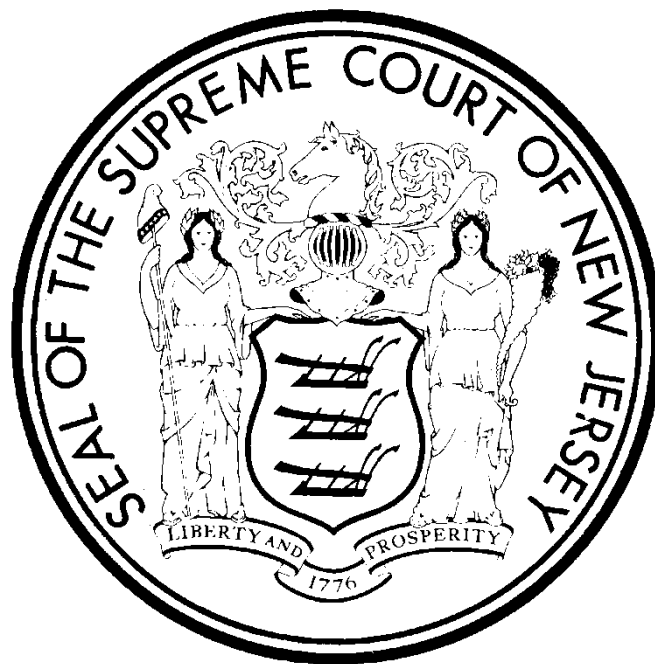


# **FAMILY PRACTICE COMMITTEE REPORT**



## **2021-2023 RULES CYCLE**

January 17, 2023

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## I. Introduction

The Supreme Court Family Practice Committee ("Committee") respectfully recommends that the Supreme Court adopt the proposed rule amendments and new rules contained in this report. The Committee also reports on other issues reviewed where it concluded no rule change or a non-rule recommendation was appropriate.

Where rule changes are proposed, deleted text is bracketed [**as such**], and added text is underlined **as such**. No change to a paragraph of the rule is indicated by "... **no change**."

## II. Proposed Rule Amendments

### A. Proposed Clarifying Rule Amendments to R. 5:10. Action for the Adoption of a Child

The Committee considered rule amendments to R. 5:10 ("Action for the Adoption of a Child").

#### **1. Rule 5:10-3. Contents of Complaint. Proposed Amendment to conform to the Indian Child Welfare Act 25 U.S.C. §1901, et seq.**

The Committee recommends amending R. 5:10-3(a)(16) to conform the definition of an Indian child as set forth in the Indian Child Welfare Act (ICWA), codified at 25 U.S.C. §1901 et. seq.

An Indian child is defined as: (1) a child who is a member of a federally recognized Indian Tribe or (2) a child who is eligible for membership in a federally recognized Indian Tribe and is the biological child of a member of a federally recognized Indian Tribe. See 25 U.S.C. § 1903. The current text in R. 5:10-3(a)(16) is inconsistent with this federal language. The Committee proposes that R. 5:10-3(a)(16) simply reference ICWA rather than paraphrasing ICWA. Rule 5:10-3(a)(16) also would retain the cross-reference to R. 5:10-6, which sets forth the federal definition of an Indian child pursuant to ICWA. Therefore, to conform to ICWA, the Committee recommends amending R. 5:10-3(a)(16) to read:

**Rule 5:10-3. Contents of Complaint**

(a) Complaint. The complaint shall state:

(1) . . . no change.

(2) . . . no change.

(3) . . . no change.

(4) . . . no change.

(5) . . . no change.

(6) . . . no change.

(7) . . . no change.

(8) . . . no change.

(9) . . . no change.

(10) . . . no change.

(11) . . . no change.

(12) . . . no change.

(13) . . . no change.

(14) . . . no change.

(15) . . . no change.

(16) That [neither] the child [nor the child's biological parents are members or eligible to be members of a federally recognized Indian tribe in

accordance with the requirements] is not an Indian child as defined by the federal Indian Child Welfare Act, as set forth in R. 5:10-6.

(17) . . . no change.

(b) Domestic Agency Adoptions; Attachments. . . . no change.

(c) Private Adoptions; Attachments. . . . no change.

(d) Affidavit of Verification and Non-Collusion. . . . no change.

Note: Source - R. (1969) 4:94-2(c), (d), (e). Adopted December 20, 1983, to be effective December 31, 1983; text designated as paragraph (a), former paragraphs (a), (b), and (c) redesignated as subparagraphs (a)(1), (a)(2), and (a)(3), new subparagraph (a)(4) adopted, former paragraphs (d) through (n) redesignated as subparagraphs (a)(5) through (a)(15), new subparagraphs (a)(16) and (a)(17) adopted, and new paragraphs (b), (c), and (d) adopted July 21, 2011 to be effective September 1, 2011; subparagraph (b)(5)(G) amended July 9, 2013 to be effective September 1, 2013; subparagraph (a)(16) amended \_\_\_\_\_ to be effective \_\_\_\_\_.

**2. Rule 5:10-4. Surrogate Action. Proposed Amendment to Clarify the Statutory Notice Requirement Set Forth in N.J.S.A. 9:3-45**

On September 1, 2021, R. 5:10-4(b)(3) was amended to conform to N.J.S.A. 9:3-44, which sets forth a requirement to: (a) send a notice of an adoption complaint and hearing to the birth parent in a non-agency adoption; or (b) send a notice of a birth parent's intent to place a child for adoption or the placement of the child in an agency adoption. The Committee considered whether R. 5:10-4(b)(3) should be further amended for clarification.

Rule 5:10-4(b)(3) sets forth the obligations of the county Surrogate and of the plaintiff or plaintiff's counsel regarding serving notice on a birth parent whose

parental rights are subject to termination as part of an adoption proceeding. The current Rule cites to N.J.S.A. 9:3-45(a), which includes the requirement of service of the notice. The current Rule also incorporates the requirements set forth in In the Matter of the Adoption of a Child by J.E.V. and D.G.V., 226 N.J. 90 (2016). The J.E.V. decision requires a form to be served with the notice of the adoption proceeding that advises the birth parent on how to object to the adoption and how to request appointment of counsel if the parent is indigent. N.J.S.A. 9:3-45(b) also describes circumstances where a birth parent is not entitled to notice. The proposed rule amendment cites that section of the statute where the notice is not to be served. The purpose of this amendment is to remove any ambiguity or conflict between the statute and the court rule on the requirement to serve notice and the court forms. Therefore, the Committee recommends the following rule amendment:

**Rule 5:10-4. Surrogate Action**

(a) Review of Complaint Prior to Docketing. . . . no change.

(b) Jurisdiction.

(1) . . . no change.

(2) . . . no change.

