

IN THE SUPREME COURT OF FLORIDA

**IN RE: AMENDMENTS TO THE FLORIDA
FAMILY LAW RULES OF PROCEDURE**

CASE NO.:

**LEGISLATIVE FAST-TRACK AMENDMENTS —
PARENTING COORDINATION**

Jack A. Moring, Chair, Family Law Rules Committee, and John F. Harkness, Jr., Executive Director, The Florida Bar, file this 2009 legislative fast-track report of the Family Law Rules Committee, as requested by Clerk Thomas D. Hall in his letter of May 28, 2009. (See Appendix A.) The proposed amendments have been approved by the full Committee by the following votes: *Fla. Fam. L. R. P.* 12.742: 17-0-1; *Form* 12.984: 19-1-0; *Form* 12.996: 17-0-1. They also have been approved by The Florida Bar Board of Governors by a vote of 38-0. The amendments are attached in full-page format in Appendix B and in the two-column format in Appendix C.

Section 2, Chapter 2009-180, Laws of Florida (see Appendix D), created section 61.125, Florida Statutes, Parenting coordination. The statute codifies requirements for the use of parenting coordinators in family law proceedings and is effective October 1, 2009.

At its June 2009 meeting, the Family Law Rules Committee formed a subcommittee on parenting coordination to address the impact of section

61.125, Florida Statutes, on court procedures. The subcommittee initially comprised only current and immediate past members of the Family Law Rules Committee. Several members of the initial subcommittee also served on the Ad Hoc Committee on Parenting Coordination of the Family Law Section. As a result of the overlap between members of the ad hoc committee and the subcommittee, the subcommittee was made aware of many issues that arise in the parenting coordination process that are not currently addressed by the statute. The subcommittee recognized the need to expand its professional expertise and invited other professionals to join the weekly discussions conducted via conference call. Mental health professionals who serve as parenting coordinators, some of whom are licensed under Chapter 490 or 491, Florida Statutes, participated in developing the rule and forms. A spokesperson for the Florida Coalition Against Domestic Violence also participated in the process. These professionals were invaluable, often highlighting conflicts between ethical guidelines governing the various licensees and, in some instances, certified mediators.

Much of the debate between attorney members and professionals licensed under Chapters 491 and 490, Florida Statutes, concerned the appropriateness of regulating nonattorney licensed professionals through a

family law rule. Currently, there is no regulatory authority overseeing the practice of parenting coordination separate and apart from the ethical guidelines that govern professionals licensed under Florida law. The result is different definitions and interpretations of what constitutes a dual role or a conflict of interest and lack of consistency, and therefore reliability, for parenting coordinators. Parenting coordination is an alternative dispute resolution process created to provide a resource to the court and the parties when litigation is pending and should be regulated by the court through rules. The subcommittee elected to resolve this issue by inserting in the Instructions to *Form 12.984, Response by Parenting Coordinator*, guidance for licensed mental health professionals serving as parenting coordinators to follow when evaluating whether a conflict or dual role prohibits the professional from accepting the appointment.

The professionals serving on the subcommittee also advanced the position that additional forms would enhance the parenting coordination process. An example would be a form for a parenting coordinator to use to communicate with the court if an exception to the confidentiality provisions of the statute necessitated communication. At least one parenting coordinator felt that the statute was unclear regarding whether a parenting coordinator has standing to file motions and schedule hearings under the

new statute or whether their communication to the court is limited to submitting a “report.” See §§ 61.125(7)(d)–(7)(e), (8), Fla. Stat. Some parenting coordinators expressed confusion as to what constitutes the proper format for a report and the proper procedure to bring such a report to the court’s attention. A form report for parenting coordinators to use when communicating with the court was suggested. The subcommittee chose to focus its efforts on the forms that, in the view of the subcommittee, are critical and for which there would be an immediate need to successfully implement the statute and ensure consistency throughout the state. The subcommittee acknowledges that additional forms would enhance the practice of parenting coordination.

The rule facilitates the implementation of the statute through the use of two forms. The first form required by the rule is *Form 12.996, Order Appointing Parenting Coordinator*. The subcommittee obtained copies of various orders currently in use throughout the state and discovered multiple substantive inconsistencies. The proposed form order resolves the concern raised by all members of the subcommittee regarding inconsistent orders currently used throughout the state. The form order ensures that there is written documentation that the court addressed any domestic violence issues as required by the statute. See § 61.125(3), Fla. Stat. The order clearly

identifies whether there is a history of domestic violence and if so, whether the parties have had the opportunity to consult with an attorney or domestic violence advocate prior to the court's accepting the parties' consent to participate in parenting coordination. The order recites the confidentiality provisions of the statute, thereby ensuring that all parties are on notice as to the confidential nature of the process, absent consent to the contrary. See § 61.125(7), Fla. Stat. The order defines the role, responsibility, and authority of a parenting coordinator, which are not specifically set forth in the statute. The subcommittee compiled, compared, and adapted language from various orders used throughout the state to create one section to accurately reflect a parenting coordinator's role according to the purpose section of the statute. See § 61.125(1), Fla. Stat. The order ensures that parties across the state receive the same information concerning the parenting coordination process, the term of service, domestic violence safeguards, the role of the parenting coordinator, fees and costs, the confidential nature of the process, and the right to abrogate that confidentiality.

The rule also requires a parenting coordinator to respond to the order by filing *Form 12.984, Response by Parenting Coordinator*. The primary purpose of requiring a parenting coordinator to file a response to the order is

to ensure that laypersons serving as parenting coordinators are familiar with the statute, the rule, and the order appointing parenting coordinator.

The rule sets a time limit on an initial term of service. This ensures that at expiration of the term of service the court will consider whether the process is working for the parties. The subcommittee, including the parenting coordinators participating in the development of the rule, shared reports of parties who felt confined to the process with no means to end it. The initial term of service (maximum of two years) was based on research proffered by parenting coordinators that it takes 18 to 24 months for the parenting coordination process to be effective.

The remaining aspects of the rule are self-explanatory and serve to implement the statute in all respects.

The Committee respectfully requests that the Court amend the Florida Family Law Rules of Procedure by approving the proposed rule and forms.

Respectfully submitted _____.

JACK A. MORING

Chair

Family Law Rules Committee

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APPENDIX A



Supreme Court of Florida

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May 28, 2009

Mr. John G. White, III
President, The Florida Bar
651 East Jefferson Street
Tallahassee, Florida 32399-2300

Mr. John F. Harkness, Jr.
Executive Director, The Florida Bar
651 East Jefferson Street
Tallahassee, Florida 32399-2300

Re: Rule Changes Required by New Legislation

Dear Mr. White and Mr. Harkness:

This letter is to advise you about legislation passed during the 2009 session that may impact court rules or require rule changes. The attached chart identifies as specifically as possible rules potentially impacted by new legislation, and states the projected effective date of each new law. Action by the Governor is still required for many of these bills. Expedited review of this legislation by the appropriate rules committees will ensure that rules are adopted by the Supreme Court before the effective date of new laws.

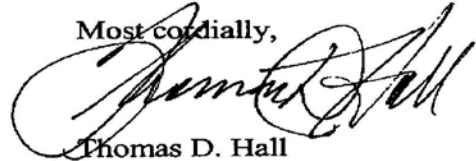
As in the past, the court requests that rules committees, in drafting rules in response to new legislation, not simply restate legislation as a rule, but instead consider whether a rule is needed to implement substantive law provisions. If legislation contains procedures, rules committees should not feel constrained to

Mr. John G. White, II.
Mr. John F. Harkness, Jr.
May 18, 2009
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automatically propose rule language that mirrors procedures suggested by the Legislature.

Please do not hesitate to call me if you have questions.

Most cordially,



Thomas D. Hall

TDH/vbv
Enclosure

cc: Honorable Peggy A. Quince, Chief Justice
John S. Mills, Chair, Appellate Court Rules Committee
Ms. Marianne A. Trussell, Chair, Civil Procedure Rules Committee
Dominic C. Mackenzie, Chair, Code and Rules of Evidence Committee
Hon. Thomas H. Bateman, III, Chair, Criminal Procedure Rules Committee
Robyn L. Vines, Chair, Family Law Rules Committee
Hon. Lisa Davidson, Chair, Judicial Ethics Advisory Committee
David N. Silverstein, Chair, Juvenile Procedure Rules Committee
Frank T. Pilotte, Chair, Probate Rules Committee
Scott M. Dimond, Chair, Rules Of Judicial Administration Committee
Hon. Debra Roberts, Chair, Small Claims Rules Committee
Kathy A. Jimenez-Morales, Chair, Traffic Court Rules Committee
Tracy Raffles Gunn, Chair, Standard Jury Instructions - Civil Cases
Hon. Thomas B. Smith, Chair, Standard Jury Instructions – Contract &
Business Cases
Hon. Lisa T. Munyon, Chair, Standard Jury Instructions - Criminal Cases
Ricardo "Rick" Morales, Chair, Workers' Compensation Rules Advisory
Committee
✓ Paul Hill, General Counsel, The Florida Bar
Lisa Goodner, State Courts Administrator
Brenda Johnson, Director of Community & Intergovernmental Relations
Laura Rush, General Counsel
Deborah J. Meyer, Director of Central Staff

APPENDIX B

RULE 12.742. PARENTING COORDINATION

(a) Applicability. This rule applies to parenting coordination.

