SUPREME COURT OF PENNSYLVANIA
DOMESTIC RELATIONS PROCEDURAL RULES COMMITTEE

ADOPTION REPORT

Amendment of Pa.R.Civ.P. 1915.11-1, 1915.11-3, and 1915.23

On December 23, 2024, the Supreme Court amended Pennsylvania Rules of Civil Procedure Pa.R.Civ.P. 1915.11-1, 1915.11-3, and 1915.23 governing parenting coordination. The Domestic Relations Procedural Rules Committee has prepared this Adoption Report describing the rulemaking process. An Adoption Report should not be confused with Comments to the rules. *See* Pa.R.J.A. 103, cmt. The statements contained herein are those of the Committee, not the Court.

Currently, Pa.R.Civ.P. 1915.11-1(a)(2) requires both party's consent to participate in parenting coordination if there is a history of abuse between the parties. The Committee received a request to amend this rule to require only the consent of the abused party. The dual consent requirement created the opportunity for an abuser to further control a victim by withholding consent to parenting coordination, and therefore requiring more costly litigation, rather than allowing these issues to be resolved with the help of a parenting coordinator.

Additionally, the Committee received a request that the summary and recommendation form be revised to include a check box indicating whether the parties agree and space to recite the parties' agreement. Another request was to permit a parenting coordinator to file a recommendation with the court when either or both parties fail to pay the parenting coordinator. Absent such a provision, the only course of action for the parenting coordinator is to withdraw.

The Committee agreed that permitting an abuser to withhold consent to preclude the use of parenting coordination does seem to perpetuate the abuse. Accordingly, the Committee proposed amending Pa.R.Civ.P. 1915.11-1(a)(2) to remove the dual consent provision and to require that the court hold a hearing before appointing parenting coordinators in all matters that involve domestic violence. This would allow the court to determine the appropriateness of parenting coordination and ascertain if appropriate safety measures are possible. The Committee also observed that parenting coordinators are required to attend domestic violence training and should be capable of working with parties having an abuse history.

Next, the Committee acknowledged there was no uniform method for parenting coordinators to identify and submit agreements to the court. The Committee proposed amending the form in Pa.R.Civ.P. 1915.23 to include a recitation of the parties' agreement if one is reached. The revised form would allow parenting coordinators to record the

parties' agreement and assist the court by having a record of the agreement for purposes of enforcement and context in any subsequent modification or special relief proceedings.

The Committee also considered methods for parenting coordinators to enforce payment of their fees. Regarding fees, Pa.R.Civ.P. 1915.11-1(g) requires allocation between the parties and requires judicial districts to implement a program whereby low income and indigent parties can participate in parenting coordination at a reduced fee or no fee. The form order for the appointment of a parenting coordinator contains a provision for the allocation of fees, requires the judicial district's established hourly fee rate be set forth in a separate agreement between the parties and the parenting coordinator, and requires the parties to pay a joint retainer. *See* Pa.R.Civ.P. 1915.22 (provision No. 8 (Allocation of Fees)).

The retainer requirement was intended to prevent a parenting coordinator from having to pursue payment from the parties. However, for good cause, a retainer requirement can be waived. *See, e.g.*, Chester County Family Court Rule 1915.11-1.A(d) at 53 Pa.B. 7919 (December 23, 2023).[1] Thus, there may be instances when a parenting coordinator has rendered services, but the parties have failed to pay in advance in the manner of a retainer for those services. In response, the Committee proposed amending Pa.R.Civ.P. 1915.11-1 to permit the parenting coordinator to file a recommendation with the court seeking an order compelling a recalcitrant party to pay for services rendered.

The Committee believed there would be merit in publicly providing a list of all counties that have adopted local rules related to parenting coordination. This information would assist attorneys, particularly those who have multiple county practices, in advising their clients on the availability of parenting coordination. Accordingly, the Committee proposed Pa.R.Civ.P. 1915.11-3, which would require certification by counties that have implemented parenting coordination procedures. Thereafter, the Committee would compile a list and post the list on the Committee's webpage. This approach is similar to the requirement that counties certify their conference procedures in support, custody, and divorce. *See* Pa.R.Civ.P. 1910.10, 1915.4-1, and 1920.55-1. Please note, unlike the rules governing conference procedures, proposed Pa.R.Civ.P. 1915.11-3 would not require judicial districts to affirmatively state that they do not have a parenting coordination program.

Within Pa.R.Civ.P. 1915.11-1, the Committee proposed adding language stating that the parenting coordinator's recommendation is binding pending the court's disposition regardless of whether objections are filed. Currently, the rule indicates that a recommendation becomes an interim order, and presumably enforceable, if a party

[1] Pa.R.Civ.P. 1915.11-1(a)(5)(i) ("the amount of any retainer") suggests that retainers are not mandated.

objects and the court has not yet acted on the recommendation. The rule does not address the status of a recommendation if no objections are filed, and the court has yet to act on the recommendation. In the absence of procedural guidance, some parties or courts may interpret this omission as the parenting coordinator's recommendation having no effect until the court approves it. It seemed inconsistent for an objected-to recommendation to be enforceable but for an unobjected-to recommendation to not be enforceable.

Finally, the Committee proposed requiring that the court decision concerning a recommendation or objection be served on the parenting coordinator. Currently, there is no such requirement which may result in the parenting coordinator not being aware of the terms of the final order.

The proposal was published for comment at 53 Pa.B. 3696 (July 15, 2023). One commenter suggested that parenting coordinator qualifications include attorneys who have specialized in family law for a period of 20 years or more, without the need for specialized training. The Committee was not inclined to accept this suggestion because experience is not always an adequate substitute for specialized training. The specialized training includes not just the initial training of five hours in the parenting coordination process, ten hours of family mediation, and five hours of domestic violence, but also ten hours of continuing education in each two-year period following the initial appointment, with a minimum of two hours in domestic violence. The importance of the training requirement is heightened with the proposed possibility of parties with a domestic violence history being able to access parenting coordination.

Another commenter suggested that proposed Pa.R.Civ.P. 1915.11-1(b)(1)(ii) be revised to state: "The appointment may be made on a party's petition or the court's motion." This revision would require a party to file a petition rather than a motion because there would be factual averments that require a record hearing and findings of fact by a judge. The Committee made this revision.

These amendments become effective on April 1, 2025.