

(5) Communication with Parties. The mediator may meet and consult privately with any party or parties or their counsel.

(6) Appointment of the Mediator.

(A) Within 10 days of the order of referral, the parties may agree upon a stipulation with the court designating:

(i) a certified mediator, other than a senior judge presiding as a judge in that circuit; or

(ii) a mediator, other than a senior judge, who is not certified as a mediator but who, in the opinion of the parties and upon review by the pre-siding judge, is otherwise qualified by training or experience to mediate all or some of the issues in the particular case.

(B) If the parties cannot agree upon a mediator within 10 days of the order of referral, the plaintiff or petitioner shall so notify the court within 10 days of the expiration of the period to agree on a mediator, and the court shall appoint a certified mediator selected by rotation or by such other procedures as may be adopted by administrative order of the chief judge in the circuit in which the action is pending.

(C) If a mediator agreed upon by the parties or appointed by a court cannot serve, a substitute mediator can be agreed upon or appointed in the same manner as the original mediator. A mediator shall not mediate a case assigned to another mediator without the agreement of the parties or approval of the court. A substitute mediator shall have the same qualifications as the original mediator.

Commentary

1995 Adoption. This rule combines and replaces Florida Rules of Civil Procedure 1.710, 1.720, and 1.730. The rule, as combined, is substantially similar to those three previous rules, with the following exceptions. This rule deletes subdivisions (a) and (b) of rule 1.710 and subdivisions (b) and (c) of rule 1.730. This rule compliments Florida Family Law Rule of Procedure 12.740 by providing direction regarding various procedures to be followed in family law mediation proceedings.

RULE 12.742. PARENTING COORDINATION

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

(b) Qualification Process. Each judicial circuit shall establish a process for determining that a parenting coordinator is qualified in accordance with the requirements established in the parenting coordination section of Chapter 61, Florida Statutes.

(c) 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 12.984(a). The order must specify the role, responsibility, and authority of the parenting coordinator.

(d) 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.

(e) 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(b).

(f) 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.

(g) Removal of Parenting Coordinator. The court shall remove the parenting coordinator if the parenting coordinator becomes disqualified under the parenting coordination section of Chapter 61, Florida Statutes, or if good cause is shown.

(h) 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.

(i) 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 decision-making 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.

(j) Limitation of Authority.

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

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

(B) modify parental responsibility.

(2) A parenting coordinator shall not make a substantive recommendation concerning parental responsibility or timesharing to the court unless the court on its own motion or a joint motion of the parties determines that:

(A) there is an emergency as defined by the parenting coordination section of Chapter 61, Florida Statutes,

(B) the recommendation would be in the best interest of the child, and

(C) the parties agree that any parenting coordination communications that may be raised to support or challenge the recommendation of the parenting coordinator will be permitted.

(k) Emergency Order.

(1) Consideration by the Court. Upon 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. Except for the entry of an ex parte order in accordance with (k)(2), the court shall set a hearing with notice to the parties to be held at the earliest possible time.

(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.

(l) Written Communication with Court. The parenting coordinator may submit a written report or other written communication regarding any nonconfidential matter to the court. Parenting coordinators was required, pursuant to the parenting coordination section of Chapter 61, Florida Statutes, to report certain emergencies to the court without giving notice to the parties. The parenting coordinator shall use a form in substantial compliance with Florida Family Law Rules of Procedure Form 12.984(c) when reporting any emergency to the court, whether or not notice to the parties is required by law. If the parenting coordinator is unable to adequately perform the duties in accordance with the court's direction, the parenting coordinator shall file a written request for a status conference and the court shall set a timely status hearing. The parenting coordinator shall use a form in substantial compliance with Florida Family Law Rules of Procedure Form 12.984(d) to request a status conference. When notice to the parties is required, the parenting coordinator must contemporaneously serve each party with a copy of the written communication.

(m) 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.

(n) Parenting Coordination Session. A parenting coordination session occurs when a party and the parenting coordinator communicate with one another. A parenting coordination session may occur in the presence or with the participation of persons in addition to a party and the parenting coordinator. Unless otherwise directed by the court, the parenting coordinator shall determine who may be present during each parenting coordination session including, without limitation, attorneys, parties, and other persons.

2010 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.

2014 Revision. Parties are more likely to comply with a parenting plan which has been voluntarily and mutually self-determined by the parties without undue outside influence. Courts therefore should consider referring parties to mediation prior to parenting coordination when a parenting plan has not been agreed to by the parties or adopted by the court. Courts are also encouraged to review what additional forms of alternative dispute resolution as well as social, psychological and educational interventions may best assist the parties in a timely manner. In cases where parties are referred to a parenting coordinator to adopt or create a parenting plan, the court should consider whether the parties would be better served by the court determining certain aspects of the parenting plan (such as parental responsibility, time sharing schedule, etc.) prior to referral to a parenting coordinator. New subdivisions (b), (g), (j)(2), (l), and (n) were added and others were renumbered accordingly.

RULE 12.750. FAMILY SELF-HELP PROGRAMS

(a) Establishment of Programs. A chief judge, by administrative order, may establish a self-help program to facilitate access to family courts. The purpose of a self-help program is to assist self-represented litigants, within the bounds of this rule, to achieve fair and efficient resolution of their family law case. The purpose of a self-help program is not to provide legal advice to self-represented litigants. This rule applies only to programs established and operating under the auspices of the court pursuant to this rule.

(b) Definitions.

(1) “Family law case” means any case in the circuit that is assigned to the family law division.

(2) “Self-represented litigant” means any individual who seeks information to file, pursue, or respond to a family law case without the assistance of a lawyer authorized to practice before the court.

(3) “Self-help personnel” means lawyer and nonlawyer personnel in a self-help program.

(4) “Self-help program” means a program established and operating under the authority of this rule.

(5) “Approved form” means (A) Florida Family Law Rules of Procedure Forms or Florida Supreme Court Approved Family Law Forms or (B) forms that have been approved in writing by the chief judge of a circuit and that are not inconsistent with the Supreme Court approved forms, copies of which are to be sent to the chief justice, the chair of the Family Law Rules Committee of The Florida Bar, the chair of the Family Law Section of The Florida Bar, and the chair