(b) Order Referring Parties to Parenting Coordinator. An order referring the parties to a parenting coordinator must be in substantial compliance with Florida Family Law Rules of Procedure Form 12.996. The order must specify the role, responsibility, and authority of the parenting coordinator

(c) Appointment of Parenting Coordinator. The parties may agree in writing on a parenting coordinator subject to the court's approval. If the parties cannot agree on a parenting coordinator, the court shall appoint a parenting coordinator qualified by law.

(d) Response by Parenting Coordinator. The parenting coordinator must file a response accepting or declining the appointment in substantial compliance with Florida Family Law Rules of Procedure Form 12.984.

(e) Term of Service. The term of the parenting coordinator shall be as specified in the order of appointment or as extended by the court. The initial term of service shall not exceed two years. The court shall terminate the service on:

(1) The parenting coordinator's resignation or disqualification; or

(2) A finding of good cause shown based on the court's own motion or a party's written motion. Good cause includes, but is not limited to the occurrence of domestic violence; circumstances that compromise the safety of any person or the integrity of the process; or a finding that there is no longer a need for the service of the parenting coordinator. The motion and notice of hearing shall also be served on the parenting coordinator.

(f) Appointment of Substitute Parenting Coordinator. If a parenting coordinator cannot serve or continue to serve, a substitute parenting coordinator may be chosen in the same manner as the original.

(g) Authority with Consent. The parenting coordinator may have additional authority with express written consent. If there has been a history

of domestic violence the court must find that consent has been freely and voluntarily given.

(1) With the express written consent of both parties, the parenting coordinator may

(A) have temporary decisionmaking authority to resolve specific non-substantive disputes between the parties until such time as a court order is entered modifying the decision; or

(B) make recommendations to the court concerning modifications to the parenting plan or time-sharing.

(2) With the express written consent of a party, a parenting coordinator may

(A) have access to confidential and privileged records and information of that party; or

(B) provide confidential and privileged information for that party to health care providers and to any other third parties.

(3) With the express approval of the court, the parenting coordinator may

(A) have access to a child's confidential and privileged records and information; or

(B) provide confidential and privileged information for that child to health care providers and to any other third parties.

(h) Limitation of Authority. A parenting coordinator shall not have decision making authority to resolve substantive disputes between the parties. A dispute is substantive if it would

(1) significantly change the quantity or decrease the quality of time a child spends with either parent; or

(2) modify parental responsibility.

(i) Emergency Order.

(1) Consideration by the Court. On the filing of an affidavit or verified report of an emergency by the parenting coordinator, the court shall determine whether the facts and circumstances contained in the report constitute an emergency and whether an emergency order needs to be entered with or without notice to the parties to prevent or stop furtherance of the emergency.

(2) Ex Parte Order. An emergency order may be entered without notice to the parties if it appears from the facts shown by the affidavit or verified report that there is an immediate and present danger that the emergency situation will occur before the parties can be heard. No evidence other than the affidavit or verified report shall be used to support the emergency being reported unless the parties appear at the hearing or have received notice of a hearing. Every temporary order entered without notice in accordance with this rule shall be endorsed with the date and hour of entry, be filed forthwith in the clerk's office, and define the injury or potential injury, state findings by the court why the injury or potential injury may be irreparable, and give the reasons why the order was granted without notice. The court shall provide the parties and attorney ad litem, if one is appointed, with a copy of the parenting coordinator's affidavit or verified report giving rise to the ex parte order. A return hearing shall be scheduled if the court issues an emergency ex parte order.

(3) Duration. The emergency order shall remain in effect until further order.

(4) Motion to Dissolve or Modify Ex Parte Order. A motion to modify or dissolve an ex parte emergency order must be heard within 5 days after the movant applies for a hearing.

(j) Written Communication with Court. The parenting coordinator may submit a written report or other written communication regarding any nonconfidential matter to the court. The parenting coordinator must contemporaneously serve each party with a copy of the written communication.

(k) Testimony and Discovery. A parenting coordinator shall not be called to testify or be subject to the discovery rules of the Florida Family

Law Rules of Procedure unless the court makes a prior finding of good cause. A party must file a motion, alleging good cause why the court should allow the parenting coordinator to testify or be subject to discovery. The requesting party shall serve the motion and notice of hearing on the parenting coordinator. The requesting party shall initially be responsible for the parenting coordinator's fees and costs incurred as a result of the motion.

Committee Note

2009 Adoption. The provisions of subdivision (k) do not abrogate the confidentiality provisions of section 61.125, Florida Statutes. An exception to confidentiality must apply before invoking this subdivision of the rule.

INSTRUCTIONS FOR FLORIDA FAMILY LAW RULES OF PROCEDURE FORM 12.984, RESPONSE BY PARENTING COORDINATOR (--/--)

When should this form be used?

A person appointed as a parenting coordinator must accept or decline the appointment under Florida Family Law Rule of Procedure 12.742(d). If you accept the appointment, you must complete paragraphs 1(a) and 2 and sign it. If you decline the appointment, you must complete only paragraph 1(b) and sign the form. This form should be typed or printed in black ink.

Important Consideration Before Responding.

A Qualified Parenting Coordinator or other licensed mental health professional under Chapter 490 or 491, Florida Statutes, shall abide by the ethical and other professional standards imposed by his or her licensing authority, certification board, or both, as applicable.

A person that is not a Qualified Parenting Coordinator or a licensed mental health professional under Chapter 490 or 491, Florida Statutes, shall not accept an appointment to serve as parenting coordinator in a matter that presents an apparent or undisclosed conflict of interest. A conflict of interest arises when any relationship between the parenting coordinator and either party compromises or appears to compromise the parenting coordinator's ability to serve. The burden of disclosure of any potential conflict of interest rests on the parenting coordinator. Disclosure shall be made as soon as practical after the parenting coordinator becomes aware of the potential conflict of interest. If a parenting coordinator makes an appropriate disclosure of a conflict of interest or a potential conflict of interest, he or she may serve if all parties agree. However, if a conflict of interest substantially impairs a parenting coordinator's ability to serve, the parenting coordinator shall decline the appointment or withdraw regardless of the express agreement of the parties.

A parenting coordinator shall not provide any services to either party that would impair the parenting coordinator's ability to be neutral.

What should I do next?

After completing and signing this form, you must file the original with the clerk of the circuit court in the county in which the action is pending and keep a copy for your records.

You must mail or hand-deliver a copy of this form to the attorney(s) for the parents or, if not represented by an attorney, to the parents.

Where can I look for more information?

Before proceeding, you should read "General Information for Self-Represented Litigants" found at the beginning of these forms. For more information, see section 61.125, Florida Statutes, Florida Family Law Rule of Procedure 12.742, and the **Order of Referral to Parenting Coordinator**, Florida Family Law Rules of Procedure Form 12.996(a).

Special notes

Remember, a person who is NOT an attorney is called a nonlawyer. If a nonlawyer helps you fill out these forms, that person must give you a copy of **Disclosure from Nonlawyer**, Florida Family Law Rules of Procedure Form 12.900(a), before he or she helps you. A nonlawyer helping you fill out these forms also must put his or her name, address, and telephone number on the bottom of the last page of every form he or she helps you complete.

IN THE CIRCUIT COURT OF THE {circuit number} _____ JUDICIAL CIRCUIT,
IN AND FOR {county name} _____ COUNTY, FLORIDA

CASE NO.: _____

DIVISION: _____

Petitioner,

and

Respondent.

RESPONSE BY PARENTING COORDINATOR

I, {name} _____, notify the Court and affirm the following:

1. Acceptance.

[check **one** only]

- a. I accept the appointment as parenting coordinator.
- b. I decline the appointment as parenting coordinator.

2. Qualifications.

[check **one** only]

- a. I meet the qualifications in section 61.125(4), Florida Statutes.
- b. I do not meet the qualifications in section 61.125(4), Florida Statutes. However, the parties have chosen me by mutual consent and I believe I can perform the services of a parenting coordinator because: _____

3. I am not aware of any conflict, circumstance, or reason that renders me unable to serve as the parenting coordinator in this matter and I will immediately inform the court and the parties if such arises.

4. I understand my role, responsibility, and authority under the Order Referring Parents to Parenting Coordinator, Florida Family Law Rules of Procedure Form 12.996(a) and section 61.125, Florida Statutes.

I hereby affirm the truth of the statements in this acceptance and understand that if I make any false representations in this acceptance, I am subject to sanctions by the Court.