(3) In private placement adoptions, the court shall assign a date for the preliminary or final hearing. The Surrogate shall attach to the court's order a form



promulgated by the Administrative Director of the Courts for parents in an adoption proceeding that informs the child's parents whose parental rights are subject to termination how to object to the adoption, as to their right to legal counsel, and how to apply for a court-appointed attorney. The signed order and form shall be returned to the plaintiff for service of the notice of the hearing pursuant to N.J.S.A. 9:3-45, and for service of the appropriate form on the child's parents unless service shall not be made on a birth parent pursuant to N.J.S.A. 9:3-45(b). Service of the form on the child's parent whose rights are not being terminated shall not be required.

Note: Source - R. (1969) 4:94-3. Adopted December 20, 1983, to be effective December 31, 1983; caption amended, former text redesignated as paragraph (b), paragraph (b) caption adopted, paragraph (b) amended, and new paragraph (a) adopted July 21, 2011 to be effective September 1, 2011; former subparagraph (b)(3) redesignated as subparagraph (b)(4) and new subparagraph (b)(3) adopted May 30, 2017 to be effective immediately; subparagraph (b)(3) amended July 29, 2019 to be effective September 1, 2019; subparagraph (b)(3) amended July 30, 2021 to be effective September 1, 2021; subparagraph (b)(3) amended,  
\_\_\_\_\_ to be effective \_\_\_\_\_.

### **3. Rule 5:10-17. Co-Parent Adoption Complaints. Proposed Amendment to Clarify that a Background Check is Not Necessary in Co-Parent Adoptions**

The Committee considered amendments to clarify the requirements of R. 5:10-17 relating to co-parent adoption complaints. On September 1, 2021, R. 5:10-17 was adopted based on the enactment of N.J.S.A. 9:17-60, et. seq., which provides for adoptions by civil union partners and same gender spouses. The law

authorizes civil union partners or legal parents of a child when those persons are named as parents on a child's birth certificate to obtain a judgment of adoption.

The law does not require an adoptive parent to undergo a home study or background check. See N.J.S.A. 9:17-71(e). A home study or background check, however, is required in other adoption proceedings (e.g., adoption agency placements). In processing these other adoption proceedings, certain background checks are conducted on adoptive parents, including a search for domestic violence and criminal history. To conduct these types of searches, the adoptive parent must provide their social security number.

Since the enactment of the N.J.S.A. 9:17-60, et. seq., and subsequent adoption of R. 5:10-17, the application of the home study/background check rule has been inconsistent. Contrary to the court rule and statute, it has been reported that prospective parents were asked to provide their social security numbers when a background check was not required. In this situation, there is no business purpose for providing a social security number to the court. For this reason, the Committee recommends amending paragraph (e) of the court rule to state that no social security numbers are required. The Committee further recommends pluralizing "background check" in the Rule's caption to signify that a range of background checks (e.g., domestic violence and criminal) used in other adoption proceedings are not required to file a complaint for a co-parent adoption.

Therefore, the Committee recommends the following rule amendment:

**Rule 5:10-17. Co-parent Adoption Complaints**

(a) Verification of Complaint. . . . no change.

(b) Venue. . . . no change.

(c) Contents of Complaint. . . . no change.

(d) Documents to be filed with the Complaint. . . . no change.

(e) Home Study, [or] Background [Check] Checks [or] and Affidavit of Non-Military Service. No home study, background [check] checks, social security numbers, or [Affidavit] Affidavits of Non-Military Service [is] are required when filing a complaint or to issue a judgment of adoption.

Note: Adopted July 30, 2021 to be effective September 1, 2021; paragraph (e) amended \_\_\_\_\_ to be effective \_\_\_\_\_.

**B. Proposed Amendment to Permit the Issuance of a Warrant in Juvenile Matters when a Juvenile is not in Custody**

In response to the Supreme Court Order dated September 6, 2022, the Committee was asked to draft conforming rule amendments. The Order relaxed R. 5:21-1 (“Taking into Custody, Initial Procedure”) to clarify the procedure for the issuance of a complaint-warrant for a juvenile in limited situations when a law enforcement officer is seeking to detain a juvenile who is not in custody. The Committee also proposes amendments to retain the text that defines the taking of a

juvenile into custody does not constitute an arrest, but is a measure to protect the health, morals, and well-being of the juvenile. This is consistent with the legislative intent of the administration of juvenile justice. See N.J.S.A. 2A:4A-31(c).

The Court's September 6, 2022 Order provides: (1) a complaint-warrant shall be issued for a juvenile who is not in custody only if the court finds probable cause that the juvenile committed the act of delinquency and the severity of the offense justifies bringing the juvenile into custody; and (2) once the juvenile has been taken into custody on such a complaint-warrant, law enforcement shall contact court intake services pursuant to N.J.S.A. 2A:4A-34. A juvenile detention risk screening tool (RST) then is to be used to assist in the determination of whether to detain or to release the juvenile.

To implement the Court's Order, the Committee recommends an amendment to R. 5:20-3 to distinguish a bench warrant from a complaint-warrant. A bench warrant is to be issued during the pendency of a proceeding when the court concludes that the immediate custody of a juvenile is required. These circumstances may include, but are not limited to, a juvenile's failure to appear for a court proceeding, a violation of probation, or any circumstances brought to the court's attention that require the immediate custody of the juvenile. Conversely, a

complaint-warrant may only be issued to initiate a case as set forth in R. 5:21-1, which also includes proposed amendments related to this issue.

The Committee recommends amending R. 5:21-1 consistent with the Court's September 6, 2022 Order. The procedure seeking court approval for a complaint-warrant when a juvenile is not in custody is to be used only when a serious offense is alleged, and the circumstances require the juvenile to be brought into custody to be served the complaint, and law enforcement will follow-up with a request for detention. Under these conditions, a prosecutor must review the draft complaint-warrant prior to submission to the court. This will safeguard the process and ensure that a complaint-warrant is sought only when necessary.

Additionally, the Committee proposes a procedure if the court denies the warrant for one of the following reasons: (1) the court does not find that probable cause exists that the juvenile committed the alleged offense; or (2) the nature of the offense does not justify taking the juvenile into custody. In the case where the court makes a finding that probable cause does not exist, neither a complaint-warrant nor a complaint-summons should be issued. In cases where the court finds that probable cause exists, but issuance of a warrant is not authorized, the case may proceed as a complaint-summons. If a complaint-warrant is requested, regardless of the juvenile's custodial status at the time of issuance, the same procedure would be followed once a juvenile is taken into custody. Law enforcement must contact

court intake services pursuant to N.J.S.A. 2A:4A-34. Court intake services then will complete the RST to determine whether the juvenile should be released or detained.

Therefore, the Committee recommends the following rule amendments:

**Rule 5:20-3. Warrant.**

(a) When Issued.

(1) Complaint-warrant. A complaint-warrant may only be issued pursuant to R. 5:21-1.

(2) Bench warrant. [In lieu of summons the] The judge may issue a warrant if the nature of the case requires the immediate custody of the juvenile. A warrant may also issue if any person or persons fail to appear as required by summons.

(b) Execution. . . . no change.

Note: Source-R.R. (1969) 5:8-5(a) and (c). Adopted December 20, 1983, to be effective December 31, 1983; new subparagraph (a)(1) caption and text adopted, and existing text amended, captioned and renumbered as subparagraph (a)(2) to be effective.

