

## Parenting Coordinators

### 1. Appointment.

- a. The court may appoint or reappoint a parenting coordinator at any time in a custody action on or after the entry of a custody order (not ex parte) or parenting plan, or upon entry of a contempt order involving a custody issue if all parties consent. [G.S. 50-91(a), *amended by* S.L. 2019-172, effective Oct. 1, 2019].]
- b. Upon motion of a party or upon the court's own motion, the court may appoint or reappoint a parenting coordinator without the consent of the parties at any time in a custody action on or after the entry of a custody order (not ex parte) or parenting plan, or upon entry of a contempt order involving a custody issue if the court finds that:
  - i. The action is a high-conflict case, as defined in G.S. 50-90(1);
  - ii. The appointment is in the best interests of any minor child in the case; and
  - iii. The parties are able to pay the cost of the coordinator. [G.S. 50-91(b), *amended by* S.L. 2019-172, effective Oct. 1, 2019].]
- c. The parties, their attorneys and the proposed parenting coordinator must attend a parenting conference, unless:
  - i. A parenting coordinator's term is being extended,
  - ii. A subsequent parenting coordinator is being appointed in the same matter, or
  - iii. The parties, their attorneys and the proposed parenting coordinator consent to a waiver of the appointment conference by signing the proposed appointment order. [G.S. 50-94(a), *amended by* S.L. 2019-172, effective Oct. 1, 2019].]
- d. The court shall not appoint a parenting coordinator or conduct an appointment conference unless a custody order has already been entered or is being simultaneously entered. [G.S. 50-94(a), *amended by* S.L. 2019-172, effective Oct. 1, 2019].]

- e. The appointment order must specify the terms of the appointment and issues the coordinator is to assist the parties in resolving. [G.S. 50-91(c), *amended by* S.L. 2019-172, effective Oct. 1, 2019.]
2. Findings.
    - a. If the trial court decides that the appointment of a parenting coordinator is appropriate, it must make the findings required by G.S. 50-91. [*Hall v. Hall*, 188 N.C. App. 527, 655 S.E.2d 901 (2008) (when there was evidence presented on the three matters required by G.S. 50-91(b), trial court failed to follow the statutory mandate when it made no findings as to any of the three).]
    - b. The findings in G.S. 50-91(b) must be made only if the trial court appoints a parenting coordinator. [*Thomas v. Thomas*, 233 N.C. App. 736, 757 S.E.2d 375 (2014) (when trial court did not appoint a parenting coordinator, trial court had no affirmative duty to require parties to produce evidence of their ability to pay for a coordinator).]
      - i. Trial court satisfied the criteria for *sua sponte* appointment of a parenting coordinator as part of a contempt order when it made findings required by statute and additional findings about the parties' inability to communicate with each other and the effect on the child's activities and appointments, as well as findings as to the parents' employment status. [*Jackson v. Jackson*, 192 N.C. App. 455, 665 S.E.2d 545 (2008) (holding that findings were sufficient).]
    - c. The court does not need to find a substantial change in circumstances to appoint a parenting coordinator after a custody order has been entered. [G.S. 50-91(b), *amended by* S.L. 2019-172, effective Oct. 1, 2019.]
  3. Parenting coordinator's authority.
    - a. The order appointing the parenting coordinator must specify the tasks and authority of the coordinator. [G.S. 50-91(c).]
    - b. The authority shall be limited to matters that will aid the parties in complying with the court's custody order, resolving disputes regarding issues that were not specifically addressed in the custody order, or ambiguous or conflicting terms in the custody order. [G.S. 50-92(a) (also containing a list of nineteen examples of specific areas the parenting coordinator may be authorized to address), *amended by* S.L. 2019-172, effective Oct. 1, 2019.]

