**PROPOSED AMENDMENTS TO THE RULES OF SUPERINTENDENCE**

**FOR THE COURTS OF OHIO**

Comments Requested: The Supreme Court of Ohio will accept public comments until September 4, 2013 on the following proposed amendments to the Rules of Superintendence for the Courts of Ohio.

 Comments on the proposed amendments should be submitted in writing to: Jacqueline Hagerott, **Manager, Dispute Resolutions Programs**, Supreme Court of Ohio, 65 South Front Street, 6th Floor, Columbus, Ohio 43215-3431, or disputeresolution@sc.ohio.gov not later than September 4, 2013. Please include your full name and mailing address in any comments submitted by e-mail.

Key to Proposed Amendment:

1. Original language of the rule appears as regular typescript.

2. Language to be deleted appears ~~thus~~.

3. Language to be added appears thus.

**RULES OF SUPERINTENDENCE FOR THE COURTS OF OHIO**

**RULE 90. Definitions.**

As used in Sup.R. 90 through 90.13:

**(A) Domestic abuse**

“Domestic abuse” means a pattern of abusive and controlling behavior that may include physical violence; coercion; threats; intimidation; isolation; or emotional, sexual, or economic abuse.

**(B) Domestic violence**

“Domestic violence” has the same meaning as in R.C. 3113.31(A)(1).

**(C) Parenting coordination**

“Parenting coordination” means a child-focused dispute resolution process ordered by a court of common pleas or division of the court to assist parents in implementing a parental rights and responsibilities or companionship time order using assessment, education, case management, conflict management, coaching, or decision-making.  “Parenting coordination” is not mediation subject to R.C. Chapter 2710 or Sup.R. 16.

**(D)  Parenting coordinator**

“Parenting coordinator” means an individual appointed by a court of common pleas or division of the court to conduct parenting coordination.

**RULE 90.01. Ordering of Parenting Coordination.**

A court of common pleas or division of the court may order parenting coordination when the court or division determines one or more of the following factors are present:

(A) The parents have ongoing disagreements about the implementation of a parental rights and responsibilities or companionship time order and need ongoing assistance;

(B) There is a history of extreme or ongoing parental conflict that has been unresolved by previous litigation or other interventions and from which a child of the parents is suffering;

(C) The parents have a child whose parenting time schedule requires frequent adjustments, specified in an order of the court or division, to maintain age-appropriate contact with both parents, and the parents have been previously unable to reach agreements on their parenting time schedule without intervention by the court or division;

(D) The parents have a child with a medical or psychological condition or disability that requires frequent decisions regarding treatment or frequent adjustments in the parenting time schedule, specified in an order of the court or division, and the parents have been previously unable to reach agreements on their parenting time schedule without intervention by the court or division;

(E) One or both parents suffer from a medical or psychological condition or disability that results in an inability to reach agreements on or make adjustments in their parenting time schedule without assistance, even when minor in nature;

(F)  Any other factor as determined by the court or division.

**RULE 90.02.** **Inappropriate Uses of Parenting Coordination.**

A court of common pleas or division of the court shall not order parenting coordination to determine any of the following:

(A) Whether to grant, modify, or terminate a protection order;

(B) The terms and conditions of a protection order;

(C) The penalty for violation of a protection order;

(D) Changes in the designation of the primary residential parent or legal custodian;

(E) Changes in the primary placement of a child.

**RULE 90.03. Parenting Coordination and Domestic Abuse or Domestic Violence.**

When domestic abuse or domestic violence is alleged, suspected, or present, parenting coordination may proceed only if all of the following conditions are satisfied:

(A) The person who is or may be the victim of domestic abuse or domestic violence is fully informed about the parenting coordination process and of the option to have a support person present at parenting coordination sessions;

(B)  Appropriate procedures are in place to provide for the safety of the person who is or may be the victim of domestic abuse or domestic violence and all other persons involved in the parenting coordination process;

(C)  Procedures are in place for the parenting coordinator to terminate a parenting coordination session if there is a continued threat of domestic abuse, domestic violence, or coercion between the parties.

