs are mandated reporters. The statutes and rules in Florida, Indiana, Maryland, Michigan, Ohio, and South Dakota mandate that PCs report suspected child abuse or neglect.

Several states have additional reporting requirements. In Florida, PCs are also mandated to report child abandonment or unlawful removal, and vulnerable adult abuse, neglect, or exploitation.¹⁰² Indiana PCs are mandated to report any apparent serious risk of harm to a family member or a third party.¹⁰³ Ohio PCs must report apparent serious risk of harm by a family member to that family member’s self, another family member, or a third party.¹⁰⁴ Since many parenting coordination statutes or rules do not explicitly address mandated reporter duties, PCs should check the mandated reporter statutes in their jurisdiction.

K. PC IMMUNITY OR QUALIFIED IMMUNITY AND ETHICAL COMPLAINTS

When acting under court appointment, most PCs will have immunity or qualified immunity as they are assisting the court in the task of determining the best interests of the child. PCs in Arizona, Colorado, Florida, Kansas, Idaho, Louisiana, Michigan, Minnesota, North Carolina, and North Dakota have specific statutory or rule immunity from civil liability as long they are acting within the scope of the appointment. Florida has an exception to immunity if a PC acts with bad faith, malicious purpose, or wanton and willful disregard for the rights, safety, and property of the parties. Louisiana also has an exception for willful or wanton misconduct, and an exception for gross negligence by the PC. North Carolina specifically states that there is not immunity for actions arising out of the operation of a motor vehicle. Massachusetts requires PCs to have liability insurance. PCs may also be covered by other law protecting professionals helping the court with the “best interests” task.

Who might define the ethical duties of a PC and enforce such ethical duties is not always clear. There are three possibilities. First, many have argued the Court that appointed the PC is responsible for oversight, although the remedies fashioned by courts are usually restricted to removing the PC or possibly reviewing fees issues. For example, Rule 919 in Kansas notes a person cannot allege an ethics complaint if the PC has been court-appointed and the court still has jurisdiction over the case.¹⁰⁵ Second, others have argued that the ethical principles attached to a PC’s license to practice

as a legal or mental health professional might be applied. However, some disciplinary or licensing boards have been reluctant to step in because of a lack of clarity that serving the court is simultaneously the practice of one's profession. A third possibility is that the state administrative agency or entity tasked with certifying PCs would also become the repository for collecting and resolving ethical complaints about PCs. For example, again in Kansas, an ethics complaint against a PC may be investigated by the director of dispute resolution.¹⁰⁶ In most jurisdictions, the available remedies upon a finding of an ethics violation are unclear. Revoking certification or denying recertification are the most likely remedies.

Florida recently became the exception to this unclarity about adjudication of complaints against PCs. On November 7, 2019, The Florida Supreme Court amended the Florida Rules for Qualified and Court-Appointed Parenting Coordinators to address disciplinary procedures for PCs.¹⁰⁷ These new rules gave the chief judge or the judge's designee numerous responsibilities for PCs, including qualifying and disqualifying PCs, jurisdiction over any failures by PC to maintain minimum qualifications or to report disqualifying circumstances, and the authority to review findings by the newly created Parenting Coordinator Review Board (PCRB) hearing panel.¹⁰⁸ Under these new comprehensive rules outlined adjudicating procedures and processes, the PCRB could appoint a three (3) member Rules Violation Complaint Committee (RVCC) that had jurisdiction and powers necessary to investigate complaints against PCs. The rules also outlined available sanctions including possible suspension, disqualification, or removal of the PC.

VII. CONCLUSION

The emergence and evolution of parenting coordination is a natural consequence of a confluence of factors. These factors include, but are certainly not limited to, increases in the expectations of post-divorce or post-separation coparenting, increased evidence that parental conflict places children at risk, and increases in the numbers of families needing legal help managing their post-separation lives. Indeed, although parental rights to self-determination are respected in every jurisdiction, the legal foundation for parenting coordination has evolved away from always requiring parental consent to the courts being able to order parenting coordination on their own motion and over the objections of the parties.

Parenting coordination is not without controversy. Concerns about the due process rights of the parties and the delegation of judicial authority are ever-present. When PCs are authorized to make decisions, these concerns have led to increased regulation and rules about PC qualifications and training, use of detailed orders defining the scope of PC authority in individual cases, and other limitations designed to reduce the risk of erroneous or over-broad decision-making. Court concerns about the harmful impact of conflict on children and the practical demands of growing dockets support development of additional alternatives to litigation such as parenting coordination. Under certain conditions and facts, courts are increasingly willing to more narrowly define a parent's fundamental liberty interests to their children and authorize limited decision-making by a third-party such as a PC when this offers the hope of reducing conflict.

Parenting coordination has become a valued tool for family courts attempting to help that subgroup of families who are unable to use less intrusive methods to resolve conflict. Parenting coordination models are jurisdiction-specific and detailed appointment orders make each intervention case-specific. Still, the core of the legal foundation for parenting coordination is to provide for the best interests of the children by, when necessary, extending the court's protective reach into the day-to-day processes that place children at risk. It is accurate to say that parenting coordination embodies the message, "Don't forget the children. Court protection from parental conflict is in the best interests of children."¹⁰⁹

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70. See Arizona, Maryland, Michigan, North Carolina, and Utah. See Table 1 in Appendix A.

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