- i. A trial court properly exercised its discretion under G.S. 50-92(b) when it authorized a parenting coordinator to make minor changes to the custody/visitation order if a dispute arose about transition time, pickup, delivery, or transportation to and from visitation. [*Nguyen v. Heller-Nguyen*, 248 N.C. App. 228, 788 S.E.2d 601 (2016) (interpreting G.S. 50-92(b) before amendment by S.L. 2019-172, effective Oct. 1, 2019.)]
    - c. A parenting coordinator shall not provide any professional services or counseling to any party or any of the minor children. [G.S. 50-92(c), *amended by* S.L. 2019-172, effective Oct. 1, 2019.]
    - d. The parenting coordinator shall decide any issue within the scope of the parenting coordinator's authority, and the decision shall be enforceable as an order of the court. [G.S. 50-92(b), *amended by* S.L. 2019-172, effective Oct. 1, 2019.]
    - e. A decision of a parenting coordinator remains binding as long as the custody order under which the decision was made remains in effect, even after the expiration of the term of the parenting coordinator, unless the decision is modified by the parenting coordinator, a subsequent parenting coordinator or by the court. [G.S. 50-92(b), *amended by* S.L. 2019-172, effective Oct. 1, 2019.]
    - f. Any party or attorney for a party may file a motion for the court to review the parenting coordinator's decision. The parties shall comply with the decision of the parenting coordinator, unless the court, after a review hearing, determines that:
      - i. The parenting coordinator's decision is not in the child's best interest, or
      - ii. The decision exceeds the scope of the parenting coordinator's authority. [G.S. 50-92(b1), *amended by* S.L. 2019-172, effective Oct. 1, 2019.]
4. Report from the parenting coordinator to the court.
  - a. A parenting coordinator may file a report with the court regarding any of the following:
    - i. The parenting coordinator's belief that the existing custody order is not in the best interests of the child,
    - ii. The parenting coordinator's determination that the parenting coordinator is not qualified to address or resolve certain issues in the case,
    - iii. A party's noncompliance with a decision of the parenting coordinator or the terms of the custody order,

- iv. The parenting coordinator's fee, and
    - v. The parenting coordinator's request that the parenting coordinator's appointment be modified or terminated. [G.S. 50-97(a), *amended by* S.L. 2019-172, effective Oct. 1, 2019.]
  - b. The court must hold an expedited hearing on the report of the parenting coordinator within four weeks of the filing of the report unless the parenting coordinator requests a longer length of time or unless a show cause order has issued directing a party to appear and show cause why the party should not be held in contempt. [G.S. 50-97(c), *amended by* S.L. 2019-172, effective Oct. 1, 2019.]
  - c. After a hearing on the report of the parenting coordinator, the court is authorized to issue temporary custody orders as may be required for a child's best interest. [G.S. 50-97(d), *amended by* S.L. 2019-172, effective Oct. 1, 2019.]
    - i. The court of appeals held that an order entered pursuant to a G.S. 50-97 review hearing before that provision was amended by S.L. 2019-172, effective October 1, 2019, implemented provisions in an earlier order and was not an impermissible modification of the earlier order. In *Tankala v. Pithavadian*, 248 N.C. App. 429, 789 S.E.2d 31 (2016), an order sought and obtained by a parenting coordinator pursuant to G.S. 50-97 before the 2019 legislative amendment did not modify an earlier custody order when it did not change award of primary custody to mother, with visitation to father as approved by a reunification therapist who was given authority to decide the timing and methods of the child's therapy. The order entered at the review hearing implemented but did not modify the provisions in the earlier order when it (1) set out a visitation schedule with father in the presence of paternal family members, with father to have gradually increasing time during those visits, and (2) ordered mother, father, and child to attend an out-of-state therapeutic camp if progress toward reunification with father was not made during visitation. For more on *Tankala*, see Cheryl Howell, *Back to Parenting Coordinators in Custody Cases*, UNC SCH. OF GOV'T: ON THE CIVIL SIDE BLOG (Aug. 19, 2016), <https://civil.sog.unc.edu/back-to-parenting-coordinators-in-custody-cases>.
- 5. Enforcement proceeding initiated by parenting coordinator or a party.
  - a. Upon the filing of a verified motion by the parenting coordinator alleging that a party is not complying with a decision of the parenting coordinator, not

complying with the terms of the custody order, or not paying the parenting coordinator's fee, the court may issue an order directing the party to appear and show cause why the party should not be held in contempt. [G.S. 50-97(b), *as amended by* S.L. 2019-172, effective Oct. 1, 2019.]

