

Provincial Working Group on Parenting Coordination

Inspired by AFCC's leadership on Parenting Coordination internationally, the 2019 release of the updated **Guidelines on Parenting Coordination** and harnessing the wealth of experience and expertise among the membership, AFCC Alberta has convened a Provincial Working Group aimed at advancing the practice of Parenting Coordination (PC) in Alberta.

As part of this initiative, the Provincial Working Group is conducting a survey to gather input on several important topics from the professional communities who are invested in or have an interest in PC. ***If you would like to participate in the survey, please click on the link below. All response will be anonymous.***

Link to the Parenting Coordination in Alberta Survey (the link will close at midnight on March 20, 2022): <https://www.surveymonkey.com/r/3P5HWKY>

Following the closing of the Survey, a series of **Zoom Focus Groups** will be conducted in April/May to further discuss key issues and hone in on those most contentious issues, then there will be an **all-day Zoom Workshop on PC** tentatively scheduled for **June 3, 2022**.

All AFCC Alberta Members will be consulted. For more information or to volunteer to participate in the Zoom Focus Groups and/or Workshop, or to otherwise contribute to this initiative, please contact Tracy Brown at: afcc.alberta.pc.wg@gmail.com.

Overarching Objectives:

1. Through background research, broad consultation, and workshopping key issues, to develop an AFCC Alberta proposal for advancing PC practice in Alberta with a critical mass of province-wide support across key professions and institutional voices; and
2. To work with (and as appropriate or necessary to advocate to/with) the appropriate policymakers, institutions, organizations, and the Court to build support for adopting the AFCC Alberta proposal for PC (not precluding a coordinated effort in conjunction with other organizations or institutions).

Broad Definition of Parenting Coordination adopted by AFCC¹:

In the process of building consensus internationally, AFCC has adopted the following "definition" for PC:

- ❖ PC is a child-focused dispute resolution process conducted by licensed mental health or family law professionals or certified, qualified, or regulated family mediators under the rules or laws of their jurisdiction.

¹ This definition of PC and description of the Parenting Coordinator role is taken from the "AFCC Guidelines for Parenting Coordination", developed by the AFCC Task Force on Parenting Coordination (2019) at page 2 [AFCC Guidelines].

- ❖ PC is a hybrid legal-mental health role that combines assessment, education, case management, conflict management, dispute resolution, and at times, decision-making functions.
- ❖ PC is a service-model for high-conflict families oriented to protecting children from conflict and to promote safe, healthy, and meaningful parent-child relationships.
- ❖ A Parenting Coordinator assists high-conflict coparents to implement their parenting plans by
 1. facilitating the resolution of their disputes in a timely manner;
 2. educating coparents about children's needs; and
 3. with prior approval of coparents or the Court, making decisions within the scope of the Court Order or Appointment Contract.
- ❖ A Parenting Coordinator makes recommendations and, if authorized, legally binding decisions for coparents, and may report to the Court; therefore, it is advisable that Parenting Coordinators are appointed by and accountable to the Court....

Jurisdictional Diversity in the Practice of Parenting Coordination:

Building on common shared principles which have guided the practice of PC since the early 1990s, various models of PC have emerged across the globe. Currently, PC is practiced in at least 46 US states, 6 Canadian provinces (Alberta, British Columbia, Ontario, Saskatchewan, Prince Edward Island and Quebec), and in Europe (Italy, Spain, Sweden), Asia (Hong Kong, Singapore), Australia, South Africa, and elsewhere.

- ❖ 17 US states and 3 Canadian provinces (BC, Saskatchewan, and PEI) now have legislation providing for Court-directed PC *without the consent* of high-conflict parents;
- ❖ 20 US states have Court Rules for the practice of PC;
- ❖ 22 US states have Common Law Rules;
- ❖ Consent of the parents is not required in many jurisdictions;
- ❖ Decision-making authority with a defined scope is common across all jurisdictions.

The Evolution of Parenting Coordination in Alberta:

Alberta was one of the first Canadian provinces to develop the practice of PC, initially led by mental health professionals affiliated with AFCC. Over the years, both mental health professionals and family lawyers have engaged in PC work in Alberta. There is more history and uptake of PC in Calgary than in Edmonton, and very few practitioners outside of these urban centres.