**RULE 90.04. Local Parenting Coordination Rule.**

A court of common pleas or division of the court that chooses to use parenting coordination in the court or division shall adopt a local rule governing all ordered parenting coordination that does all of the following:

(A) Addresses the selection and referral of a case to parenting coordination at any point after a parental rights and responsibilities or companionship time order is filed;

(B) Addresses domestic abuse and domestic violence screening, both before and during parenting coordination;

(C)  Addresses appropriate referrals to legal counsel, counseling, parenting courses, and other support services for all parties, including but not limited to victims and suspected victims of domestic abuse and domestic violence;

(D) Allows parties, their attorneys, and any other individuals designated by the parties to attend and participate in parenting coordination sessions;

(E) Prohibits a parenting coordinator, even with consent of the parties, from serving in multiple roles with the same family that creates a professional conflict, including but not limited to a child’s attorney or child advocate; guardian ad litem; custody evaluator; therapist, consultant, coach, or other mental health role to any family member; or attorney for either party;

(F) Allows a mediator to also serve as a parenting coordinator with the same family, provided there is written consent of the parties and it is approved by the court or division;

(G) Addresses the issuance of parenting coordination agreements and reports or decisions by a parenting coordinator;

(H) Addresses terms and conditions for fees, including provisions for waiver of fees for indigent parties;

(I) Provides that the decision of a parenting coordinator is effective immediately and remains effective unless ordered otherwise by the court or division;

(J) Allows for objections to the decision of a parenting coordinator;

(K) Addresses the appointment and termination of appointment of a parenting coordinator;

(L) Addresses other provisions as the court or division considers necessary and appropriate.

**RULE 90.05. Responsibilities of Court or Division Ordering Parenting Coordination.**

A court of common pleas or division of the court that chooses to use parenting coordination in the court or division shall do all of the following:

(A) Maintain a roster of all parenting coordinators appointed by the court or division;

(B) Require each parenting coordinator appointed by the court or division to submit a resume documenting compliance with the parenting coordinator qualifications under Sup.R. 90.07;

(C) Require each parenting coordinator appointed by the court or division to submit to the court or division on or before January 1st of each year a list of continuing education training completed by the parenting coordinator during the previous calendar year pursuant to Sup.R. 90.09(A), including the title, date, and location of each training;

(D) On or before February 1st of each year, file with the Dispute Resolution Section of the Supreme Court all of the following:

(1) A copy of the local rule adopted by the court or division pursuant to Sup.R. 90.04;

(2) A copy of each resume received by the court or division from a parenting coordinator pursuant to division (B) of this rule during the previous year;

(3) A copy of each list of continuing education training received by the court or division from a parenting coordinator pursuant to division (C) of this rule.

**RULE 90.06. Appointment Order.**

A court of common pleas or division of the court ordering parenting coordination shall issue a written appointment order outlining all of the following regarding the appointed parenting coordinator:

(A) The specific powers and duties of the parenting coordinator;

(B) The term of the appointment;

(C) The scope of confidentiality;

(D) The parties’ responsibility for fees and expenses for services rendered by the parenting coordinator.

**RULE 90.07. General Parenting Coordinator Appointment Qualifications.**

A court of common pleas or division of the court shall not appoint an individual as a parenting coordinator unless the individual meets all of the following qualifications:

(A) Possesses a master’s degree, law degree, or education and experience satisfactory to the court or division;

(B) Possesses at least two years of professional experience with persons in high-conflict situations involving children, which includes parenting coordination, counseling, casework, legal representation in family law matters, serving as a guardian ad litem or mediator, or such other equivalent experience satisfactory to the court or division;

(C) Has completed in the following order the following training that has been approved by the Dispute Resolution Section of the Supreme Court and that meets standards established by the Supreme Court Commission on Dispute Resolution:

(1) At least twelve hours of basic mediation training;

(2) At least forty hours of specialized family or divorce mediation training;

(3) At least fourteen hours of specialized training in domestic abuse and dispute resolution;

(4)  At least twelve hours of specialized training in parenting coordination.