**Rule 5:21-1. Taking into Custody, Initial Procedure.**

(a) General. [A law enforcement officer may take into custody without process a juvenile who the officer has probable cause to believe is delinquent as defined by N.J.S. 2A:4A-23. When a juvenile has been taken into custody for delinquency, a complaint, if not already filed, shall immediately be filed as provided by R. 5:20-1.] The taking of a juvenile into custody shall not be construed as an arrest but shall be deemed a measure to protect the health, morals and well-being of the juvenile, and the person taking the juvenile into custody shall immediately notify the juvenile's parents, guardian or other custodian.

(b) Juvenile in Custody. A law enforcement officer may take into custody without process a juvenile who the officer has probable cause to believe is delinquent as defined by N.J.S.A. 2A:4A-23. When a juvenile has been taken into custody for delinquency and detention is being considered, law enforcement shall immediately apply for a complaint-warrant as provided by R. 5:20-1. When a juvenile is taken into custody pursuant to this paragraph, the procedure set forth in paragraph (d) of this Rule shall be followed.

(c) Juvenile Not in Custody. When a juvenile is not in custody and law enforcement is seeking to detain a juvenile for a delinquent act, law enforcement must apply for a complaint-warrant as provided by R. 5:20-1. The draft complaint-warrant shall be reviewed by the County Prosecutor or an assistant prosecutor prior

to seeking permission of the court to take the juvenile into custody. The court shall determine, with the presence of the County Prosecutor or assistant prosecutor, whether there is sufficient evidence of probable cause that the juvenile committed the act of delinquency and whether the severity of the offense justifies bringing the juvenile into custody. If the court finds no probable cause, a complaint shall not be issued. If the court finds probable cause but denies the request to take the juvenile into custody, the matter may proceed as a complaint-summons. If the court finds probable cause and authorizes law enforcement to take a juvenile into custody, a complaint-warrant shall be issued, and the procedure set forth in paragraph (d) of this Rule shall be followed.

(d) Request for Detention. When a juvenile has been taken into custody, law enforcement must contact court intake services pursuant to N.J.S.A. 2A:4A-34. Court intake services shall complete a juvenile detention screening tool in a form prescribed by the Administrative Director of the Courts to assist in the determination to detain or release the juvenile. If detention is authorized, a complaint-warrant shall be issued. If detention is not authorized, a complaint-summons may be issued.

Note: Source-R. (1969) 5:8-2(a) (first and second sentence), (e). Adopted December 20, 1983, to be effective December 31, 1983; amended July 13, 1994 to be effective September 1, 1994; existing text designated as paragraph (a) with caption adopted, existing text moved and designated as paragraph (b) with caption



adopted, new paragraph (c) caption and text adopted, \_\_\_\_\_ to be effective \_\_\_\_\_.

### **III. Proposed New Rules**

#### **A. Proposed New R. 5:8D. Appointment of Parenting Coordinators**

The Committee considered whether to adopt a new Rule for the appointment of a parenting coordinator.

##### *Background*

By way of historical background, in its 2004-2007 Final Report, the Committee recommended rules for parenting coordination. Although the Supreme Court rejected that recommendation, in May 2007, the Court authorized a parenting coordinator pilot program. Program guidelines were developed, and the pilot was established in four counties. The program was reviewed by the Conference of Family Presiding Judges and this Committee following its implementation. The Committee raised concerns over the pilot in its 2009-2011 report and the pilot was ultimately terminated in 2021. Currently, appointments of a parenting coordinator continue at the discretion of the trial court. A model form of appointment that was used by the pilot and previously reviewed by this Committee continues to be in use.

The New Jersey State Bar Association, Family Law Executive Committee (FLEC), appointed a Task Force to examine the role of a parenting coordinator. FLEC identified a concern that parenting coordinators continue to be appointed with no uniformity as to their role, their designated authority, and the expectation

as to what they are to accomplish. On July 29, 2021, FLEC submitted its report to the Supreme Court. The report recommended a new court rule that addresses the appointment of a parenting coordinator. The proposed court rule addressed several aspects of the process including: standards for who may serve as a parenting coordinator; the circumstances under which a parenting coordinator may be appointed; delineating the parenting coordinator's role and goals; establishing continuing training requirements; devising a process for appointment and coordination; addressing a parenting coordinator's retainer agreement and fees; and providing immunity to individuals serving as parenting coordinators for acts performed within that role. The recommendation included a proposed Order to appoint a parenting coordinator. FLEC's report and recommendation, including its draft Rule and proposed Order of Appointment was referred to this Committee for consideration.

### *Concerns, Conclusions and Recommendations*

The Committee thoroughly considered this matter and recommends the issuance of guidelines governing the appointment and use of a parenting coordinator (**Attachment A**). The Committee also recommends promulgating a draft Order of Appointment by Administrative Directive (**Attachment B**).

The Committee considered the anecdotal experience of Committee members, which indicated that parenting coordinators mostly fulfilled the role of

interacting with contentious litigants so that they would not need to burden the court or incur additional litigation expenses with their day-to-day disputes. In current practice, litigants are free to agree to the appointment of anyone as a parenting coordinator without regard to their qualifications, training or licenses. This appointment may occur either before or after an order or agreement for custody is in place. Unlike mediation, there are no court rules regulating parenting coordinators. The Committee is concerned with the unregulated nature of parenting coordination. There is no limitation on who may serve as a parenting coordinator. There are no prescribed qualifications for parenting coordinators by way of education, training or experience. There is no limitation on the topics they may consider or parameters setting forth their scope of authority. For these reasons, the Committee recommends the adoption of official guidance regarding the appointment, termination, qualifications, and scope of authority of a parenting coordinator.

In drafting its recommendation, the Committee relied on FLEC's report and focused on narrowly defining the parenting coordinator's role, which is to facilitate communication between the parties. Therefore, the proposed guidelines reflect that the parenting coordinator's authority is limited to assisting with parenting time issues and may not address financial issues or custody issues. The Committee concluded that the parenting coordinator's role is to assist high conflict families to

resolve implementation issues with respect to parenting plans. The role of a parenting coordinator is not to determine custody or make custody recommendations. The role is to facilitate and to negotiate simple issues involving the implementation of an agreed-upon plan and to monitor potential small changes to accommodate special situations and emergencies.

In making its recommendation, the Committee considered the impact of the appointment of a parenting coordinator in matters where domestic violence exists. For this reason, the Committee recommends providing language in the proposed Order of Appointment that addresses cases where this is either a temporary restraining order (TRO) or a final restraining order (FRO) between the parties. The proposed Order of Appointment states that when a TRO or FRO exists, the terms of that TRO or FRO controls as to the limitations of communication. Additional protections for domestic violence victims were added to include: the victim must be advised of their right to decline an appointment of a parenting coordinator; the parenting coordinator must report abuse to DCP&P when a parenting coordinator is made aware of abuse of a child or in the presence of the child (See N.J.S.A. 9:6-8.10); the parenting coordinator must address safety concerns with the court in writing; the parenting coordinator must maintain confidentiality consistent with the court rules; and the parenting coordinator must establish safety protocols for meetings and communications between the parties. The proposed order also

included a free form paragraph in which the court could add specific terms tailored to the express needs of the individual case.

