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HOUSE BILL NO. 365

Offered January 12, 2022

Prefiled January 11, 2022

A BILL to amend the Code of Virginia by adding in Title 20 a chapter numbered 6.1:1, consisting of sections numbered 20-124.6:1 through 20-124.6:9, relating to Parenting Coordinator Act.

Patron—Sullivan

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 20 a chapter numbered 6.1:1, consisting of sections numbered 20-124.6:1 through 20-124.6:9, as follows:

CHAPTER 6.1:1.

PARENTING COORDINATOR ACT.

§ 20-124.6:1. Applicability.

This chapter applies to any action for divorce, separate maintenance, or annulment in which custody or visitation is in issue, or any petition for custody or visitation pursuant to this title or Title 16.1, or any written agreement between the parties and the parenting coordinator that incorporates the terms of this chapter.

The purpose of appointing a parenting coordinator is to help parents (i) implement a court order regarding child custody or parenting time, (ii) comply with a court order regarding child custody, (iii) resolve day-to-day issues that arise regarding legal and physical custody of their child, (iv) learn healthy and effective methods of communication and ways to safely and appropriately exchange their child, and (v) reduce litigation where conflict threatens the safety or well-being of their child or has placed an undue burden on the court.

§ 20-124.6:2. Qualifications.

To be eligible to be appointed by a court as a parenting coordinator, a person must:

1. Meet one or more of the following requirements:

a. Hold a license from the Commonwealth to practice psychology, psychiatry, social work, or marriage and family therapy;

b. Hold a license from the Commonwealth to practice law and hold a juris doctor or equivalent degree in law; or

c. Be a person with education, experience, and expertise deemed to be qualified by the court and appointed upon agreement by the parties;

2. Participate in a total of 40 hours of training, which may include hours otherwise required for licensing, certification, or training for a related position or in a related field, in the following areas:

a. Six hours in the area of developmental psychology, to include the impact of divorce on children and appropriate parenting time for children of different ages;

b. Two hours in parent-child communication and communication between parents;

c. Two hours in family systems;

d. Six hours in psychopathology and normal and abnormal behavior;

e. Eighteen hours in parenting coordination; and

f. Six hours in Virginia family law relating to custody and visitation;

3. Complete 20 hours every two years by either presenting or attending continuing education seminars in any of the areas set forth in subdivision 2 or in any related topic, including parental alienation, relocation in custody disputes, children resisting or refusing time with a parent, parenting plans for infants and toddlers, and parents diagnosed with personality disorders;

4. Have education, supervision, and practice in the areas identified in subdivisions 2 and 5 for qualification to have occurred within a five-year period immediately prior to the submission of the written certification set forth in subsection B of § 20-124.6:3; and

5. Prior to being appointed by a court, a parenting coordinator who has not previously served as a parenting coordinator must attest to having had at least eight hours of supervision by a parenting coordinator who has met all of the qualifications of a parenting coordinator set forth in this section prior to the date of providing parenting coordinator services, provided, however, that the supervision requirement shall not be required if the parenting coordinator has already been practicing as a parenting coordinator and provides a written statement to the parties pursuant to § 20-124.6:4. A person may serve as a parenting coordinator according to the terms of this chapter if such person is in the process of obtaining such supervision hours so long as he has met all other requirements of this

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59 section.

60 **§ 20-124.6:3. Scope of authority.**

61 A. Unless limited by court order or written agreement of the parties, a parenting coordinator's scope
62 of authority shall include:

63 1. Helping the parents to:

64 a. Identify and address disputed issues;

65 b. Reduce misunderstandings;

66 c. Clarify problems;

67 d. Explore possibilities for compromise and facilitate agreement;

68 e. Develop methods of collaboration in parenting;

69 f. Improve communication; and

70 g. Comply with legal decision-making authority and parenting time orders; and

71 2. Resolving disputes on a temporary or ongoing basis in the following areas:

72 a. Transportation matters, including (i) procedures for exchanging the child, including the date, time,
73 location, means of transportation, and responsible party for arrangements; (ii) procedures for
74 out-of-area travel; (iii) obtaining, maintaining, and exchanging passports and other travel documents;
75 and (iv) transportation to educational, medical, and mental health care appointments, extracurricular
76 activities, scheduled activities, and special events;

77 b. Lifecycle events, including holidays where such holidays are not otherwise allocated by court
78 order, vacations, births, birthdays, and funerals;