**RULE 90.08.** **Parenting Coordinator Qualifications in Abuse, Neglect, or Dependency Cases.**

A court of common pleas or division of the court shall not appoint an individual as a parenting coordinator in an abuse, neglect, or dependency case unless the individual meets both of the following qualifications:

(A) Possesses significant experience working with family disputes;

(B) Has completed at least thirty-two hours of specialized child protection mediation training that has been approved by the Dispute Resolution Section of the Supreme Court and that meets standards established by the Supreme Court Commission on Dispute Resolution.

**RULE 90.09.** **Parenting Coordinator Continuing Education.**

**(A) Requirement**

A parenting coordinator shall complete at least three hours per calendar year of continuing education relating to children. The continuing education may include continuing education for lawyers, social workers, psychologists, or other licensed mental health professionals and professional development events that are approved by the Dispute Resolution Section of the Supreme Court and that meet standards established by the Supreme Court Commission on Dispute Resolution.

**(B) Annual report**

On or before January 1st of each year, a parenting coordinator shall report to each court or division from which the parenting coordinator receives appointments a list of all continuing education training completed during the previous year pursuant to division (A) of this rule, including the title, date, and location of each training.

**(C) Failure to comply**

If a parenting coordinator fails to comply with the continuing education requirement of division (A) of this rule, the parenting coordinator shall not be eligible to serve as a parenting coordinator until the requirement is satisfied. The parenting coordinator shall complete three hours of continuing education for each calendar year of deficiency.

**RULE 90.10. Responsibilities of Parenting Coordinator During Parenting Coordination.**

**(A) Compliance with appointment order**

A parenting coordinator shall comply with the requirements of and act in accordance with the appointment order issued by the court of common pleas or division of the court pursuant to Sup.R. 90.06.

**(B) Independence, objectivity, and impartiality**

A parenting coordinator shall maintain independence; objectivity; and impartiality, including the avoiding the appearance of partiality, in dealings with parties and professionals, both in and out of the courtroom.

**(C) Conflicts of interest**

(1) A parenting coordinator shall avoid any clear conflicts of interest arising from any relationship activity, including but not limited to those of employment or business or from professional or personal contacts with parties or others involved in the case. A parenting coordinator shall avoid self-dealing or associations from which the parenting coordinator may benefit, directly or indirectly, except from services as a parenting coordinator.

(2) Upon becoming aware of a clear conflict of interest, a parenting coordinator shall advise the appointing court or division and the parties of the action taken to resolve the conflict and, if unable to do so, seek the direction of the court or division.

**(D) Ex parte communications**

A parenting coordinator shall have no ex parte communications with the appointing court or division regarding the merits of the case.

**(E) Legal advice**

A parenting coordinator shall not offer legal advice.

**(F) Report of activity affecting ability to perform**

A parenting coordinator shall have an ongoing duty to report any activity, criminal or otherwise, that would adversely affect the parenting coordinator’s ability to perform the functions of a parenting coordinator.

**RULE 90.11.** **Compliance with Guidelines for Parenting Coordination.**

A court of common pleas or division of the court and a parenting coordinator shall comply with the “Guidelines for Parenting Coordination” developed by the Association of Family Courts and Conciliation Task Force on Parenting Coordination. Wherever a conflict exists between the guidelines and Sup.R. 90 through 90.13, the rules shall control.

**RULE 90.12. Confidentiality, Privilege, and Public Access.**

**(A)** **Confidentiality**

Except as provided by law, parenting coordination, including communications between the parties and their children and the parenting coordinator, communications between the parenting coordinator and other relevant parties, and communications with the court, shall not be confidential.

**(B) Privilege**

Except as provided by law, parenting coordination shall not be privileged.

**(C) Public access to parenting coordinator files.**

The files maintained by a parenting coordinator but not filed with a clerk or submitted to a court shall not be available for public access pursuant to Sup.R. 44 through 47.

**RULE 90.13.** **Reporting of Harm, Abuse, or Neglect.**

**(A) Notice to parties**

A parenting coordinator shall inform the parties the parenting coordinator will report any suspected child abuse or neglect and any apparent serious risk of harm to a family member’s self, another family member, or a third party to child protective services, law enforcement, or other appropriate authority.

**(B)** **Report of child abuse or neglect**

A parenting coordinator shall report child abuse or neglect pursuant to the procedures in R.C. 2151.421.