The Committee was cognizant that parenting coordinators may also be a financial burden for many litigants, as they create another expense pertaining to the divorce process, which continues even after the divorce is completed. For that reason, the Committee recommends that the appointment of a parenting coordinator is to be voluntary or by the court after a finding of good cause set forth in writing or on the record.

The Committee considered whether this Rule should apply prospectively to existing parenting coordinator appointments. The Committee reasoned that as this is a voluntary process, the parties can choose to abide by the rule's parameters. The Committee recognizes that a court rule cannot modify existing parenting coordinator agreements, which are contractual.

#### Method of Promulgation

The Committee considered the means to promulgate the parenting coordinator guidelines and proposed Order of Appointment: (1) to be issued in their entirety by court rule; or (2) to be referenced in the court rules and issued as an administrative directive.

The Committee discussed whether the guidance and proposed order should be issued as a court rule and accompanying appendix. The Committee noted that a

court rule is accessible to the public and subject to modification with the Committee's input. Administrative directives, which have the same legal force and effect as a statute for the operations of the courts, are published and accessible on the Judiciary's website. Additionally, administrative directives may be presented to Committees for input and can be revised outside of the Supreme Court's rules cycle providing for more flexibility if changes are necessary. The level of detail set forth in the parenting coordinator guidelines is better suited to an operational policy rather than a court rule.

As to the proposed Order, the Committee concluded it would be more efficient for it to be promulgated by the Administrative Director of the Courts. It can be revised outside of the Supreme Court's rule cycle providing for more flexibility if changes are necessary. This approach is consistent with the current practice of promulgating other forms of order.

Weighing the concerns set forth above, the Committee's recommendation retains much of FLEC's report. The Committee thus recommends the parenting coordinator guidance (**Attachment A**) and the proposed Order of Appointment (**Attachment B**) to be issued as an administrative directive. The Committee further recommends the adoption of the following court rule to inform the public of the adoption of this process:

### **Rule 5:8D. Appointment of Parenting Coordinators [new]**

A Parenting Coordinator is a qualified, neutral, mental health or legal professional who is appointed by the court either upon consent of the parties, or by the court after a finding of good cause set forth in writing or on the record. The Parenting Coordinator's purpose is to assist parents who are unable to resolve disputes and effectuate resolution of issues that arise in the process of raising their children. The role of the Parenting Coordinator is to implement the parties' parenting plan by facilitating the resolution of day-to-day parenting issues in a timely manner when the parties cannot resolve issues on their own.

The Parenting Coordinator's goals are to: aid the parties in monitoring and effectuating the existing parenting plan; reduce misunderstandings and miscommunication between the parents; help reduce the amount of litigation filed with the Family Part; clarify priorities of the parents and their children; explore possibilities for compromise; and develop methods of communication that promote collaboration and cooperation in parenting. The Parenting Coordinator should, whenever practical, seek to facilitate decision-making between the parties or to make recommendations when the parties cannot agree. The Parenting Coordinator should provide guidance and direction to the parties with the primary focus on the child's best interests by reducing conflict and fostering sound decisions that will aid positive child development. The qualifications, duties, and form of order to



appoint a Parenting Coordinator shall be in accordance with guidelines established by the Administrative Director of the Courts.

Note: Adopted \_\_\_\_\_ to be effective \_\_\_\_\_.

#### **IV. Issues Considered Without Recommendation**

##### **A. Proposed Amendment to R. 5-7A to Include Mandatory Consideration of Emergent and Interim Support in a Domestic Violence Hearing**

The Committee considered whether an amendment to R. 5-7A was necessary to require the court to consider ordering spousal and child support on an emergent and interim basis in a domestic violence matter. The Committee concluded that this is a training issue. The Committee notes that the Domestic Violence Procedures Manual addresses emergent and interim support and suggests including this information in the Comprehensive Judicial Orientation Program (CJOP) materials provided to judges newly assigned to the Family Part and Municipal. Additionally, the Committee suggests that additional questions regarding income and employment may be added to the Family Division's intake questions to assist in determining whether interim or emergent support should be ordered. The TRO form provides for emergency support and the domestic violence hearing officers are trained on this issue. Additionally, plaintiffs should be meeting with domestic violence advocates before and after obtaining a TRO. The advocates also should be

discussing financial support with the plaintiffs. The court balances the request for support against prolonging domestic violence hearings, which are designed to be heard summarily. Including support in the case could also trigger additional abuse against the plaintiff. Thus, the Committee recommends addressing this issue through judicial and stakeholder education and that no rule amendment is necessary.

## **B. Revisions to the Family Part Summons**

The Committee considered reviewing the discrepancy between the Civil and Family Part summonses. This issue was raised in M.D.C. v. J.A.C., 2018 N.J. Super. Unpub. LEXIS 2634 (App. Div. Dec. 3, 2018), which states that a summons served in a civil action requires a defendant to be advised that they may contact the Lawyer Referral Service to hire counsel. The Civil Part summons contains a current list of telephone numbers for the Lawyer Referral Service in each county. See R. 4:4-2. For a civil family action, R. 5:4-1 provides that the summons shall comply with the requirements of R. 4:4-2 except that in lieu of requiring an answer, it shall notify the defendant to appear at a specified time, date and place to answer the complaint.

During the 2021-2023 rules cycle, this issue was referred to the Conference of Family Presiding Judges (Conference) for consideration. The Conference reviewed the process and noted that no summons is served on the defendant.

Instead, the TRO is served on the defendant, which includes a notice and other references. A list of lawyer referral services' contact information has been added to the TRO. Therefore, Committee recommends that this issue is resolved and requires no further action.

**C. Arbitration as a Topic for Judicial Education**

The Committee considered whether the subject of arbitration should be added to judicial education. The Committee recommends referring this topic to the Conference of the Family Presiding Judges for consideration when planning upcoming educational events. The Committee also recommends that the training include: (1) the need for consistent practices and statewide uniformity when cases are considered for, and ordered to, arbitration; (2) the need for uniform procedures when confirming arbitration awards including post-arbitration case management options; and (3) the sharing of best practices for case management of arbitration matters including the handling of adjournments.

**D. Standardizing Rules for the Performance of a Child Custody Evaluation**

The Committee considered whether a court rule should be adopted to standardize child custody evaluations. The Committee note the need for flexibility in family cases and is concerned that standardization in this area would unduly restrict practitioners, judges and evaluators. This could result in unnecessary delays

in obtaining an expert and extend deadlines in the writing of reports. Therefore, the Committee recommends no action.