Until its removal from the Alberta Court of Queen's Bench Practice Note 7 (PN7) for Parenting Interventions in May 2019, Alberta was a jurisdiction where the practice of PC was partially governed through a Court Protocol, combined with voluntarily prescribed decision-making authority under the *Arbitration Act* of Alberta. The inclusion of PC in the former PN7 provided for Court-directed PC and arguably some degree of quasi-judicial immunity for Parenting Coordinators.

The removal of PC from the PN7 in 2019 followed several constitutional challenges to the Court's delegation of authority to Parenting Coordinators in some US states and the Canadian Courts grappling with the delegation of authority in the context of arbitration more generally, and PC specifically. When this sea-change occurred, PC was eliminated as a Court-directed Parenting Intervention, with some justices of the Court of Queen's Bench refusing to grant Consent Orders for PC, resulting in growing uncertainty about PC.

PC in Alberta is currently occurring by private agreement only (as is the case in Ontario). High conflict parents must voluntarily consent to a PC process and submit to decision-making authority governed by the *Arbitration Act* of Alberta. In simple terms, Alberta currently has an "*Arbitration Act*" model for PC.

The Alberta Family Mediation Society (AFMS) has established a PC designation / accreditation called "Registered Parenting Coordinator and Arbitrator" (RPCA) with training and experience requirements, and guidelines for scope of practice all based largely on the AFCC Guidelines. Roughly 30% of those doing PC in Alberta are on the AFMS Roster. AFCC Alberta maintains a "Referral List" with approximately 45% of the known Parenting Coordinators included.

There is considerable debate in Alberta on exactly how the "legal authority" for PC practice should evolve in Alberta (the primary debate), whether there should be required "standards of practice" and adherence to guidelines, whether there should be standardized or minimum requirements for training, whether PC should involve assistance with developing parenting plans vs just the implementation of final Agreements and Orders, whether it is even PC at all if there is no decision-making, and whether PC is viable without a Court-mandated or sanctioned framework.

Many have called for a new Court Practice Note focusing on PC and permitting Consent Orders. Others have called for PC legislation similar to that in BC, Saskatchewan, or PEI. Some propose a more formal application of the AFCC Guidelines through a Roster approach. Some have called for some version of a "Special Master" designation for Parenting Coordinators with quasi judicial status. Others have called for PC-specific Arbitration Guidelines to complement the Alberta *Arbitration Act*. And yet others suggest Section 35 of the Alberta *Arbitration Act* is enough to encompass all that is a fulsome PC role.

In Alberta there is an ongoing definitional debate on what is PC? For example, is Med/Arb of Parenting disputes synonymous with PC? Many have opined that PC is something different (and something more) than Med/Arb. Yet others in Alberta see PC as a 'big tent' with no need to narrow the definition, and instead, believe we should give high-conflict parents the freedom to choose from as many dispute resolution options as possible within PC to best meet their specific needs.

The accessibility of PC to lower income high-conflict parents is another challenge. Could Legal Aid fund PC? Could Alberta Justice through Resolution Services include PC for low-income families similar to the mediation services available?

The evolution of Parenting Coordination in Alberta has raised several questions and points of debate, and the AFCC Alberta Working Group on Parenting Coordination seeks to explore these questions and debates through a broad consultation process.

Proposed Workplan:

1. **Preparatory Phase** (*Ongoing*):

- a. Produce a folder of background “**Primers**” intended as quick reference guides, covering:
 - a) Historical Overview on the Development of PC in Alberta
 - b) The PC Role in the Alberta Court and Other Canadian Courts
 - c) Overview of PC Models
 - d) Jurisdiction & Legal Authority for PC – Issues & Approaches
 - e) Efficacy of PC – Overview of the Research
- b. Produce a “**Discussion Guide**” on PC in Alberta for the Consultation Phase setting out the key questions for the development of PC practice in Alberta and possible options / approaches / models going forward. The Consultation will occur in several fora, including but not limited to online surveys, Zoom focus groups and individual interviews.
- c. Update a **Directory of Parenting Coordinators** in Alberta.

2. **Consultation Phase** (*Current Phase*): Implement a series of Zoom focus groups, individual interviews and online surveys using the Primers and Discussion Guide.

3. **Proposal Development Phase** (May-June 2022): Collate the input from the Consultations and prepare a draft Proposal (or several proposals and/or recommendations) to be discussed and finalized in a full-day Workshop planned for Friday, June 3, 2022.

4. **Advocacy Phase**: to be determined based on what comes out of the process.

Acknowledgements:

AFCC Alberta Provincial Working Group on Parenting Coordination:

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