Date _____

Signature

Printed Name: _____

Address: _____

City, State, Zip: _____

Telephone Number: _____

Professional License # (if applicable) _____

Professional Certification # (if applicable) _____

Copies to: Attorney for Parent #1 OR Parent #1 if not represented by Counsel

Attorney for Parent #2 OR Parent #2 if not represented by Counsel

IF A NONLAWYER HELPED YOU FILL OUT THIS FORM, HE/SHE MUST FILL IN THE BLANKS

BELOW: [fill in all blanks]

I, *{full legal name and trade name of nonlawyer}* _____,

a nonlawyer, located at *{street}* _____, *{city}* _____,

{state} _____, *{phone}* _____, helped *{name}* _____,

who is the the appointed parenting coordinator fill out this form.

IN THE CIRCUIT COURT OF THE {circuit number} _____ JUDICIAL CIRCUIT,
IN AND FOR {name of county} _____ COUNTY, FLORIDA

Case No.: _____

Division: _____

Petitioner

and

Respondent.

ORDER OF REFERRAL TO PARENTING COORDINATOR

The Court considered the () motion of the court, () joint motion of the parties, () motion of a party, reviewed the court file, and considered the testimony presented. Based on this information, the court **FINDS** that:

A. Appropriateness of Process. This matter is appropriate for parenting coordination and it is in the best interest of the child(ren).

B. Parenting Coordination Process. Parenting coordination is a child-focused alternative dispute resolution process whereby a parenting coordinator assists the parties in creating or implementing their parenting plan by facilitating the resolution of disputes, providing education and making recommendations to the parties; and, with the prior consent of the parties and approval of the court, making limited decisions within the scope of this order of referral.

C. Parenting Coordinator. A parenting coordinator is an impartial third person whose role is to assist the parties in successfully creating or implementing a parenting plan.

D. Selection of Parenting Coordinator. The parenting coordinator was selected by:
[choose one]

___ the parties' agreement.

___ the court.

E. History of Domestic Violence. Based on testimony and evidence presented and a review of related court records, the court has determined:

[choose all that apply]

___ There is no history of domestic violence.

___ There has been a history of domestic violence, and:

___ Each party has had an opportunity to consult with an attorney or domestic violence advocate before this court has accepted the parties' consent.

Each party has consented to this referral and the consent has been given freely and voluntarily.

It is therefore, **ORDERED**:

1. Parenting Coordinator. The parties are referred to the following parenting coordinator for an initial period of _____ months:

Name: _____

Address: _____

Telephone No. _____

Fax Number: _____

a. The parenting coordinator shall file a response to this Order within 30 days of accepting or declining the appointment. The response to the appointment must be in substantial compliance with Florida Family Law Rules of Procedure Form 12.984.

b. The parties or their attorneys must provide to the parenting coordinator copies of all pleadings and orders related to domestic violence and any other pleadings and orders requested by the parenting coordinator related to parenting coordination.

2. Meetings. Unless prohibited herein as a domestic violence safeguard or by another court order, the parenting coordinator may meet with the parties and/or child(dren) together or separately, in person or by any electronic means.

3. Domestic Violence Safeguards. The parties shall adhere to all provisions of any injunction for protection or conditions of bail, probation, or a sentence arising from criminal proceedings. In addition to any safety measures the parenting coordinator deems necessary, the following domestic violence safeguards must be implemented:

[check all that apply]

 None are necessary.

 No joint meetings

 No direct negotiations

 No direct communications

 Other: _____

4. Role, Responsibility, and Authority of Parenting Coordinator. The parenting coordinator shall have the following role, responsibility, and authority:

a. Assist in the parties in creating and implementing a parenting plan.

b. Facilitating the resolution of disputes regarding the creation or implementation of the Parenting Plan.

c. Recommending to parties strategies for creating or implementing the Parenting Plan. Such recommendations may include that one or both parents avail themselves of accessible and appropriate community resources, including, but not limited to, random drug screens, parenting classes, and individual psychotherapy or family counseling, if there is a history or evidence that such referrals are appropriate.

d. Recommending to the parents changes to the Parenting Plan.

e. Educating the parties to effectively:

i. Parent in a manner that minimizes conflicts;

ii. Communicate and negotiate with each other and their child(ren);

iii. Develop and apply appropriate parenting skills;

iv. Understand principles of child development and issues facing child(ren) when their parents no longer live together;

v. Disengage from the other parent when engagement leads to conflicts and non-cooperation;

vi. Identify the sources of their conflict with each other and work jointly to minimize conflict and lessen its deleterious effects on the child(ren); and,

vii. Allow the child(ren) to grow up free from the threat of being caught in the middle of their parents' disputes.

f. Reporting or communicating with the court concerning nonconfidential matters as provided in paragraph 6 of this order.

g. Communicating with the parties and their child(ren), separately or together, in person or by telephone, unless otherwise prohibited by court order or applicable law.

5. Fees and Costs for Parenting Coordination.

[check all that apply]

 a. The parties have consented to this referral to parenting coordination.

 This order is without the consent of the parties, but the court has determined that the parties have the financial ability to pay the parenting coordination fees and costs.

 b. The court allocates payment of fees and costs for parenting coordination as follows:

 % shall be paid by the Father.

 % shall be paid by the Mother.

 Other: _____

If a party has caused the parenting coordinator to expend an unreasonable and unnecessary amount of time, that party may be solely responsible for payment of the parenting coordinator's fees and costs for such time expended. Failure to pay the parenting coordinator's fees and costs in a timely manner may subject the party to sanctions for contempt of court.

6. **Confidentiality.** All communications made by, between, or among the parties and the parenting coordinator during parenting coordination sessions are confidential. The parenting coordinator and each party may not testify or offer evidence about communications made by a party or the parenting coordinator during the parenting coordination sessions, except if:

a Necessary to identify, authenticate, confirm, or deny a written agreement entered into by the parties during parenting coordination.

b The testimony or evidence is necessary to identify an issue for resolution by the court without otherwise disclosing communications made by any party or the parenting coordinator.

c The testimony or evidence is limited to the subject of a party's compliance with the order of referral to parenting coordination, orders for psychological evaluation, counseling ordered by the court or recommended by a health care provider, or for substance abuse testing or treatment.

d The parenting coordinator reports that the case is no longer appropriate for parenting coordination.

e The parenting coordinator is reporting that he or she is unable or unwilling to continue to serve and that a successor parenting coordinator should be appointed.

f The testimony or evidence is necessary pursuant to section 61.125 (5)(b) or section 61.125(8), Florida Statutes.

g The parenting coordinator is not qualified to address or resolve certain issues in the case and a more qualified coordinator should be appointed.

h The parties agree that the testimony or evidence be permitted.

i The testimony or evidence is necessary to protect any person from future acts that would constitute domestic violence under Chapter 741, Florida Statutes; child abuse, neglect, or abandonment under Chapter 39, Florida Statutes; or abuse, neglect, or exploitation of an elderly or disabled adult under Chapter 825, Florida Statutes.

7. **Agreement on Nonconfidentiality.** The parties can agree to waive confidentiality of a specific communication or all communications. The waiver must be in writing, signed by the parties and their respective counsel. The waiver shall be filed with the court and a copy served on the parenting coordinator. Either party may revoke their waiver of confidentiality by providing written notice signed by the party. The revocation shall be filed with the court and a copy served on the other party and the parenting coordinator.

8. **Scheduling.** Each party shall contact the parenting coordinator within 10 days of the date of this order to schedule the first appointment. The parenting coordinator shall determine the schedule for subsequent appointments.

ORDERED ON {date} _____.

CIRCUIT JUDGE

COPIES TO:

Parenting Coordinator

Address : _____

Name of Party: _____

Counsel for Party: _____

Address of Counsel: _____

Name of Party: _____

Counsel for Party: _____

Address of Counsel: _____

Guardian ad Litem: _____

Address of GAL: _____

APPX. C

Proposed rule

Reasons for change

RULE 12.742. PARENTING COORDINATION

Adopted to implement creation of section 61.125, Florida Statutes by section 2 of Chapter 2009-180, Laws of Florida.

(a) Applicability. This rule applies to parenting coordination.

(b) Order Referring Parties to Parenting Coordinator. An order referring the parties to a parenting coordinator must be in substantial compliance with Florida Family Law Rules of Procedure Form 12.996. The order must specify the role, responsibility, and authority of the parenting coordinator

(c) Appointment of Parenting Coordinator. The parties may agree in writing on a parenting coordinator subject to the court's approval. If the parties cannot agree on a parenting coordinator, the court shall appoint a parenting coordinator qualified by law.

(d) Response by Parenting Coordinator. The parenting coordinator must file a response accepting or declining the appointment in substantial compliance with Florida Family Law Rules of Procedure Form 12.984.