## **V. Out of Cycle Activity**

### **A. Proposed Amendments to the Child Support Guidelines: Quadrennial Review and Flexibility, Efficiency and Modernization in Child Support Enforcement Programs Final Rule**

The Committee submitted an out of cycle report making recommendations required by the federal government. As a result, the Supreme Court by Omnibus Order dated August 5, 2022, amended paragraphs 12 and 26 of Rules Appendix IX-A ("Considerations in the Use of Child Support Guidelines") to be effective September 1, 2022. The amendments are the result of the most recent quadrennial review of New Jersey's child support guidelines, which concluded on December 31, 2021. See 42 U.S.C. § 667, 45 C.F.R. §302.56 and 45 C.F.R. § 303.4. Paragraph 12 Rules Appendix IX-A also was amended to comply with the federal requirement to implement the Flexibility, Efficiency and Modernization in Child Support Enforcement Programs Final Rule (Final Rule). See Federal Register, Vol. 81, No. 244. The new quadrennial review began on January 1, 2022 and will conclude on December 31, 2025.

## **VI. Matters Held for Consideration**

### **A. Sample Colloquies for the Trial Court in Name Change Applications for Minors**

The Committee considered whether to adopt sample colloquies for the trial court's use in name change proceedings of minors. Sample colloquies are being developed by the Supreme Court Committee on Diversity, Inclusion, and Community Engagement (SCCDICE), and will be shared when completed. Therefore, the Committee recommends carrying this issue to the 2023-2025 rules cycle pending completion of the SCCDICE's work.

## Committee Members and Staff

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Respectfully submitted,

  
Hon. David B. Katz, P.J.F.P., Chair

Dated: January 17, 2023

## **List of Attachments**

- 1.** Proposed Parenting Coordinator Guidelines
- 2.** Proposed Order of Appointment of a Parenting Coordinator

# Attachment 1



### **Appointment of Parenting Coordinators**

(a) General. A Parenting Coordinator is a qualified, neutral, mental health or legal professional who is appointed by the court either upon consent of the parties, or by the court after a finding of good cause set forth in writing or on the record. The Parenting Coordinator's purpose is to assist parents who are unable to resolve disputes and effectuate resolution of issues that arise in the process of raising their children. The role of the Parenting Coordinator is to implement the parties' parenting plan by facilitating the resolution of day-to-day parenting issues in a timely manner when the parties cannot resolve issues on their own.

The Parenting Coordinator's goals are to: aid the parties in monitoring and effectuating the existing parenting plan; reduce misunderstandings and miscommunication between the parents; help reduce the amount of litigation filed with the Family Part; clarify priorities of the parents and child; explore possibilities for compromise; and develop methods of communication that promote collaboration and cooperation in parenting. The Parenting Coordinator should, whenever practical, seek to facilitate decision-making between the parties or to make recommendations when the parties cannot agree. The Parenting Coordinator should provide guidance and direction to the parties, with the primary focus on the child's best interests, by reducing conflict and fostering sound decisions that will aid positive child development.

(b) Parenting Coordination Guidelines.

(1) Appointment of the Parenting Coordinator. A Parenting Coordinator may be appointed only after entry of a pendente lite order or a temporary or final custody order and parenting plan. Parenting Coordinators do not serve as custody or parenting plan evaluators. In cases where a domestic violence restraining order has been issued pursuant to the Prevention of Domestic Violence Act (or equivalent law from another jurisdiction), the court may appoint a Parenting Coordinator at the sole election of the victim. The victim has the sole option to terminate the Parenting Coordinator process. Each party shall be permitted to briefly interview potential Parenting Coordinator candidates before the court makes the appointment.

(2) Authority of the Court. The appointment of a Parenting Coordinator shall not affect the court's jurisdiction in any aspect of the case, including custody, parenting time or support, and its management and control of the case.

(3) Authority of the Parenting Coordinator.

(A) The Order of Appointment shall:

(i) authorize the Parenting Coordinator to facilitate discussion between the parties;

(ii) authorize the Parenting Coordinator to make non-binding recommendations to the parties in the event the parties cannot reach an agreement; and

(iii) indicate the Parenting Coordinator's recommendations will be binding upon the parties unless a party objects and then files a timely motion or Order to Show Cause.

(B) The Parenting Coordinator shall not have authority to make recommendations regarding financial issues or modify legal and physical custody. The Parenting Coordinator may make recommendations to facilitate parenting time, including but not limited to the following:

- (i) Time, place, and manner of pick-up and drop-off of child,
- (ii) Childcare arrangements,
- (iii) Minor or temporary alterations in parenting schedules for weeknight, weekend, holidays, vacation, and special events that will not substantially alter the parenting plan,
- (iv) Dates for summer vacation,
- (v) The non-custodial parent's schedule and conditions of phone or other contact with the child while in the other parent's custody,
- (vi) Selection and scheduling of activities and resolving conflicts between parties concerning the child's participation in recreation,

enrichment, and extracurricular activities/programs only after the parties have made the initial selections,

(vii) Referrals to other professionals to improve family functioning, including recommendations for custody or other focused evaluations,

(viii) A child's travel and passport arrangements,

(ix) Equipment and personal possessions of the child, including movement of these items between households for the child's use,

(x) Clarification of provisions in parenting plans to address inadvertent gaps that may lead to conflict between the parties including defining specific hours for pickup/drop-off and transportation during holidays,

(xi) Information exchanges including school, health, social activities, and communication about the child between the parties,

(xii) Consistency in child disciplinary matters,

(xiii) Non-permanent significant changes in a child's appearance including haircuts, hair color changes, dress code, manicures, and

(xiv) All other issues agreed upon by the parties and the Parenting Coordinator to help effectuate resolution of custody and parenting time issues.

(c) Qualifications of Parenting Coordinators.

(1) Professional Qualifications.

(A) Retired Superior Court Judges and Attorneys. Retired

Superior Court Judges and Attorneys must possess the following qualifications to serve as a Parenting Coordinator:

- (i) Be admitted to practice law in the State of New Jersey for at least seven years,
- (ii) Be an attorney in good standing with an active license to practice law in the State of New Jersey, and
- (iii) Have a practice that is substantially devoted to matrimonial law, including extensive practical professional experience with high conflict family cases.

(B) Mental Health Professionals. Mental health professionals

must have the following qualification to serve as a Parenting Coordinator:

- (i) Be licensed in the fields of psychology, psychiatry, or social work in the State of New Jersey by the appropriate State Board or Agency for at least seven years,
- (ii) Be in good standing to practice in their profession with an active license issued by the State of New Jersey, and
- (iii) Have a practice that is substantially devoted to conflict resolution of family matters and family therapy.

(2) Training Requirements.

(A) General. All Parenting Coordinators shall have completed a minimum of forty (40) hours of training pursuant to the requirements of subparagraph (c)(2)(C) of this Directive.

(B) Continuing Training. All Parenting Coordinators shall annually attend four (4) hours of continuing education and shall file with the Administrative Office of the Courts, as appropriate, an annual certification of compliance. To meet the requirement, this continuing education shall include instruction in ethical issues associated with Parenting Coordination practice, program guidelines and should cover at least one of the following: case management skills; Parenting Coordination; and resolution concepts and skills.