- b. A party also can initiate contempt proceedings regarding noncompliance with the parenting coordinator's decisions or noncompliance with the terms of the custody order. [G.S. 50-97(b), *amended by* S.L. 2019-172, effective Oct. 1, 2019.]
6. Fees of the parenting coordinator.
    - a. The parenting coordinator shall be entitled to reasonable compensation from the parties for services rendered and to a reasonable retainer. [G.S. 50-95(a), *amended by* S.L. 2019-172, effective Oct. 1, 2019.]
    - b. A trial court erred when it ordered that amounts paid by father to cover mother's share of the parenting coordinator's fees "shall reduce [father's] child support arrearage by the amount so paid." [*Nguyen v. Heller-Nguyen*, 248 N.C. App. 228, 242, 788 S.E.2d 601, 610 (2016) (under G.S. 50-13.10(a), each past due child support payment vests when it accrues and may not later be vacated, reduced, or modified, precluding the trial court from allowing an offset against father's child support arrears).]
    - c. If a dispute arises regarding the payment of fees or the retainer, the parenting coordinator can file a fee report with the court and request a hearing. If a party disputes the fees or the allocation of the fees between the parties, the party may file a motion requesting that the court review the fees. [G.S. 50-95(a), *amended by* S.L. 2019-172, effective Oct. 1, 2019.]
    - d. The court retains jurisdiction to resolve disputes about the fees after conclusion of the parenting coordinator's term so long as the report of the parenting coordinator was filed in a timely manner. [G.S. 50-95(a), *amended by* S.L. 2019-172, effective Oct. 1, 2019.]
  7. Termination of the parenting coordinator. The court may terminate or modify the parenting coordinator's appointment for good cause. [G.S. 50-99(a), *amended by* S.L. 2019-172, effective Oct. 1, 2019.]
  8. Communication with the parenting coordinator
    - a. The court shall not have ex parte communication with the parenting coordinator.

- b. Meetings and communications between the parenting coordinator and the parties, the attorneys, or any other person with information that will assist the parenting coordinator may be informal and ex parte.
- c. Communications between parties and the parenting coordinator are not confidential.
- d. The parenting coordinator, in the discretion of the parenting coordinator, may meet or communicate with the minor children. [G.S. 50-96, *amended by* S.L. 2019-172, effective Oct. 1, 2019.]

Article 5.

Parenting Coordinator.

**§ 50-90. Definitions.**

As used in this Article, the following terms mean:

- (1) High-conflict case. – A child custody action involving minor children brought under Article 1 of this Chapter where the parties demonstrate an ongoing pattern of any of the following:
  - a. Excessive litigation.
  - b. Anger and distrust.
  - c. Verbal abuse.
  - d. Physical aggression or threats of physical aggression.
  - e. Difficulty communicating about and cooperating in the care of the minor children.
  - f. Conditions that in the discretion of the court warrant the appointment of a parenting coordinator.
- (2) Minor child. – A person who is less than 18 years of age and who is not married or legally emancipated.
- (3) Parenting coordinator. – An impartial person who meets the qualifications of G.S. 50-93.
- (4) Party. – Any person granted legal or physical custodial rights to a child in a child custody action. (2005-228, s. 1; 2019-172, s. 2.)

**§ 50-91. Appointment of parenting coordinator.**

(a) The court may appoint or reappoint a parenting coordinator at any time in a child custody action involving minor children brought under Article 1 of this Chapter on or after the entry of a custody order, other than an ex parte order, or upon entry of a contempt order involving a custody issue pursuant to any of the following:

- (1) All parties consent to the appointment and the scope of the parenting coordinator's authority.
- (2) Upon motion of a party requesting the appointment of a parenting coordinator.
- (3) Upon the court's own motion.

(b) If the parties have not consented to the appointment of a parenting coordinator, the court shall make specific findings that the action is a high-conflict case, that the appointment of the parenting coordinator is in the best interests of any minor child in the case, and that the parties are able to pay for the cost of the parenting coordinator. The court does not have to find a substantial change of circumstance has occurred to appoint a parenting coordinator.

(c) The order appointing a parenting coordinator shall specify the terms of the appointment and the issues the parenting coordinator is directed to assist the parties in resolving and deciding. Notwithstanding the appointment of a parenting coordinator, the court shall retain exclusive jurisdiction to determine fundamental issues of custody, visitation, and support, and the authority to exercise management and control of the case.