(e) Term of Service. The term of the parenting coordinator shall be as specified in the order of appointment or as extended by the court. The initial term of service shall not exceed two years. The court shall terminate the service on:

- (1) The parenting coordinator's resignation or

disqualification; or

(2) A finding of good cause shown based on the court's own motion or a party's written motion. Good cause includes, but is not limited to the occurrence of domestic violence; circumstances that compromise the safety of any person or the integrity of the process; or a finding that there is no longer a need for the service of the parenting coordinator. The motion and notice of hearing shall also be served on the parenting coordinator.

(f) Appointment of Substitute Parenting Coordinator. If a parenting coordinator cannot serve or continue to serve, a substitute parenting coordinator may be chosen in the same manner as the original.

(g) Authority with Consent. The parenting coordinator may have additional authority with express written consent. If there has been a history of domestic violence the court must find that consent has been freely and voluntarily given.

(1) With the express written consent of both parties, the parenting coordinator may

(A) have temporary decisionmaking authority to resolve specific non-substantive disputes between the parties until such time as a court order is entered modifying the decision; or

(B) make recommendations to the court concerning modifications to the parenting plan or time-sharing.

(2) With the express written consent of a party, a parenting coordinator may

(A) have access to confidential and privileged records and information of that party; or

(B) provide confidential and privileged information for that party to health care providers and to any other third parties.

(3) With the express approval of the court, the parenting coordinator may

(A) have access to a child's confidential and privileged records and information; or

(B) provide confidential and privileged information for that child to health care providers and to any other third parties.

(h) Limitation of Authority. A parenting coordinator shall not have decision making authority to resolve substantive disputes between the parties. A dispute is substantive if it would

(1) significantly change the quantity or decrease the quality of time a child spends with either parent; or

(2) modify parental responsibility.

(i) Emergency Order.

(1) Consideration by the Court. On the filing of an affidavit or verified report of an emergency by the parenting coordinator, the court shall determine whether the facts and circumstances contained in the report constitute an emergency and whether an emergency order needs to be entered with or without notice to the parties to prevent or stop furtherance of the emergency.

(2) Ex Parte Order. An emergency order may be entered without notice to the parties if it appears from the facts shown by the affidavit or verified report that there is an immediate and present danger that the emergency situation will occur before the parties can be heard. No evidence other than the affidavit or verified report shall be used to support the emergency being reported unless the parties appear at the hearing or have received notice of a hearing. Every temporary order entered without notice in accordance with this rule shall be endorsed with the date and hour of entry, be filed forthwith in the clerk's office, and define the injury or potential injury, state findings by the court why the injury or potential injury may be irreparable, and give the reasons why the order was granted without notice. The court shall provide the parties and attorney ad litem, if one is appointed, with a copy of the parenting coordinator's affidavit or verified report giving rise to the ex parte order. A return hearing shall be scheduled if the court issues an emergency ex parte order.

(3) Duration. The emergency order shall remain in effect until further order.

(4) Motion to Dissolve or Modify Ex Parte Order.

A motion to modify or dissolve an ex parte emergency order must be heard within 5 days after the movant applies for a hearing.

(j) Written Communication with Court. The parenting coordinator may submit a written report or other written communication regarding any nonconfidential matter to the court. The parenting coordinator must contemporaneously serve each party with a copy of the written communication.

(k) Testimony and Discovery. A parenting coordinator shall not be called to testify or be subject to the discovery rules of the Florida Family Law Rules of Procedure unless the court makes a prior finding of good cause. A party must file a motion, alleging good cause why the court should allow the parenting coordinator to testify or be subject to discovery. The requesting party shall serve the motion and notice of hearing on the parenting coordinator. The requesting party shall initially be responsible for the parenting coordinator's fees and costs incurred as a result of the motion.

Committee Note

2009 Adoption. The provisions of subdivision (k) do not abrogate the confidentiality provisions of section 61.125, Florida Statutes. An exception to confidentiality must apply before invoking this subdivision of the rule.

APPENDIX D

CHAPTER 2009-180

Committee Substitute for Committee Substitute for Committee Substitute for Senate Bill No. 904

An act relating to parental responsibility and time-sharing; amending s. 61.046, F.S.; redefining the terms “parenting plan,” “parenting plan recommendations,” and “time-sharing schedule”; creating s. 61.125, F.S.; providing for parenting coordination as an alternative dispute resolution process to resolve parenting plan disputes; providing for court referral; providing for domestic violence situations; providing the qualifications required for a parenting coordinator and for the disqualification of a coordinator; providing for the payment of parenting coordination fees and costs; providing for confidentiality; providing for emergency reporting to the court by the coordinator; providing a limitation on the coordinator’s liability; amending s. 61.13, F.S., relating to child support, parenting plans, and time-sharing; deleting obsolete provisions; requiring a parenting plan to include the address to be used for determining school boundaries; revising the elements of the rebuttable presumption that shared parental responsibility is detrimental to a child when a parent is convicted of a crime involving domestic violence; providing that the presumption applies to a crime that is a misdemeanor of the first degree or higher rather than to a crime that is a felony of the third degree or higher; allowing the modification of a parenting plan only upon a showing of substantially changed circumstances; requiring a court to make explicit written findings if, when determining the best interests of a child for the purposes of shared parental responsibility and visitation, the court considered evidence of domestic or sexual violence and child abuse, abandonment, or neglect; amending s. 61.13001, F.S., relating to parental relocation; deleting terms and redefining the terms “other person,” “parent,” and “relocation”; substituting the term “access to” for “visitation”; deleting provisions relating to the requirement for a Notice of Intent to Relocate and substituting procedures relating to filing a petition to relocate; requiring a hearing on a motion seeking a temporary relocation to be held within a certain time; providing for applicability of changes made by the act; amending ss. 61.183, 61.20, and 61.21, F.S.; conforming provisions to changes made by the act; amending s. 741.30, F.S., relating to domestic violence; authorizing a court to issue an ex parte injunction that provides a temporary parenting plan; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsections (13), (14), and (22) of section 61.046, Florida Statutes, are amended to read:

61.046 Definitions.—As used in this chapter, the term:

(13) “Parenting plan” means a document created to govern the relationship between the parents parties relating to ~~the~~ decisions that must be made regarding the minor child and must shall contain a time-sharing schedule for the parents and child. The issues concerning the minor child may include, but are not limited to, the child’s education, health care, and physical, social, and emotional well-being. In creating the

plan, all circumstances between the ~~parents parties~~, including ~~their the parties'~~ historic relationship, domestic violence, and other factors must be taken into consideration.

~~(a)~~ The parenting plan ~~must shall~~ be:

~~1.~~ Developed and agreed to by the parents and approved by a court; or,

~~2. If the parents cannot agree,~~ Established by the court, with or without the use of a court-ordered parenting plan recommendation, if the parents cannot agree to a plan or the parents agreed to a plan that is not approved by the court.

~~(b)(a)~~—Any parenting plan formulated under this chapter must address all jurisdictional issues, including, ~~but not limited to,~~ the Uniform Child Custody Jurisdiction and Enforcement Act, part II of this chapter, the Inter-national Child Abduction Remedies Act, 42 U.S.C. ss. 11601 et seq., the Parental Kidnapping Prevention Act, and the Convention on the Civil Aspects of International Child Abduction enacted at the Hague on October 25, 1980.

~~(c)(b)~~—For purposes of the ~~application of the~~ Uniform Child Custody Jurisdiction and Enforcement Act, part II of this chapter, a judgment or order incorporating a parenting plan under this part is a child custody determination under part II of this chapter.

~~(d)(e)~~—For purposes of the International Child Abduction Remedies Act, 42 U.S.C. ss. 11601 et seq., and the Convention on the Civil Aspects of International Child Abduction, enacted at the Hague on October 25, 1980, rights of custody and rights of access are shall be determined pursuant to under the parenting plan under this part.

(14) “Parenting plan recommendation” means a nonbinding recommendation concerning one or more elements of a parenting plan made by a court-appointed mental health practitioner or other professional designated pursuant to s. 61.20, s. 61.401, or Florida Family Law Rules of Procedure 12.363 psychologist licensed under chapter 490.

(22) “Time-sharing schedule” means a timetable that must be included in the parenting plan that specifies the time, including overnights and holidays, that a minor child will spend with each parent. The time-sharing schedule shall be:

~~(a)~~ ~~If~~ Developed and agreed to by the parents of a minor child and, it must be approved by the court; or-

~~(b)~~ Established by the court if the parents cannot agree or if their agreed-upon schedule is not approved by the court, the schedule shall be established by the court.

Section 2. Section 61.125, Florida Statutes, is created to read:

61.125 Parenting coordination.—

(1) PURPOSE.—The purpose of parenting coordination is to provide a child-focused alternative dispute resolution process whereby a parenting coordinator assists the parents in creating or implementing a parenting plan by facilitating the resolution of disputes between the parents by providing education, making recommendations, and, with the prior approval of the parents and the court, making limited decisions within the scope of the court’s order of referral.