(C) Parenting Coordination Course Content. The forty (40) hours of classroom instruction for Parenting Coordinators shall include basic mediation skills as well as at least sixteen (16) hours of specialized Parenting Coordination training, which should cover: family and child development; psychological issues in separation and divorce; family dynamics; New Jersey family law; high-conflict family dynamics; parenting coordination process; techniques; domestic violence; the impact of divorce at varying developmental levels; diversity, inclusion, and cultural competency; and community resources.

(D) Domestic Violence Training. Where there is a domestic violence restraining order, the parenting coordinator must also have completed the

additional training as a Domestic Violence Economic Mediator. This training incorporates specific domestic violence components, including: the history of the program; power and control; progression of abuse; the cycle of violence; and issues related to the victim and to the perpetrator.

(d) Procedures.

(1) The Order of Appointment shall specify the authority of the Parenting Coordinator and indicate the issues on which the Parenting Coordinator may make recommendations.

(2) All parties will have an opportunity to be heard on each issue submitted to the Parenting Coordinator.

(3) Parenting Coordinators shall not have any communication with the court unless mutually agreed to by the parties. Absent mutual agreement, either party may file an application to permit the Parenting Coordinator to communicate with the court. Such communication must be on notice to the parties.

(4) A term limit for the appointment of a Parenting Coordinator shall be set forth in the order, as fixed by the court or agreed to by the parties, which term shall commence upon the parties' retention of the Parenting Coordinator. The term of appointment may be extended by the court on good cause shown or by agreement of the parties.

(5) A Parenting Coordinator shall document in writing all agreements made by the parties and all recommendations by the Parenting Coordinator, which shall be communicated simultaneously to both parties. In time sensitive circumstances, recommendations may be made orally and must be communicated to both parties, followed by written confirmation simultaneously communicated to both parties.

(6) The Parenting Coordinator shall hold an initial meeting with the parties, either jointly or separately, at the discretion of the Parenting Coordinator, and in compliance with limitations set forth in any domestic violence restraining order. The Parenting Coordinator shall define and describe for the parties in the retainer agreement, the role, limitations, and fees of the Parenting Coordinator, which shall be consistent with the Order of Appointment.

(7) Grievance Procedure. Except as provided by other applicable law, a party having a complaint or grievance shall submit a written letter to the Parenting Coordinator detailing the complaint or grievance, with a copy: to the other party (or where there is a domestic violence restraining order, the Parenting Coordinator shall serve the copy on the other party; or to both attorneys (if any), and to the attorney for the child (if any). The Parenting Coordinator shall within ten (10) days provide a written response to both parties and the attorneys, subject to the other provisions herein. Thereafter, the Parenting Coordinator at their



discretion may schedule a meeting or conference call with the attorneys or with the attorneys and the parties or self-represented litigants in an effort to resolve the complaint or grievance. In situations where the grievance or complaint is not resolved by this process, the dissatisfied party may file a motion with the court.

(8) Compensation of Parenting Coordinator. Parenting Coordinators shall be compensated in accordance with their stated fees and for expenses incurred, which shall be clearly set forth in the Order of Appointment, as well as in the Retainer Agreement and/or in the information and materials provided to the parties at the initial conference. The parties shall pay the apportioned percentage either as agreed upon or determined by the court and set forth in the Order of Appointment.

(9) Pay Disputes. Parenting Coordinators that have not been timely paid in accordance with the Order of Appointment may bring an action to compel payment. Such action shall be made in the county in which the Order of Appointment originated and shall be commenced with the filing of a complaint in the Law Division. Nothing in this Directive prevents either party or the court from allocating, modifying, or enforcing the parties' respective obligations to pay the Parenting Coordinator pursuant to the Order of Appointment in the Family Part matter.

(10) Parenting Coordinator Retainer Agreement/Fees. The Parenting Coordinator's retainer agreement shall set forth the fees, costs and retainer associated with the appointment. The retainer agreement must include the following information:

(A) A description of the services and disbursements for which the parties will be responsible and how they will be billed, the Parenting Coordinator's hourly billing rate, the amount of retainer required, and how the retainer will be applied and replenished,

(B) The method by which the fee will be computed,

(C) The billing frequency, which shall be no less frequently than every ninety (90) days, provided services were rendered in that period, and

(D) The payment due date.

(11) Termination of Parenting Coordinator's Appointment.

(A) The court or the Parenting Coordinator may terminate the appointment in the following instances:

(i) the services of the Parenting Coordinator do not meet the needs of the family,

(ii) the child has reached the age of majority,

(iii) the parties stipulate to termination, or

(iv) the Parenting Coordinator's fees are not being paid, or are not being paid at a time specified by the Order of Appointment.

(B) Either party may file a motion to terminate the Parenting Coordinator's appointment if the Parenting Coordinator exceeded their mandate, acted in a manner inconsistent with the approved procedures or violated professional conduct, provided the approved grievance procedure has been utilized. If the Parenting Coordinator seeks to withdraw, the request shall be granted absent extraordinary circumstances.

(e) Conflicts of Interest and Impartiality.

(1) Parenting Coordinators shall be subject to the professional standards of their respective professions.

(2) Parenting Coordinators shall be impartial and shall not discriminate based on race, color, religion, age, sex, sexual orientation, national origin, language, marital status, socioeconomic status, or handicap. Parenting Coordinators shall withdraw from a case if they determine that they cannot act in an impartial manner. Parenting Coordinators have a primary duty to be impartial and to advise all parties of any circumstances that create the appearance of possible bias, prejudice, or inability to remain impartial.

(3) Parenting Coordinators shall neither give nor accept a gift, favor, loan or other item of value from any party having an interest in the Parenting Coordination process.

(4) Parenting Coordinators shall not serve in a manner that presents a conflict of interest. A conflict of interest arises when any relationship between the Parenting Coordinator and either or both parties, or the subject matter of the dispute compromises the Parenting Coordinator's impartiality. Parenting Coordinators shall disclose potential conflicts of interest as soon as practical after the Parenting Coordinator becomes aware of the interest or relationship giving rise to the potential conflict.

(5) Parenting Coordinators shall not create a conflict of interest by providing any service to interested parties that are not directly related to the Parenting Coordination process.

(6) A conflict of interest shall include, but is not limited to the following:

(A) The Parenting Coordinator has a personal bias or prejudice concerning a party or a party's lawyer,

(B) The Parenting Coordinator has personal knowledge of the parties, the child or of disputed evidentiary facts concerning the proceeding, or

(C) The Parenting Coordinator, or a partner or associate in the Parenting Coordinator's firm, served as lawyer, therapist, consultant, coach or in any other mental health role or other representative capacity for the parties or child.

(7) Parenting Coordinators disqualified by the terms of this Directive may not avoid disqualification by disclosing the conflict of interest and securing the parties' consent to a waiver of the conflict.

(8) Parenting Coordinators shall attend to all matters in a timely manner.