(d) The parenting coordinator shall be selected from a list maintained by the district court. Prior to the appointment, the court, the parties' attorneys, or the parties shall contact the parenting coordinator to determine if the parenting coordinator is willing and able to accept the appointment. (2005-228, s. 1; 2019-172, s. 2.)

**§ 50-92. Authority of parenting coordinator.**

(a) The authority of a parenting coordinator shall be specified in the court order appointing the parenting coordinator and shall be limited to matters that will aid the parties in complying with the court's custody order, resolving disputes regarding issues that were not specifically addressed in the custody order, or ambiguous or conflicting terms in the custody order. The parenting coordinator's scope of authority may include, but is not limited to, any of the following areas:

- (1) Transition time, pickup, or delivery.
- (2) Sharing of vacations and holidays.
- (3) Method of pickup and delivery.
- (4) Transportation to and from visitation.
- (5) Participation in child or day care and babysitting.
- (6) Bed time.
- (7) Diet.
- (8) Clothing.
- (9) Recreation.
- (10) Before- and after-school activities.
- (11) Extracurricular activities.
- (12) Discipline.
- (13) Health care management.
- (14) Alterations in schedule that do not substantially interfere with the basic time-share agreement.
- (15) Participation in visitation, including significant others or relatives.
- (16) Telephone contact.
- (17) Alterations to appearance, including tattoos or piercings.
- (18) The child's passport.
- (19) Education.
- (20) Other areas of specific authority as designated by the court or the parties.

(b) The parenting coordinator shall decide any issue within the scope of the parenting coordinator's authority, and the decision shall be enforceable as an order of the court. The decision shall be in writing and provided to the parties and their attorneys. So long as the custody order under which the decision is made is in effect, the decision shall remain binding after the expiration of the parenting coordinator's term unless the parenting coordinator or a subsequent parenting coordinator modifies the decision or the court reviews and modifies the decision.

(b1) Any party or attorney for the party may file a motion for the court to review a parenting coordinator's decision. The parties shall comply with the parenting coordinator's decision unless the court, after a review hearing, determines that (i) the parenting coordinator's decision is not in the child's best interests or (ii) the decision exceeded the scope of the parenting coordinator's authority. The moving party or the attorney for the moving party shall cause a subpoena to be issued for the parenting coordinator's attendance at the review hearing. At the conclusion of the review hearing, the court shall determine how the parenting coordinator's fees, as related to the review hearing, shall be apportioned between the parties. The court may review and modify a parenting coordinator's decision after the expiration of a parenting coordinator's term.

(c) The parenting coordinator shall not provide any professional services or counseling to any party or any of the minor children.

(d) The parenting coordinator shall refer financial issues related to the parenting coordinator's decisions to the parties or their attorneys. (2005-228, s. 1; 2019-172, s. 2.)



**§ 50-93. Qualifications.**

(a) To be eligible to be included on the district court's list of parenting coordinators, a person must meet all of the following requirements:

- (1) Hold a masters or doctorate degree in psychology, law, social work, or counseling.
- (2) Have at least five years of related professional post-degree experience.
- (3) Hold a current North Carolina license in the parenting coordinator's area of practice.
- (4) Participate in 24 hours of training in topics related to the developmental stages of children, the dynamics of high-conflict families, the stages and effects of divorce, problem solving techniques, mediation, and legal issues.

(b) In order to remain eligible as a parenting coordinator, the person must also attend parenting coordinator seminars that provide continuing education, group discussion, and peer review and support. (2005-228, s. 1; 2019-172, s. 2.)

**§ 50-94. Appointment conference.**

(a) The parties, their attorneys, and the proposed parenting coordinator must all attend the appointment conference. However, no appointment conference is required if (i) the parenting coordinator's term is later extended, (ii) a subsequent parenting coordinator is appointed in the same matter, or (iii) the parties, their attorneys, and the proposed parenting coordinator consent to a waiver of the appointment conference by signing the proposed appointment order. The court shall not enter an order appointing a parenting coordinator or conduct an appointment conference unless a custody order has already been entered or is being simultaneously entered.