(2) REFERRAL.—In any action in which a judgment or order has been sought or entered adopting, establishing, or modifying a parenting plan, except for a domestic

violence proceeding under chapter 741, and upon agreement of the parties, the court's own motion, or the motion of a party, the court may appoint a parenting coordinator and refer the parties to parenting coordination to assist in the resolution of disputes concerning their parenting plan.

(3) DOMESTIC VIOLENCE ISSUES.—

(a) If there has been a history of domestic violence, the court may not refer the parties to parenting coordination unless both parents consent. The court shall offer each party an opportunity to consult with an attorney or domestic violence advocate before accepting the party's consent. The court must determine whether each party's consent has been given freely and voluntarily.

(b) In determining whether there has been a history of domestic violence, the court shall consider whether a party has committed an act of domestic violence as defined s. 741.28, or child abuse as defined in s. 39.01, against the other party or any member of the other party's family; engaged in a pattern of behaviors that exert power and control over the other party and that may compromise the other party's ability to negotiate a fair result; or engaged in behavior that leads the other party to have reasonable cause to believe he or she is in imminent danger of becoming a victim of domestic violence. The court shall consider and evaluate all relevant factors, including, but not limited to, the factors listed in s. 741.30(6)(b).

(c) If there is a history of domestic violence, the court shall order safeguards to protect the safety of the participants, including, but not limited to, adherence to all provisions of an injunction for protection or conditions of bail, probation, or a sentence arising from criminal proceedings.

(4) QUALIFICATIONS OF A PARENTING COORDINATOR.—A parenting coordinator is an impartial third person whose role is to assist the parents in successfully creating or implementing a parenting plan. Unless there is a written agreement between the parties, the court may appoint only a qualified parenting coordinator.

(a) To be qualified, a parenting coordinator must:

1. Meet one of the following professional requirements:

a. Be licensed as a mental health professional under chapter 490 or chapter 491.

b. Be licensed as a physician under chapter 458, with certification by the American Board of Psychiatry and Neurology.

c. Be certified by the Florida Supreme Court as a family law mediator, with at least a master's degree in a mental health field.

d. Be a member in good standing of The Florida Bar.

2. Complete all of the following:

a. Three years of postlicensure or postcertification practice.

b. A family mediation training program certified by the Florida Supreme Court.

c. A minimum of 24 hours of parenting coordination training in parenting coordination concepts and ethics, family systems theory and application, family dynamics in separation and divorce, child and adolescent development, the parenting coordination process, parenting coordination techniques, and Florida family law and procedure, and a minimum of 4 hours of training in domestic violence and child abuse which is related to parenting coordination.

(b) The court may require additional qualifications to address issues specific to

the parties.

(c) A qualified parenting coordinator must be in good standing, or in clear and active status, with his or her respective licensing authority, certification board, or both, as applicable.

(5) DISQUALIFICATIONS OF PARENTING COORDINATOR.—

(a) The court may not appoint a person to serve as parenting coordinator who, in any jurisdiction:

1. Has been convicted or had adjudication withheld on a charge of child abuse, child neglect, domestic violence, parental kidnapping, or interference with custody;

2. Has been found by a court in a child protection hearing to have abused, neglected, or abandoned a child;

3. Has consented to an adjudication or a withholding of adjudication on a petition for dependency; or

4. Is or has been a respondent in a final order or injunction of protection against domestic violence.

(b) A parenting coordinator must discontinue service as a parenting coordinator and immediately report to the court and the parties if any of the disqualifying circumstances described in paragraph (a) occur, or if he or she no longer meets the minimum qualifications in subsection (4), and the court may appoint another parenting coordinator.

(6) FEES FOR PARENTING COORDINATION.—The court shall determine the allocation of fees and costs for parenting coordination between the parties. The court may not order the parties to parenting coordination without their consent unless it determines that the parties have the financial ability to pay the parenting coordination fees and costs. (a) In determining if a nonindigent party has the financial ability to pay the parenting coordination fees and costs, the court shall consider the party's financial circumstances, including income, assets, liabilities, financial obligations, resources, and whether paying the fees and costs would create a substantial hardship.

(b) If a party is found to be indigent based upon the factors in s. 57.082, the court may not order the party to parenting coordination unless public funds are available to pay the indigent party's allocated portion of the fees and costs or the nonindigent party consents to paying all of the fees and costs.

(7) CONFIDENTIALITY.—Except as otherwise provided in this section, all communications made by, between, or among the parties and the parenting coordinator during parenting coordination sessions are confidential. The parenting coordinator and each party designated in the order appointing the coordinator may not testify or offer evidence about communications made by, between, or among the parties and the parenting coordinator during parenting coordination sessions, except if:

(a) Necessary to identify, authenticate, confirm, or deny a written agreement entered into by the parties during parenting coordination;

(b) The testimony or evidence is necessary to identify an issue for resolution by the court without otherwise disclosing communications made by any party or the parenting coordinator;

(c) The testimony or evidence is limited to the subject of a party's compliance

with the order of referral to parenting coordination, orders for psychological evaluation, counseling ordered by the court or recommended by a health care provider, or for substance abuse testing or treatment;

(d) The parenting coordinator reports that the case is no longer appropriate for parenting coordination;

(e) The parenting coordinator is reporting that he or she is unable or unwilling to continue to serve and that a successor parenting coordinator should be appointed;

(f) The testimony or evidence is necessary pursuant to paragraph (5)(b) or subsection (8);

(g) The parenting coordinator is not qualified to address or resolve certain issues in the case and a more qualified coordinator should be appointed;

(h) The parties agree that the testimony or evidence be permitted; or

(i) The testimony or evidence is necessary to protect any person from future acts that would constitute domestic violence under chapter 741; child abuse, neglect, or abandonment under chapter 39; or abuse, neglect, or exploitation of an elderly or disabled adult under chapter 825.

(8) REPORT OF EMERGENCY TO COURT.—

(a) A parenting coordinator must immediately inform the court by affidavit or verified report without notice to the parties of an emergency situation if:

1. There is a reasonable cause to suspect that a child will suffer or is suffering abuse, neglect, or abandonment as provided under chapter 39;

2. There is a reasonable cause to suspect a vulnerable adult has been or is being abused, neglected, or exploited as provided under chapter 415;

3. A party, or someone acting on a party's behalf, is expected to wrongfully remove or is wrongfully removing the child from the jurisdiction of the court without prior court approval or compliance with the requirements of s. 61.13001. If the parenting coordinator suspects that the parent has relocated within the state to avoid domestic violence, the coordinator may not disclose the location of the parent and child unless required by court order.

(b) Upon such information and belief, a parenting coordinator shall immediately inform the court by affidavit or verified report and serve a copy on each party of an emergency in which a party obtains a final order or injunction of protection against domestic violence or is arrested for an act of domestic violence as provided under chapter 741.

(9) LIMITATION ON LIABILITY.—A parenting coordinator appointed by the court is not liable for civil damages for any act or omission in the scope of his or her duties pursuant to an order of referral unless such person acted in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard for the rights, safety, or property of the parties.

Section 3. Paragraph (d) of subsection (1) and subsections (2), (3), and (6) of section 61.13, Florida Statutes, are amended to read:

61.13 Support of children; parenting and time-sharing; powers of court.—

(1)

~~(d)1. Unless the provisions of subparagraph 3. apply, all child support orders entered on or after January 1, 1985, shall direct that the payments of child support be~~

~~made as provided in s. 61.181 through the depository in the county where the court is located. All child support orders shall provide the full name and date of birth of each minor child who is the subject of the child support order.~~

~~2. Unless the provisions of subparagraph 3. apply, all child support orders entered before January 1, 1985, shall be modified by the court to direct that payments of child support shall be made through the depository in the county where the court is located upon the subsequent appearance of either or both parents to modify or enforce the order, or in any related proceeding.~~

~~2.3. If both parties request and the court finds that it is in the best interest of the child, support payments need not be subject to immediate income deduction. Support orders that are not subject to immediate income deduction may be directed through the depository under s. 61.181. Payments for all support orders that provide for immediate income deduction shall be made to the State Disbursement Unit. ~~The order of support shall provide, or shall be deemed to provide, that either party may subsequently apply to the depository to require direction of the payments through the depository.~~ The court shall provide a copy of the order to the depository.~~

~~3.4. For support orders that do not provide for immediate income deduction if the parties elect not to require that support payments be made through the depository, any party, or the IV-D agency in a IV-D case, may subsequently file an affidavit with the State Disbursement Unit depository alleging a default in payment of child support and stating that the party wishes to require that payments be made through the State Disbursement Unit depository. The party shall provide copies of the affidavit to the court and to each other party. Fifteen days after receipt of the affidavit, the State Disbursement Unit depository shall notify all both parties that future payments shall be paid through the State Disbursement Unit depository.~~

~~5. In IV-D cases, the IV-D agency shall have the same rights as the obligee in requesting that payments be made through the depository.~~

(2)(a) The court ~~may shall have jurisdiction to~~ approve, grant, or modify a parenting plan, notwithstanding that the child is not physically present in this state at the time of filing any proceeding under this chapter, if it appears to the court that the child was removed from this state for the primary purpose of removing the child from the ~~court's jurisdiction of the court~~ in an attempt to avoid the court's approval, creation, or modification of a parenting plan.