(9) Parenting Coordinators shall not serve in dual sequential roles in a matter including as attorney, guardian ad litem, mediator, arbitrator, custody evaluator, therapist, coach, consultant, or other mental health role for either party or a child in the matter. Parenting Coordinators should attempt to facilitate resolution of issues by agreement of the parties and shall not act in a formal mediator role or as a therapist, evaluator, or legal advisor. A Parenting Coordinator's attempt to resolve an issue does not disqualify them from making a recommendation on an issue that remains unresolved.

(f) Confidentiality/Manner of Communications.

(1) All communications by the parties or their attorneys with the Parenting Coordinator, shall not be confidential. All communications by third

parties with the Parenting Coordinator shall not be confidential, unless the communication is made from a third party who has a privileged relationship with a party or a child, in which case the issue of whether the communication remains privileged/confidential shall be explicitly addressed by the parties and the Parenting Coordinator and adjudicated by the court if unresolved. A Parenting Coordinator shall expressly advise the parties regarding the terms of this paragraph.

(2) The Parenting Coordinator may communicate with a party, their attorney, or any mutually agreed upon third party on an *ex parte* basis to the extent necessary to obtain information relevant to the Parenting Coordinator's role. The fact of such communication shall be made known to the parties as determined by the Parenting Coordinator. The Parenting Coordinator may meet with the child upon the expressed written consent of all parents/legal guardians if the Parenting Coordinator believes that this will aid in issuing appropriate recommendations.

(3) The parties shall have the right to initiate or receive oral *ex parte* communications with the Parenting Coordinator. The fact of such communication shall be made known to the other party contemporaneously with it occurring (or as soon thereafter as possible) in writing in a manner consistent with the Parenting Coordinator's protocols. Any party or their attorney may communicate in writing with the Parenting Coordinator. Copies of such communications will be provided

to the other party unless the Parenting Coordinator determines otherwise. In those instances, the Parenting Coordinator will determine how they will convey the communication with the other parent consistent with the protocols established by the Parenting Coordinator. Copies of any documents, tape recordings or other electronic material that one party gives to the Parenting Coordinator must also be given to the other party unless the Parenting Coordinator determines otherwise. In those instances, the Parenting Coordinator will determine how the materials will be conveyed to the other party. If a crisis arises that will affect a child, the Parenting Coordinator may make a recommendation on an emergent basis, either in person or by way of an emergency conference call or by electronic means, to all parties. In cases where there is a domestic violence restraining order between the parties, communication shall be consistent with the limitations of such order.

(g) Statewide Approved List of Parenting Coordinators.

(1) The Administrative Director of the Courts, or the Director's designee, shall be responsible for reviewing and approving all Parenting Coordinator applications. Applicants must complete an application form posted on the Judiciary's website ([www.njcourts.gov](http://www.njcourts.gov)). Applicants who meet the professional and training requirements set forth in this Directive, shall be added to the Roster of Approved Parenting Coordinators. The roster shall be maintained by the Administrative Office of the Courts and shall be posted on the Judiciary's website.

(2) Approved Parenting Coordinators must annually submit to the Administrative Office of the Courts proof that they continue to be licensed and in good standing in their respective professions.

(3) The court may not appoint or approve the appointment of any individual to serve as a Parenting Coordinator who is not on the Statewide Approved List of Parenting Coordinators without a showing of good cause or consent of the parties and approval of the Presiding Judge of the Family Part or their designee.



# Attachment 2

**SAMPLE ORDER**

Note: Orders appointing a parenting coordinator must conform to Administrative Directive # \_\_\_\_\_.

<p>_____</p> <p style="text-align: right;">Plaintiff</p> <p>v.</p> <p>_____</p> <p style="text-align: right;">Defendant</p>	<p>SUPERIOR COURT OF NEW JERSEY  CHANCERY DIVISION-FAMILY PART  _____ COUNTY  DOCKET NO.</p> <p style="text-align: center;">Civil Action</p> <p style="text-align: center;">ORDER APPOINTING  PARENTING COORDINATOR</p>
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This matter having been opened to the court (select one) [upon consent of the parties/ pursuant to a plenary hearing] and (select one) [the court having considered the testimony and evidence presented/ the court having considered the certifications submitted by the parties and the argument of counsel] and having made (select one) [oral/written] findings of good cause to appoint a Parenting Coordinator to implement the parties’ (select one) [court ordered/agreed upon] custody and parenting plan;

IT IS on this day of \_\_\_ day of \_\_\_\_\_, 202\_\_\_ ORDERED as follows:

1. Appointment: \_\_\_\_\_, located at \_\_\_\_\_, New Jersey (tel: \_\_\_\_\_), is hereby appointed Parenting Coordinator for a term of \_\_\_\_\_ (date/event). The Parenting Coordinator was selected from the statewide approved list.

2. Fees and Retainer: The Parenting Coordinator will be compensated at the hourly rate of \$ \_\_\_\_\_ consistent with their retainer agreement. A joint retainer of \$ \_\_\_\_\_ will be paid to the Parenting Coordinator and the parties shall sign the Parenting Coordinator's retainer agreement, a copy of which is annexed to this Order as Schedule A, within \_\_\_ days of this Order. The parties will share the Parenting Coordinator's fees as follows: Plaintiff \_\_\_ % and Defendant \_\_\_ % subject to a reallocation by application to the court. The court may seek input from the Parenting Coordinator in the event of a request for reallocation of fees and costs.

3. Role of Parenting Coordinator: The Parenting Coordinator shall implement the parties' parenting plan by facilitating the resolution of day-to-day parenting issues in a timely manner when the parties cannot resolve these issues themselves, including facilitating communication and agreement whenever possible, assisting the parties to learn strategies to avoid conflict regarding their child, reduce misunderstanding, clarify priorities, explore possibilities for compromise, develop methods of communication to promote cooperation in parenting, and making

recommendations to the parties to achieve these goals. The Parenting Coordinator does not function as an attorney, guardian ad litem counselor, therapist, mediator, arbitrator, custody evaluator, therapist, coach, consultant or mental health provider for the parties, child or family.

4. No Confidentiality: Communications by the parties or their attorneys with the Parenting Coordinator are evidential, and shall not be deemed confidential. All communications from third parties to Parenting Coordinators shall not be deemed confidential, unless the communication is made from a third party who has a privileged relationship with a party/child, in which case the issue of whether the communication remains privileged or confidential shall be explicitly addressed by the parties and the Parenting Coordinator and adjudicated by the court if unresolved.

5. Recommendations: The Parenting Coordinator shall facilitate discussion between the parties and make non-binding recommendations to the parties in the event the parties cannot reach an agreement, which shall become binding unless a party objects by filing a timely motion or order to show cause. In cases where there exists a current temporary or final restraining order between the parties, communication shall be consistent with the limitations of such order.