(b) At the time of the appointment conference, the court shall do all of the following:

- (1) Explain to the parties the parenting coordinator's role, authority, and responsibilities as specified in the appointment order and any agreement entered into by the parties.
- (2) Repealed by Session Laws 2019-172, s. 2, effective October 1, 2019.
- (3) Determine financial arrangements for the parenting coordinator's fee to be paid by each party and authorize the parenting coordinator to charge any party separately for individual contacts made necessary by that party's behavior.
- (4) Inform the parties, their attorneys, and the parenting coordinator of the rules regarding communications among them and with the court.
- (5) Enter the appointment order if the order has not yet been entered.

(c) Repealed by Session Laws 2019-172, s. 2, effective October 1, 2019. (2005-228, s. 1; 2019-172, s. 2.)

**§ 50-95. Fees.**

(a) The parenting coordinator shall be entitled to reasonable compensation from the parties for services rendered and to a reasonable retainer. If a dispute arises regarding the payment of fees or the retainer, the parenting coordinator may file a fee report and request a hearing. If a party disputes the parenting coordinator's fees or the allocation of those fees, the party may file a motion with the court requesting that the court review the fees. The district court retains jurisdiction to resolve disputes regarding the parenting coordinator's fees after the conclusion of the parenting coordinator's term so long as the parenting coordinator's fee report was filed in a timely manner.

(b) Repealed by Session Laws 2019-172, s. 2, effective October 1, 2019. (2005-228, s. 1; 2019-172, s. 2.)

**§ 50-96. Meetings and communications.**

Meetings and communications between the parenting coordinator and the parties, the attorneys for the parties, or any other person with information that assists the parenting coordinator in the coordinator's duties may be informal and ex parte. Communications between the parties and the parenting coordinator are not confidential. The parenting coordinator and the court shall not engage in any ex parte communications. Upon request of the parenting coordinator, the parties shall timely execute any releases necessary to facilitate communication with any person having information that assists the parenting coordinator in the coordinator's duties. The parenting coordinator, in the coordinator's discretion, may meet or communicate with the minor children. (2005-228, s. 1; 2019-172, s. 2.)

**§ 50-97. Reports.**

(a) The parenting coordinator may file a report with the court regarding any of the following:

- (1) The parenting coordinator's belief that the existing custody order is not in the best interests of the child.
- (2) The parenting coordinator's determination that the parenting coordinator is not qualified to address or resolve certain issues in the case.
- (3) A party's noncompliance with a decision of the parenting coordinator or the terms of the custody order.
- (4) The parenting coordinator's fees as set forth in G.S. 50-95.
- (5) The parenting coordinator's request that the parenting coordinator's appointment be modified or terminated.

(b) Upon the filing of a verified report by the parenting coordinator alleging that a party is not complying with a decision of the parenting coordinator, not complying with the terms of the custody order, or not paying the parenting coordinator's fees, the court may issue an order directing a party to appear at a specified reasonable time and show cause why the party shall not be held in contempt. Nothing in this section prevents a party from filing the party's own motion regarding noncompliance with a parenting coordinator's decision or noncompliance with the terms of the custody order.

(c) An expedited hearing shall be granted and shall occur within four weeks of the filing of the report unless the parenting coordinator requests a longer length of time or the court has already issued an order directing a party to show cause why the party shall not be held in contempt.

(d) The court, after a hearing on the parenting coordinator's report, shall be authorized to issue temporary custody orders as may be required for a child's best interests. (2005-228, s. 1; 2019-172, s. 2.)

**§ 50-98. Parenting coordinator records.**

(a) In the parenting coordinator's discretion, the parenting coordinator may release any records held by the parenting coordinator to the parties or the attorneys for the parties.

(b) Any party may apply to the judge presiding for the issuance of a subpoena to compel production of the parenting coordinator's records. Any party who submits an application for a subpoena shall provide reasonable notice to the parenting coordinator and the parties so that any

objection to the release of information or the manner of the release of information may be considered prior to the issuance of a subpoena. (2005-228, s. 1; 2019-172, s. 2.)

**§ 50-99. Modification or termination of parenting coordinator appointment.**

(a) For good cause shown, the court may terminate or modify the parenting coordinator appointment upon motion of any party, upon the agreement of the parties, or by the court on its own motion.