79 c. Minor or temporary schedule adjustments of parenting time, including holidays, whether or not
80 allocated by prior court order, make-up parenting time, selection of a supervisor if supervised visitation
81 is ordered, and the timing that overnight parenting time should commence if such parenting time is
82 ordered to commence at some future point. Notwithstanding the provisions of this subdivision 2 c, the
83 overall proportion or percentage of custodial time for each parent that is specified in a current custody
84 order or agreement shall not be modified by the parenting coordinator;

85 d. Third-party involvement, including participation by third parties during a parent's time with the
86 child, and the roles of and contact with significant others, romantic partners, and extended family
87 members;

88 e. Educational and enrichment matters, including (i) extracurricular and after-school activities,
89 special education, tutoring, testing, child care or day care, recreation, academic course selection, and
90 summer camps; (ii) enrolling a child in the activities described in clause (i), child care, day care, and
91 programs; and (iii) communication with educational providers, sharing of information to and from such
92 providers, participation in parent-teacher meetings, and implementation of provider recommendations;

93 f. Health care matters, including (i) medical, dental, orthodontic, vision, mental health and substance
94 abuse testing and evaluation, which shall not include treatment, and dieting needs; (ii) enrolling a child,
95 making appointments, communicating with health care providers, sharing information to and from such
96 providers, and participation in health care visits with a child; and (iii) the implementation of health
97 provider recommendations;

98 g. Verbal, written, or electronic communication protocols between a child and parent when the child
99 is and is not in the parent's care, and communication protocols between the parents;

100 h. Issues regarding electronic devices used by or available to the child. For purposes of this
101 subdivision, the term "electronic devices" includes cellular telephones, gaming devices, tablets,
102 computers, and application software;

103 i. Child-rearing issues, such as discipline, bedtime routine, homework, grooming and alteration of
104 the child's appearance, including haircuts, tattoos, ear and body piercing, and cosmetic surgery,
105 obtaining a driver's license and driving, and a child's employment; and

106 j. Other decisions regarding parenting issues as requested by all parties, or specified in the custody
107 order or parenting plan or written agreement that the parents are unable to resolve so long as the
108 authority granted to the parenting coordinator to resolve such decisions does not violate Virginia law.

109 B. Unless limited by court order or written agreement of the parties, the parenting coordinator's
110 decision shall be subject to the following:

111 1. The parenting coordinator's decision shall be binding on the parties, and the parties shall comply
112 with the parenting coordinator's decision unless and until the court reviews and modifies the decision.

113 2. If the parties mutually agree in writing to a decision of the parenting coordinator, such agreement
114 shall not be appealable or reviewable, provided, however, that nothing shall prevent a court from
115 modifying such decision pursuant to Virginia law, including upon a material change in circumstances
116 warranting a modification of such decision.

117 3. In the event that a party does not agree with the decision of the parenting coordinator, such party
118 may request the parenting coordinator to prepare a written summary of the decision and communicate
119 such decision to the parties by written notice. The parenting coordinator shall thereafter provide the
120 written summary to the parties, to include delivery by first-class United States mail, electronic mail, or

121 *facsimile to the parties at their last known address or contact information. A party or attorney for any*
 122 *party may file with the court an objection or request for a review of any decision made pursuant to this*
 123 *subdivision. Any objection or request to review a parenting coordinator's decision shall be made by the*
 124 *filing of a motion with the court within 14 days of the date of the sending of the communication of the*
 125 *parenting coordinator's decision to the parties as set forth in this section. The filing of an objection or*
 126 *request to review any decision shall not stay the terms of the decision, pending the review by the court.*
 127 *In the event that either party does not agree with the parenting coordinator's decision and files for a*
 128 *review by the court, the parenting coordinator shall submit to the court, with copies to the parties and*
 129 *their attorneys, a report detailing the basis for the parenting coordinator's decision, the due diligence*
 130 *required to make such a decision, and the steps taken to research and consult with other experts to*
 131 *determine the issue in dispute.*

132 *C. The following issues are excluded from the parenting coordinator's scope of authority:*

133 *1. A change in legal custody from that which is set forth in the custody order or agreement;*

134 *2. A change in primary physical custody as set forth in the custody order;*

135 *3. A change in the court-ordered custody schedule that reduces or expands the child's overall time*
 136 *with a party, except that a minor or temporary reallocation of parenting time by the parenting*
 137 *coordinator shall not violate this provision;*