6. Sources of Information: Each party is ordered to provide the Parenting Coordinator with all requested information including signed releases to enable the

Parenting Coordinator to communicate with collateral contacts. The Parenting Coordinator is authorized to have contact with any professional or other individual the Parenting Coordinator deems necessary to perform the duties as Parenting Coordinator including the child, therapists, physicians, childcare providers, teachers, and family members. In the event that either a collateral contact possesses privileged information or the information sought is privileged pursuant to a statute, the party has the right to oppose signing the release and shall advise the Parenting Coordinator and the other party of their objections. If the issue remains unresolved, either party may file a motion and the court shall determine whether the release is to be signed and whether and to what extent the privileged information shall remain confidential.

7. Scope: The Parenting Coordinator shall not have authority to make recommendations regarding financial issues or modify legal and physical custody. The Parenting Coordinator may make recommendations to facilitate parenting time on matters, including:

- a) Time, place and manner of pick-up and drop-off of child;
- b) Childcare arrangements;
- c) Minor or temporary alteration in parenting schedules for weeknight, weekend, holidays, vacation, and special events that will not substantially alter the parenting plan;

- d) Dates for summer vacation;
- e) The non-custodial parent’s schedule and conditions of phone or other contact with the child while in the other parent’s custody;
- f) Selection and scheduling of activities, and resolving conflicts between the parties concerning the child’s participation in recreation, enrichment, and extracurricular activities, only after the parties have made the initial selections;
- g) Referrals to other professionals to improve family functioning, including recommendation for custody or other focused evaluations;
- h) Child’s travel and passport arrangements;
- i) Equipment and personal possessions of the child, including movement of these items between households for a child’s use;
- j) Clarification of provisions in parenting plans to address inadvertent gaps that may lead to conflict between the parties, including defining specific hours for pickup/drop-off and transportation during holidays;
- k) Information exchanges, including school, health, social activities, and communication about the child between the parties;
- l) Consistency in child disciplinary matters;

- m) Non-permanent significant changes in a child's appearance, including haircuts, hair color changes, dress code, manicures; and
- n) All other issues agreed upon by the parties and the Parenting Coordinator to help effectuate resolution of custody and parenting issues.

8. Protocol: The Parenting Coordinator shall determine the protocol of all communications, interviews, and sessions, including who shall or may attend the meetings. At their discretion, the Parenting Coordinator may conduct meetings with the parties, the child, and others related to the case jointly or separately, which meetings may occur by telephone, video conference or in person. All parties will have an opportunity to be heard on each issue submitted to the Parenting Coordinator. The Parenting Coordinator shall provide an agenda to the parties in the event the Parenting Coordinator initiates the request for a meeting. In no event may a party tape or record any Parenting Coordination sessions. In cases in which there is domestic violence restraining order between the parties, communication shall be consistent with the limitations of such order. The Parenting Coordinator shall document in writing all agreements made by the parties and all recommendations by the Parenting Coordinator, which shall be communicated simultaneously to both parties. In time sensitive circumstance, recommendations may be made orally and

must be communicated to both parties, followed by written confirmation simultaneously communicated to both parties.

9. Communication with the Parenting Coordinator: The parties have the right to initiate or receive oral ex parte communication with the Parenting Coordinator at the Parenting Coordinator's discretion, and the fact of such communication shall be made known to the other party contemporaneously with its occurring (or as soon thereafter as possible) in writing in a manner consistent with the Parenting Coordinator's protocols Any party or their attorney may communicate in writing with the Parenting Coordinator and copies of such communications will be provided to the other party, unless the Parenting Coordinator determines otherwise, in which event the Parenting Coordinator will determine the means by which they will convey the communication to the other parent consistent with the protocols establish by the Parenting Coordinator. Copies of any documents, tape recordings, or other electronic material that one party gives to the Parenting Coordinator must also be given to the other party unless the Parenting Coordinator determines otherwise, in which event the Parenting Coordinator will determine the means by which the contents will be conveyed to the other party. If a crisis situation arises that will affect a child, the Parenting Coordinator may make a recommendation on an emergent basis with all parties present either in person or via emergency conference call, or by e-



mail to all parties. In cases in which there is domestic violence restraining order between the parties, communication shall be consistent with the limitation of such order.

10. Testimony: The Parenting Coordinator shall testify only pursuant to an order issued by a judge in this matter. The Parenting Coordinator shall be paid for all court appearances, depositions, conferences or other appearances at which the Parenting Coordinator participates in connection with these proceedings including travel time at the Parenting Coordinator's hourly rate of \$ \_\_\_\_\_, and payment of the estimated amount required shall be paid no later than 48 hours prior to testifying or appearing,

11. Termination: The court or the Parenting Coordinator may terminate the Parenting Coordinator's appointment in the following instances: the services of the Parenting Coordinator do not meet the needs of the family; the child has reached the age of majority; the parties stipulate to the termination; the Parenting Coordinator's fees are not being paid; entry of a court order; or upon expiration of the term as set forth in paragraph 14 of this order. Either party may file a motion to terminate the Parenting Coordinator's appointment whenever the Parenting Coordinator has exceeded their mandate, acted in a manner inconsistent with the approved procedures, or violated professional conduct, provided the approved grievance

procedure has been utilized. If the Parenting Coordinator seeks to withdraw, the request shall be granted absent extraordinary circumstance.

12. Grievance: Except as provided by other applicable law, a party having a complaint or grievance shall submit a written letter to the Parenting Coordinator detailing their complaint or grievance, with a copy to the other party (or where there is a domestic violence restraining order the Parenting Coordinator shall serve the copy on the other party) to both attorneys (if any) and to the attorney for the child (if any). The Parenting Coordinator shall within ten (10) days provide a written response to both parties and their attorneys, subject to the other provisions herein. Thereafter, the Parenting Coordinator at their discretion may schedule a meeting or conference call with the attorneys and the parties to resolve the complaint or grievance. If the grievance or complaint is not resolved by this process, the dissatisfied party may file a motion with the court to decide the dispute.

13. Report to the Court: Parenting Coordinators shall not have any communication with the court, unless mutually agreed to by the parties. Absent mutual agreement, either party may file a motion to permit the Parenting Coordinator to communicate with the court and such communication will be on notice to the parties.

14. In cases where there currently exists a temporary or final restraining order pursuant to the New Jersey Prevention of Domestic Violence Act, it is further ordered:

- a) The victim shall be advised of the right to decline appointment of a Parenting Coordinator and that the victim has the sole option to terminate the Parenting Coordinator process.
- b) The Parenting Coordinator shall address any safety concerns with the court in writing.
- c) The Parenting Coordinator shall abide by the terms of Rule 1:38-3(d)(9) and -3(d)(10) and maintain confidentiality of the parties' identifying information, contact information, records and reports of any kind.
- d) The Parenting Coordinator shall include measures addressing the safety of the parties and any participants and shall establish protocols for meetings and communications consistent with the domestic violence restraining order.

15. The Parenting Coordinator remains subject to the child abuse reporting requirements pursuant to N.J.S.A. 9:6-8.10.

16. The Parenting Coordinator's appointment shall expire on \_\_\_\_\_, unless otherwise extended upon a showing of good cause or agreement of the parties.

17. Other Terms

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J.S.C.