(b) For good cause shown, the court may modify or terminate the parenting coordinator's appointment upon request of the parenting coordinator as set forth in G.S. 50-97(a)(5).

(c) For purposes of termination or modification of the parenting coordinator's appointment, good cause may include, but is not limited to, any of the following:

- (1) The lack of reasonable progress.
- (2) A determination that the parties no longer need the assistance of a parenting coordinator.
- (3) Impairment on the part of a party that significantly interferes with the party's participation in the process.
- (4) The inability or unwillingness of the parenting coordinator to continue to serve. (2005-228, s. 1; 2019-172, s. 2.)

**§ 50-100. Parenting coordinator immunity.**

A parenting coordinator shall not be liable for damages for acts or omissions of ordinary negligence arising out of that person's duties and responsibilities as a parenting coordinator. This section does not apply to actions arising out of the operation of a motor vehicle. (2005-228, s. 1.)



**Appointment of a guardian ad litem and experts.**

- a. Trial court has the authority to appoint a guardian ad litem (GAL) pursuant to G.S. 1A-1, Rule 17 to represent the interest of the child. [*Van Every v. McGuire*, 125 N.C. App. 578, 481 S.E.2d 377 (1997), *modified and aff'd*, 348 N.C. 58, 497 S.E.2d 689 (1998).]
- b. The GAL is to “insure that a child’s interests are adequately investigated and presented to the court.” [*West v. Marko*, 141 N.C. App. 688, 695, 541 S.E.2d 226, 231 (2001) (Fuller, J., concurring).]
- c. Because Rule 17 does not specify the role of a GAL in a child custody proceeding, the order appointing the GAL should list the specific tasks and services the court expects the GAL to perform. NOTE: 2012 Formal Ethics Opinion 9 holds that a lawyer asked to represent a child in a contested custody or visitation case should decline the appointment unless the order of appointment identifies the lawyer’s role and specifies the responsibilities of the lawyer. [N.C. State Bar, 2012 Formal Ethics Op. 9, “Identifying the Roles and Responsibilities of a Lawyer Appointed to Represent a Child or the Child’s Best Interests in a Contested Custody or Visitation Case” (Jan. 25, 2013), searchable at <https://www.ncbar.com/ethics/index.asp>.]
- d. The cost of a GAL is assessable pursuant to G.S. 7A-305(d)(7). [*See Van Every v. McGuire*, 125 N.C. App. 578, 481 S.E.2d 377 (1997) (trial court may assess cost of the GAL as part of court costs and tax those costs to either party or to both parties), *modified and aff'd*, 348 N.C. 58, 497 S.E.2d 689 (1998).]
  - i. Because neither the child nor the parents are entitled to a GAL during a civil custody proceeding, the cost of a G.S. 1A-1, Rule 17 guardian ad litem must be paid by one or all parties. The cost cannot be paid by the state. [Memorandum from Deana Fleming, N.C. Administrative Office of the Courts, to GAL Attorney Advocates (July 26, 2006) (hereinafter Fleming Memo).]
  - ii. A GAL volunteer under G.S. Chapter 7B cannot be appointed as a GAL in a civil custody proceeding. [Fleming Memo.]
  - iii. A GAL attorney advocate may be appointed to act as a GAL in a civil custody proceeding unless a conflict exists under the North Carolina Revised Rules of Professional Responsibility. [Fleming Memo.]

- e. Trial court has authority to order physical and psychological assessment of the parties and the child, pursuant to G.S. 1A-1, Rule 35, before making a final custody determination. [*But see Jones v. Patience*, 121 N.C. App. 434, 466 S.E.2d 720 (court does not have authority to order treatment and periodic assessments as part of final custody order), *appeal dismissed, review denied*, 343 N.C. 307, 471 S.E.2d 72 (1996).] Neither Rule 35 nor G.S. 7A-305 authorize the court to assign or apportion the cost of the assessment to either party.
- f. In addition, the court has authority pursuant to N.C. R. EVID. 706 to appoint experts in a custody case.
- g. Costs of court-appointed experts are determined in accordance with N.C. R. EVID. 706(b) (unless otherwise provided by law, compensation of court-appointed experts and the apportionment of that cost between the parties is determined by the court).