(b) ~~A~~ Any parenting plan approved by the court must, at a minimum, describe in adequate detail how the parents will share and be responsible for the daily tasks associated with the upbringing of the child; the timesharing schedule arrangements that specify the time that the minor child will spend with each parent; a designation of who will be responsible for any and all forms of health care, school-related matters including the address to be used for school-boundary determination and registration, and other activities; and the methods and technologies that the parents will use to communicate with the child.

(c)~~1.~~ The court shall determine all matters relating to parenting and time-sharing of each minor child of the parties in accordance with the best interests of the child and in accordance with the Uniform Child Custody Jurisdiction and Enforcement Act, except that modification of a parenting

plan and time-sharing schedule requires a showing of a substantial, material, and unanticipated change of circumstances.

1. It is the public policy of this state ~~to assure~~ that each minor child has frequent and continuing contact with both parents after the parents separate or the marriage of the parties is dissolved and to encourage parents to share the rights and responsibilities, and joys, of childrearing. There is no presumption for or against the father or mother of the child or for or against any specific time-sharing schedule when creating or modifying the parenting plan of the child.

2. The court shall order that the parental responsibility for a minor child be shared by both parents unless the court finds that shared parental responsibility would be detrimental to the child. Evidence that a parent has been convicted of a misdemeanor felony of the ~~first third~~ degree or higher involving domestic violence, as defined in s. 741.28 and chapter 775, or meets the criteria of s. 39.806(1)(d), creates a rebuttable presumption of detriment to the child. If the presumption is not rebutted after the convicted parent is advised by the court that the presumption exists, shared parental responsibility, including time-sharing with the child, and decisions made regarding the child, may not be granted to the convicted parent. However, the convicted parent is not relieved of any obligation to provide financial support. If the court determines that shared parental responsibility would be detrimental to the child, it may order sole parental responsibility and make such arrangements for time-sharing as specified in the parenting plan as will best protect the child or abused spouse from further harm. Whether or not there is a conviction of any offense of domestic violence or child abuse or the existence of an injunction for protection against domestic violence, the court shall consider evidence of domestic violence or child abuse as evidence of detriment to the child.

a. In ordering shared parental responsibility, the court may consider the expressed desires of the parents and may grant to one party the ultimate responsibility over specific aspects of the child's welfare or may divide those responsibilities between the parties based on the best interests of the child. Areas of responsibility may include education, health care, and any other responsibilities that the court finds unique to a particular family.

b. The court shall order "sole parental responsibility for a minor child to one parent, with or without time-sharing with the other parent"~~if when~~ it is in the best interests of the minor child.

3. Access to records and information pertaining to a minor child, including, but not limited to, medical, dental, and school records, may not be denied to either parent. Full rights under this subparagraph apply to either parent unless a court order specifically revokes these rights, including any restrictions on these rights as provided in a domestic violence injunction. A parent having rights under this subparagraph has the same rights upon request as to form, substance, and manner of access as are available to the other parent of a child, including, without limitation, the right to in-person communication with medical, dental, and education providers.

(d) The circuit court in the county in which either parent and the child reside or the circuit court in which the original order approving or creating the parenting plan was entered may ~~has jurisdiction to~~ modify the parenting plan. The court may change the venue in accordance with s. 47.122.

(3) For purposes of establishing or modifying parental responsibility and creating,

developing, approving, or modifying a parenting plan, including a time-sharing schedule, which governs each parent's relationship with his or her minor child and the relationship between each parent with regard to his or her minor child, the best interest of the child shall be the primary consideration. A determination of parental responsibility, a parenting plan, or a time-sharing schedule may not be modified without a showing of a substantial, material, and unanticipated change in circumstances and a determination that the modification is in the best interests of the child. Determination of the best interests of the child shall be made by evaluating all of the factors affecting the welfare and interests of the particular minor child and the circumstances of that family, including, but not limited to:

(a) The demonstrated capacity and disposition of each parent to facilitate and encourage a close and continuing parent-child relationship, to honor the time-sharing schedule, and to be reasonable when changes are required.

(b) The anticipated division of parental responsibilities after the litigation, including the extent to which parental responsibilities will be delegated to third parties.

(c) The demonstrated capacity and disposition of each parent to determine, consider, and act upon the needs of the child as opposed to the needs or desires of the parent.

(d) The length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity.

(e) The geographic viability of the parenting plan, with special attention paid to the needs of school-age children and the amount of time to be spent traveling to effectuate the parenting plan. This factor does not create a presumption for or against relocation of either parent with a child.

(f) The moral fitness of the parents.

(g) The mental and physical health of the parents.

(h) The home, school, and community record of the child.

(i) The reasonable preference of the child, if the court deems the child to be of sufficient intelligence, understanding, and experience to express a preference.

(j) The demonstrated knowledge, capacity, and disposition of each parent to be informed of the circumstances of the minor child, including, but not limited to, the child's friends, teachers, medical care providers, daily activities, and favorite things.

(k) The demonstrated capacity and disposition of each parent to provide a consistent routine for the child, such as discipline, and daily schedules for homework, meals, and bedtime.

(l) The demonstrated capacity of each parent to communicate with and keep the other parent informed of issues and activities regarding the minor child, and the willingness of each parent to adopt a unified front on all major issues when dealing with the child.

(m) Evidence of domestic violence, sexual violence, child abuse, child abandonment, or child neglect, regardless of whether a prior or pending action relating to those issues has been brought. If the court accepts evidence of prior or pending actions regarding domestic violence, sexual violence, child abuse, child abandonment, or child neglect, the court must specifically acknowledge in writing that such evidence was considered when evaluating the best interests of the child.

(n) Evidence that either parent has knowingly provided false information to the

court regarding any prior or pending action regarding domestic violence, sexual violence, child abuse, child abandonment, or child neglect.

(o) The particular parenting tasks customarily performed by each parent and the division of parental responsibilities before the institution of litigation and during the pending litigation, including the extent to which parenting responsibilities were undertaken by third parties.

(p) The demonstrated capacity and disposition of each parent to participate and be involved in the child's school and extracurricular activities.

(q) The demonstrated capacity and disposition of each parent to maintain an environment for the child which is free from substance abuse.

(r) The capacity and disposition of each parent to protect the child from the ongoing litigation as demonstrated by not discussing the litigation with the child, not sharing documents or electronic media related to the litigation with the child, and refraining from disparaging comments about the other parent to the child.

(s) The developmental stages and needs of the child and the demonstrated capacity and disposition of each parent to meet the child's developmental needs.

(t) Any other factor that is relevant to the determination of a specific parenting plan, including the time-sharing schedule.

(6) In any proceeding under this section, the court may not deny shared parental responsibility and time-sharing rights to a parent solely because that parent is or is believed to be infected with human immunodeficiency virus, but the court may, condition such rights to require that parent in an order approving the parenting plan, require that parent to observe measures approved by the Centers for Disease Control and Prevention of the United States Public Health Service or by the Department of Health for preventing the spread of human immunodeficiency virus to the child.

Section 4. Section 61.13001, Florida Statutes, is amended to read:

61.13001 Parental relocation with a child.—

(1) DEFINITIONS.—As used in this section, the term:

~~(a) “Change of residence address” means the relocation of a child to a principal residence more than 50 miles away from his or her principal place of residence at the time of the entry of the last order establishing or modifying the parenting plan or the time sharing schedule or both for the minor child, unless the move places the principal residence of the minor child less than 50 miles from either parent.~~

~~(a)(b)~~—“Child” means any person who is under the jurisdiction of a state court pursuant to the Uniform Child Custody Jurisdiction and Enforcement Act or is the subject of any order granting to a parent or other person any right to time-sharing, residential care, kinship, or custody, as provided under state law.

~~(b)(c)~~—“Court” means the circuit court in an original proceeding which has proper venue and jurisdiction in accordance with the Uniform Child Custody Jurisdiction and Enforcement Act, the circuit court in the county in which either parent and the child reside, or the circuit court in which the original action was adjudicated.

~~(c)(d)~~—“Other person” means an individual who is not the parent, but with whom the child resides pursuant to and who, by court order, maintains the primary residence of a child or who has the right of access to, time-sharing with, or visitation with the visitation rights with a child.

~~(d)~~^(e) “Parent” means any person so named by court order or express written agreement who that is subject to court enforcement or a person reflected as a parent on a birth certificate and who is entitled to access to or time-sharing with the child in whose home a child maintains a residence.

~~(e)~~^(f) “Relocation” means a change in the location of the principal residence of a parent or other person from his or her principal place of residence at the time of the last order establishing or modifying time-sharing, or at the time of filing the pending action to establish or modify time-sharing. The change of location must be at least 50 miles from that residence, and for at least child for a period of 60 consecutive days not including or more but does not include a temporary absence from the principal residence for purposes of vacation, education, or the provision of health care for the child.