138 *4. Relocation of the residence of the child;*

139 *5. Determination of financial issues that would affect the division of possessions, property, or debt,*
 140 *other than allocation of the parenting coordinator's fees as set forth in § 20-124.6:8;*

141 *6. Major decisions regarding the health, education, religion, or welfare of the child, including*
 142 *decisions regarding religious education, practices, or observance;*

143 *7. The awarding of custody or visitation rights to a grandparent or any other third party;*

144 *8. A change in decision-making authority or child support;*

145 *9. The selection, enrollment, or placement of a child in a specific school;*

146 *10. A provision of an order involving domestic violence between the parties or based upon a finding*
 147 *of family abuse, as defined in § 16.1-228; and*

148 *11. The provision of any legal advice or psychotherapy services to the parties or child.*

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

152 *E. Unless limited by court order or written agreement of the parties, a parenting coordinator shall*
 153 *have the authority enumerated in this section regardless of whether such order appointing the parenting*
 154 *coordinator enumerates such authority.*

155 **§ 20-124.6:4. Appointment, term, resignation, and removal.**

156 *A. Upon a finding that either party has engaged in repetitive custody-related litigation, that there is*
 157 *a high degree of conflict between the parties, or that it is in the best interests of the child to do so, the*
 158 *court may appoint a parenting coordinator. Such appointment may be made by a court on its own*
 159 *motion, a motion by either party, or agreement of the parties. A parenting coordinator shall not be*
 160 *appointed in cases where there has been a finding of family abuse, as defined in § 16.1-228, by any*
 161 *court, except for good cause shown or if the parties both agree to such appointment. In appointing a*
 162 *parenting coordinator, the court shall consider the skill level and experience of the parenting*
 163 *coordinator and the needs of the parties. Prior to commencing the duties of a parenting coordinator*
 164 *pursuant to this chapter, any parenting coordinator shall provide the parties with a written statement*
 165 *listing the qualification requirements that such parenting coordinator has complied with the qualification*
 166 *requirements as set forth in § 20-124.6:2.*

167 *B. When ordering parenting coordination, the court shall issue a written order providing information*
 168 *regarding the appointment of the parenting coordinator, including the following:*

169 *1. The name of the parenting coordinator and any contact information for the parenting coordinator*
 170 *the court may choose to include;*

171 *2. The specific powers and duties of the parenting coordinator;*

172 *3. The term of the appointment;*

173 *4. The parties' responsibility for fees and expenses for services rendered by the parenting*
 174 *coordinator; and*

175 *5. The parenting coordinator's access to information, limits of confidentiality, and submission of*
 176 *reports.*

177 *C. The appointment of a parenting coordinator shall be for a specified term not to exceed two years,*
 178 *absent consent of both parties or for good cause shown. If an order or agreement appointing a*
 179 *parenting coordinator does not specify the length of appointment, it shall be construed to be two years*
 180 *from the date of the order appointing the parenting coordinator or effective date of the parties'*
 181 *agreement.*

182 *D. Absent written consent of the parties or good cause shown, the parenting coordinator shall not be*
183 *reappointed at the end of the term unless both parents and the parenting coordinator agree to the*
184 *reappointment in writing or orally on the record in open court. The reappointment term shall not exceed*
185 *one year unless both parents and the parenting coordinator agree in writing to a longer term.*

186 *E. A parenting coordinator may resign at any time by written notice sent by first-class United States*
187 *mail to each party and any attorney for the child. If a mailing address is unknown for a party, then*
188 *such notice shall be sent by electronic mail. The notice shall state the effective date of the resignation*
189 *and that the parties may request the appointment of another parenting coordinator. The notice shall be*
190 *sent at least 15 days before the effective date of the resignation. Promptly after mailing the notice, and*
191 *at least seven days before the effective date of resignation, the parenting coordinator shall file a copy of*
192 *the notice with the court.*

193 *F. The court shall remove a parenting coordinator:*

194 *1. On motion of a party or an attorney for the child, if the court finds good cause for such removal.*
195 *For purposes of this subdivision, good cause includes (i) a lack of reasonable progress; (ii) the*
196 *parenting coordinator is no longer necessary; (iii) a party's impairment significantly limits participation;*
197 *(iv) the parenting coordinator is unwilling or unable to serve; or (v) the parenting coordinator is not*
198 *impartial because of conflict of interest or assuming multiple roles; or*

199 *2. On a finding that continuation of the appointment is not in the best interests of the child.*