(2) RELOCATION BY AGREEMENT.—

(a) If the parents and every other person entitled to access to or timesharing with the child agree to the relocation of the child, they may satisfy the requirements of this section by signing a written agreement that:

1. Reflects ~~the~~ consent to the relocation;
2. Defines an access or a time-sharing schedule for the nonrelocating parent and any other persons who are entitled to access or time-sharing; and
3. Describes, if necessary, any transportation arrangements related to access or time-sharing the visitation.

(b) If there is an existing cause of action, judgment, or decree of record pertaining to the child’s residence or a time-sharing schedule, the parties shall seek ratification of the agreement by court order without the necessity of an evidentiary hearing unless a hearing is requested, in writing, by one or more of the parties to the agreement within 10 days after the date the agreement is filed with the court. If a hearing is not timely requested, it shall be presumed that the relocation is in the best interest of the child and the court may ratify the agreement without an evidentiary hearing.

(3) PETITION NOTICE OF INTENT TO RELOCATE WITH A CHILD.—

Unless an agreement has been entered as described in subsection (2), a parent or other person seeking relocation must file a petition to relocate and serve it upon who is entitled to time-sharing with the child shall notify the other parent, and every other person entitled to access to or timesharing with the child, ~~of a proposed relocation of the child’s residence. The pleadings must be in accordance with form of notice shall be according to~~ this section:

(a) The petition to relocate must be signed under oath or affirmation under penalty of perjury and include parent seeking to relocate shall prepare a Notice of Intent to Relocate. The following information must be included with the Notice of Intent to Relocate and signed under oath under penalty of perjury:

1. A description of the location of the intended new residence, including the state, city, and specific physical address, if known.
2. The mailing address of the intended new residence, if not the same as the physical address, if known.
3. The home telephone number of the intended new residence, if known.
4. The date of the intended move or proposed relocation.
5. A detailed statement of the specific reasons for the proposed relocation ~~of the child.~~ If one of the reasons is based upon a job offer that which has been reduced to

writing, ~~the that~~ written job offer must be attached to the petition Notice of Intent to Relocate.

6. A proposal for the revised postrelocation schedule for access and ~~of~~-time-sharing together with a proposal for the postrelocation transportation arrangements necessary to effectuate time-sharing with the child. Absent the existence of a current, valid order abating, terminating, or restricting access or time-sharing ~~visitation~~ or other good cause predating the petition Notice of Intent to Relocate, failure to comply with this provision renders the petition Notice of Intent to relocate legally insufficient.

7. Substantially the following statement, in all capital letters and in the same size type, or larger, as the type in the remainder of the petition notice:

A RESPONSE AN OBJECTION TO THE PETITION OBJECTING TO PROPOSED RELOCATION MUST BE MADE IN WRITING, FILED WITH THE COURT, AND SERVED ON THE PARENT OR OTHER PERSON SEEKING TO RELOCATE WITHIN 20 30 DAYS AFTER SERVICE OF THIS PETITION NOTICE OF INTENT TO RELOCATE. IF YOU FAIL TO TIMELY OBJECT TO THE RELOCATION, THE RELOCATION WILL BE ALLOWED, UNLESS IT IS NOT IN THE BEST INTERESTS OF THE CHILD, WITHOUT FURTHER NOTICE AND WITHOUT A HEARING.

~~8. The mailing address of the parent or other person seeking to relocate to which the objection filed under subsection (5) to the Notice of Intent to Relocate should be sent.~~

~~The contents of the Notice of Intent to Relocate are not privileged. For purposes of encouraging amicable resolution of the relocation issue, a copy of the Notice of Intent to Relocate shall initially not be filed with the court but instead served upon the nonrelocating parent, other person, and every other person entitled to time-sharing with the child, and the original thereof shall be maintained by the parent or other person seeking to relocate.~~

~~(b) The parent seeking to relocate shall also prepare a Certificate of Serving Notice of Intent to Relocate. The certificate shall certify the date that the Notice of Intent to Relocate was served on the other parent and on every other person entitled to time-sharing with the child.~~

~~(b)(e) The petition Notice of Intent to relocate must, and the Certificate of Serving Notice of Intent to Relocate, shall be served on the other parent and on every other person entitled to access to and time-sharing with the child. If there is a pending court action regarding the child, service of process may be according to court rule. Otherwise, service of process shall be according to chapters 48 and 49 or via certified mail, restricted delivery, return receipt requested.~~

~~(c)(d) A parent or other person seeking to relocate ~~giving notice of a proposed relocation or change of residence address under this section~~ has a continuing duty to provide current and updated information required by this section when that information becomes known.~~

~~(d)(e) If the other parent and any other person entitled to access to or time-sharing with the child fails to timely file a response objecting to the petition to relocate ~~an~~~~

~~objection, it is shall be~~ presumed that the relocation is in the best interest of the child and that; the relocation ~~should shall~~ be allowed, and the court shall, absent good cause, enter an order ~~specifying, attaching a copy of the Notice of Intent to Relocate, reflecting that the order is entered as a result of the failure to respond to the petition object to the Notice of Intent to Relocate,~~ and adopting the access and time-sharing schedule and transportation arrangements contained in the petition Notice of Intent to Relocate. The order may be issued ~~issue~~ in an expedited manner without the necessity of an evidentiary hearing. If a response an objection is timely filed, the parent or other person may not relocate, and must proceed to a temporary hearing or trial and burden returns to the parent or person seeking to relocate to initiate court proceedings to obtain court per-mission to relocate before doing so.

~~(e)(f) The act of Relocating the child without complying after failure to comply with the requirements of notice of intent to relocate procedure described in this subsection subjects the party in violation thereof to contempt and other proceedings to compel the return of the child and may be taken into account by the court in any initial or postjudgment action seeking a determination or modification of the parenting plan or the access or the time-sharing schedule, or both, as:~~

1. A factor in making a determination regarding the relocation of a child.
2. A factor in determining whether the parenting plan or the access or time-sharing schedule should be modified.
3. A basis for ordering the temporary or permanent return of the child.
4. Sufficient cause to order the parent or other person seeking to relocate the child to pay reasonable expenses and attorney's fees incurred by the party objecting to the relocation.
5. Sufficient cause for the award of reasonable attorney's fees and costs, including interim travel expenses incident to access or time-sharing or securing the return of the child.

(4) APPLICABILITY OF PUBLIC RECORDS LAW.—If the parent or other person seeking to relocate a child, or the child, is entitled to prevent disclosure of location information under a any public records exemption ~~applicable to that person~~, the court may enter any order necessary to modify the disclosure requirements of this section in compliance with the public records exemption.

~~(5) CONTENT OF OBJECTION TO RELOCATION.—An answer objecting to a proposed relocation objection seeking to prevent the relocation of a child must be verified and served within 30 days after service of the Notice of Intent to Relocate. The objection must include the specific factual basis supporting the reasons for seeking a prohibition of the relocation, including a statement of the amount of participation or involvement the objecting party currently has or has had in the life of the child.~~

~~(6) TEMPORARY ORDER.—~~

~~(a) The court may grant a temporary order restraining the relocation of a child, order or ordering the return of the child, if a relocation has previously taken place, or order other appropriate remedial relief, if the court finds:~~

1. That the petition to relocate does not comply with subsection (3) The required notice of a proposed relocation of a child was not provided in a timely manner;
2. That the child already has been relocated without a notice or written agreement of the parties or without court approval; or

3. From an examination of the evidence presented at the preliminary hearing that there is a likelihood that upon final hearing the court will not approve the relocation of the child.

(b) The court may grant a temporary order permitting the relocation of the child pending final hearing, if the court finds:

1. ~~Finds~~ That the petition ~~required Notice of Intent~~ to relocate was properly filed and is otherwise in compliance with subsection (3) provided in a timely manner; and

2. ~~Finds~~ From an examination of the evidence presented at the preliminary hearing, that there is a likelihood that on final hearing the court will approve the relocation of the child, which findings must be supported by the same factual basis as would be necessary to support approving the ~~permitting~~ of relocation in a final judgment.

(c) If the court has issued a temporary order authorizing a party seeking to relocate or move a child before a final judgment is rendered, the court may not give any weight to the temporary relocation as a factor in reaching its final decision.

(d) If temporary relocation of a child is approved ~~permitted~~, the court may require the person relocating the child to provide reasonable security, financial or otherwise, and guarantee that the court-ordered contact with the child will not be interrupted or interfered with by the relocating party.