200 **§ 20-124.6:5. Confidentiality.**

201 *Except as otherwise provided by law, parenting coordination is not a confidential process and no*
202 *party to a proceeding shall assert any privilege for communications between the parenting coordinator*
203 *and any other party or collateral sources, including a parent's or child's mental health, medical, or*
204 *educational provider. The parenting coordinator shall notify the parties that information may be*
205 *obtained, communicated, and exchanged with other relevant persons, such as extended family members,*
206 *professionals, and nonprofessionals. If all parties or their counsel agree in writing that certain*
207 *information disclosed to the parenting coordinator shall be confidential, then such information shall not*
208 *be disclosed by the parenting coordinator except (i) by subsequent written agreement of the parties, (ii)*
209 *by a court order, (iii) when such disclosure is mandated by applicable law, or (iv) when information*
210 *contained in the report is required to be filed with the court pursuant to subsection B of § 20-124.6:3.*

211 **§ 20-124.6:6. Communication.**

212 *A. A parenting coordinator may engage in individual communications with each of the parents, their*
213 *child, and their attorneys.*

214 *B. A parenting coordinator shall have access to, and the authority to interview and obtain relevant*
215 *documentation and information from, anyone who has relevant information necessary to resolve a matter*
216 *currently before the parenting coordinator, including the child, all professionals involved with the*
217 *family, custody evaluators, attorneys for the parties or child, school personnel, medical and mental*
218 *health providers, stepparents or persons acting in such a role, or anyone else the parenting coordinator*
219 *determines to have relevant information for addressing issues being resolved by the parenting*
220 *coordinator. The parenting coordinator shall notify any such collateral sources of the provision of the*
221 *status of confidentiality pertaining to information obtained.*

222 *C. Unless otherwise ordered by the court for good cause shown or upon written agreement of the*
223 *parties, each party is required to execute releases to permit the parenting coordinator to have access to*
224 *and authority to interview anyone who has relevant information necessary to resolve a matter currently*
225 *before such parenting coordinator, as specified in subsection B, and obtain relevant documentation and*
226 *other information as required under this section.*

227 **§ 20-124.6:7. Records.**

228 *A. The parenting coordinator shall maintain records that are professional, comprehensive, and*
229 *inclusive of information and documents that relate to and support decisions and recommendations made*
230 *during the parenting coordination process.*

231 *B. A parenting coordinator shall maintain records, notes, and reports in a manner that is in*
232 *accordance with the requirements of the parenting coordinator's licensing or governing body or in*
233 *accordance with federal and state law. In the event that no such requirement exists for the parenting*
234 *coordinator, the records shall be maintained for a period of six years after the termination of the*
235 *parenting coordinator's services, the resignation or removal of the parenting coordinator, or the*
236 *termination of the specified term of appointment as set forth in this chapter.*

237 **§ 20-124.6:8. Fees.**

238 *A. In its order appointing the parenting coordinator, the court shall apportion the fees of the*
239 *parenting coordinator between the parties, with each party bearing the portion of the fees that the court*
240 *determines is just and equitable under the circumstances.*

241 *B. The court shall not appoint a parenting coordinator if the court determines a party does not have*
242 *the financial ability to pay the parenting coordination fees and costs.*

243 *C. The parenting coordinator shall be entitled to reasonable compensation from the parties for*

244 *services rendered and to a reasonable retainer. The terms of such compensation shall be clearly set*
245 *forth in the information and materials provided by the parenting coordinator to the parties.*

246 *D. Upon motion of either party, the court shall have the authority to reapportion the allocation of*
247 *fees in any order for good cause shown. In determining good cause, the court may consider the*
248 *financial resources of the parties, the nature and cause of the dispute, whether a party has acted in bad*
249 *faith, and any other factor it considers relevant.*

250 **§ 20-124.6:9. Immunity.**

251 *When parenting coordination is provided by a parenting coordinator who is qualified to serve in*
252 *such capacity according to this chapter, such parenting coordinator, programs for which such parenting*
253 *coordinator is providing services, and a person who is supervised by a parenting coordinator to become*
254 *qualified as a parenting coordinator under this chapter shall be immune from civil liability for, or*
255 *resulting from, any act or omission done or made while engaged in efforts to assist or conduct*
256 *parenting coordination, unless the act or omission was made or done in bad faith, with malicious intent*
257 *or in a manner exhibiting a willful, wanton disregard of the rights, safety, or property of another. This*
258 *section is not intended to abrogate any other immunity that may be applicable to a parenting*
259 *coordinator.*