(7) NO PRESUMPTION; FACTORS TO DETERMINE CONTESTED RELOCATION.—A presumption ~~does not arise~~ in favor of or against a request to relocate with the child does not arise if when a parent or other person seeks to relocate ~~move the child~~ and the move will materially affect the current schedule of contact, access, and time-sharing with the nonrelocating parent or other person. In reaching its decision regarding a proposed temporary or permanent relocation, the court shall evaluate all of the following ~~factors~~:

(a) The nature, quality, extent of involvement, and duration of the child's relationship with the parent or other person proposing to relocate with the child and with the nonrelocating parent, other persons, siblings, half-siblings, and other significant persons in the child's life.

(b) The age and developmental stage of the child, the needs of the child, and the likely impact the relocation will have on the child's physical, educational, and emotional development, taking into consideration any special needs of the child.

(c) The feasibility of preserving the relationship between the nonrelocating parent or other person and the child through substitute arrangements that take into consideration the logistics of contact, access, and time-sharing, as well as the financial circumstances of the parties; whether those factors are sufficient to foster a continuing meaningful relationship between the child and the nonrelocating parent or other person; and the likelihood of compliance with the substitute arrangements by the relocating parent or other person once he or she is out of the jurisdiction of the court.

(d) The child's preference, taking into consideration the age and maturity of the child.

(e) Whether the relocation will enhance the general quality of life for both the parent or other person seeking the relocation and the child, including, but not limited to, financial or emotional benefits or educational opportunities.

(f) The reasons ~~of~~ each parent or other person is for seeking or opposing the relocation.

(g) The current employment and economic circumstances of each parent or other person and whether ~~or not~~ the proposed relocation is necessary to improve the economic circumstances of the parent or other person seeking relocation of the child.

(h) That the relocation is sought in good faith and the extent to which the objecting parent has fulfilled his or her financial obligations to the parent or other person seeking relocation, including child support, spousal support, and marital property and marital debt obligations.

(i) The career and other opportunities available to the objecting parent or ~~objecting~~ other person if the relocation occurs.

(j) A history of substance abuse or domestic violence as defined in s. 741.28 or which meets the criteria of s. 39.806(1)(d) by either parent, including a consideration of the severity of such conduct and the failure or success of any attempts at rehabilitation.

(k) Any other factor affecting the best interest of the child or as set forth in s. 61.13.

(8) BURDEN OF PROOF.—The parent or other person wishing to relocate has the burden of ~~proving proof if an objection is filed and must then initiate a proceeding seeking court permission for relocation. The initial burden is on the parent or person wishing to relocate to prove~~ by a preponderance of the evidence that relocation is in the best interest of the child. If that burden of proof is met, the burden shifts to the nonrelocating parent or other person to show by a preponderance of the evidence that the proposed relocation is not in the best interest of the child.

(9) ORDER REGARDING RELOCATION.—If relocation is ~~approved~~ permitted:

(a) The court may, in its discretion, order contact with the nonrelocating parent or other person, including access, time-sharing, telephone, Internet, webcam, and other arrangements sufficient to ensure that the child has frequent, continuing, and meaningful contact, ~~access, and time-sharing~~ with the nonrelocating parent or other person ~~persons~~, if contact is financially affordable and in the best interest of the child.

(b) If applicable, the court shall specify how the transportation costs are to ~~will~~ be allocated between the parents and other persons entitled to contact, access, and time-sharing and may adjust the child support award, as appropriate, considering the costs of transportation and the respective net incomes of the parents in accordance with the state child support guidelines schedule.

(10) PRIORITY FOR HEARING OR TRIAL.—An evidentiary hearing or nonjury trial on a pleading seeking temporary or permanent relief filed under this section shall be accorded priority on the court's calendar. If a motion seeking a temporary relocation is filed, absent good cause, the hearing must occur no later than 30 days after the motion for a temporary relocation is filed. If a notice to set the matter for a nonjury trial is filed, absent good cause, the nonjury trial must occur no later than 90 days after the notice is filed.

(11) APPLICABILITY.—

(a) This section applies:

1. To orders entered before October 1, ~~2009~~ 2006, if the existing order defining custody, primary residence, the parenting plan, time-sharing, or access to visitation ~~of~~ or with the child does not expressly govern the relocation of the child.

2. To an order, whether temporary or permanent, regarding the parenting plan,

custody, primary residence, time-sharing, or access to ~~visitation of or with~~ the child entered on or after October 1, 2009 ~~2006~~.

3. To any relocation or proposed relocation, whether permanent or temporary, of a child during any proceeding pending on October 1, 2009 ~~2006~~, wherein the parenting plan, custody, primary residence, time-sharing, or access to ~~visitation of or with~~ the child is an issue.

(b) To the extent that a provision of this section conflicts with an order existing on October 1, 2009 ~~2006~~, this section does not apply to the terms of that order which expressly govern relocation of the child or a change in the principal residence address of a parent or other person.

Section 5. Subsection (1) of section 61.183, Florida Statutes, is amended to read:

61.183 Mediation of certain contested issues.—

(1) In any proceeding in which the issues of parental responsibility, primary residence, access to, visitation with, or support of a child are contested, the court may refer the parties to mediation in accordance with rules promulgated by the Supreme Court. In Title IV-D cases, any costs, including filing fees, recording fees, mediation costs, service of process fees, and other expenses incurred by the clerk of the circuit court, shall be assessed only against the nonprevailing obligor after the court makes a determination of the nonprevailing obligor's ability to pay such costs and fees.

Section 6. Subsection (3) of section 61.20, Florida Statutes, is amended to read:

61.20 Social investigation and recommendations regarding a parenting plan.—

(3) Except as to persons who obtain certification of indigence as specified in subsection (2), for whom no costs are ~~shall be~~ incurred, the parents ~~adult parties~~ involved in a proceeding to determine a parenting plan where ~~wherein~~ the court has ordered the performance of a social investigation and study are ~~shall be~~ responsible for paying ~~the payment of~~ the costs of the ~~such~~ investigation and study. Upon submitting ~~submission of~~ the study to the court, the agency, staff, or person performing the study shall include a bill for services, which shall be taxed and ordered paid as costs in the proceeding.

Section 7. Paragraph (a) of subsection (2) and subsections (5) and (9) of section 61.21, Florida Statutes, are amended to read:

61.21 Parenting course authorized; fees; required attendance authorized; contempt.—

(2) The Department of Children and Family Services shall approve a parenting course which shall be a course of a minimum of 4 hours designed to educate, train, and assist divorcing parents in regard to the consequences of divorce on parents and children.

(a) The parenting course referred to in this section shall be named the Parent Education and Family Stabilization Course and may include, but need not be limited to,

the following topics as they relate to court actions between parents involving custody, care, time-sharing visitation, and support of a child or children:

1. Legal aspects of deciding child-related issues between parents.
2. Emotional aspects of separation and divorce on adults.
3. Emotional aspects of separation and divorce on children.
4. Family relationships and family dynamics.
5. Financial responsibilities to a child or children.
6. Issues regarding spousal or child abuse and neglect.
7. Skill-based relationship education that may be generalized to parenting, workplace, school, neighborhood, and civic relationships.

(5) All parties required to complete a parenting course under this section shall begin the course as expeditiously as possible. For dissolution of marriage actions, unless excused by the court pursuant to subsection (4), the petitioner must complete the course within 45 days after the filing of the petition, and all other parties must complete the course within 45 days after service of the petition. For paternity actions, unless excused by the court pursuant to subsection (4), the petitioner must complete the course within 45 days after filing the petition, and any other party must complete the course within 45 days after an acknowledgment of paternity by that party, an adjudication of paternity of that party, or an order granting time-sharing visitation to or support from that party. Each party to a dissolution or paternity action shall file proof of compliance with this subsection with the court prior to the entry of the final judgment.

(9) The court may hold any parent who fails to attend a required parenting course in contempt, or that parent may be denied shared parental responsibility or time-sharing visitation or otherwise sanctioned as the court deems appropriate.

Section 8. Paragraph (a) of subsection (5) of section 741.30, Florida Statutes, is amended to read:

741.30 Domestic violence; injunction; powers and duties of court and clerk; petition; notice and hearing; temporary injunction; issuance of injunction; statewide verification system; enforcement.—

(5)(a) ~~If~~ ~~When~~ it appears to the court that an immediate and present danger of domestic violence exists, the court may grant a temporary injunction ex parte, pending a full hearing, and may grant such relief as the court deems proper, including an injunction:

1. Restraining the respondent from committing any acts of domestic violence.
2. Awarding to the petitioner the temporary exclusive use and possession of the dwelling that the parties share or excluding the respondent from the residence of the petitioner.
3. On the same basis as provided in s. 61.13, providing the petitioner a temporary parenting plan, including a time-sharing schedule, which may award the petitioner up to with 100 percent of the time-sharing. The temporary parenting plan remains that shall remain in effect until the order expires or an order is entered by a court of competent jurisdiction in a pending or subsequent civil action or proceeding affecting the placement of, access to, parental time with, adoption of, or parental rights and responsibilities for the minor child.

Section 9. This act shall take effect October 1, 2009.

Approved by the Governor June 16, 2009.

Filed in Office Secretary of State June 16, 2009.