

2013 HOUSE HUMAN SERVICES

HB 1214

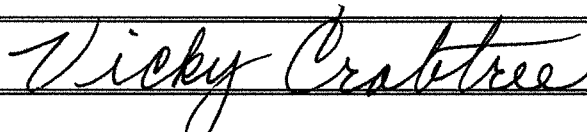
2013 HOUSE STANDING COMMITTEE MINUTES

House Human Services Committee
Fort Union Room, State Capitol

HB 1214
January 28, 2013
Job #17778

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to the parenting coordinator program and elimination of expiration date.

Minutes:

Testimonies #1-3

Chairman Weisz opened the hearing on HB 1214.

Rep. David Monson: Introduced and supported the bill. (See Testimony #1)

2:43 Bill Neumann, Executive Director of State Bar Association of ND testified in support of the bill. (See Testimony #2)

5:58 Sherry Millsmoor: From the Bar Association testified and supported the bill. A group of legal professionals got together to talk about all the changes that would make sense to family law and were enacted in 2009. One of those was parenting coordinator was created. The coordinator is to give the parties and court another tool to help conflicting families. It has a 2013 sunset clause and we want it continued. (Handout #3).

8:53 Rep. Laning: Do the parents agree to the decision of the parent coordinator before court?

Millsmoor: The parents don't always agree that the coordinator will be appointed. The court appoints the coordinator and parents don't necessarily know before court.

Rep. Laning: Does the court support the coordinators decision? Are the parents stuck with that decision or do they have an appeal process?

Moser: The court has the ultimate authority. Ultimately they still can go back to court to get the order changed.

Rep. Oversen: Is there a charge to the families for these services of the parenting coordinator?

Moser: Yes, all by parents.

NO OPPOSITION

Chairman Weisz closed the hearing on HB 1214.

Committee went right into a motion.

Rep. Porter: I move to propose an amendment to add the emergency clause as Section 2 to HB 1214.

Rep. Hofstad: Second.

VOICE VOTE: MOTION CARRIED

Rep. Hofstad: I move a Do Pass as amended on HB 1214.

Rep. Silbernagel: Second.

ROLL CALL VOTE: 13 y 0 n 0 absent

DO PASS CARRIED

Bill Carrier: Rep. Oversen

FISCAL NOTE
Requested by Legislative Council
01/15/2013

Amendment to: HB 1214

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill repeals the sunset provision for the parenting coordinator program.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

There is no fiscal impact.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

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Name: Don Wolf
Agency: Court System
Telephone: 328-3509
Date Prepared: 01/16/2013

FISCAL NOTE
Requested by Legislative Council
01/15/2013

Bill/Resolution No.: HB 1214

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

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Name: Don Wolf
Agency: Court System
Telephone: 328-3509
Date Prepared: 01/16/2013

13.0592.01001
Title.02000

Adopted by the Human Services Committee

January 28, 2013

V 88/13
JMC

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1214

Page 1, line 3, after "Code" insert "; and to declare an emergency"

Page 1, line 5, after the bold period insert "**REPEAL.**"

Page 1, after line 5 insert:

"SECTION 2. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

Date: 1-28-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1214

House Human Services Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Rep. Porter Seconded By Rep. Hofstad

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN WEISZ			REP. MOONEY		
VICE-CHAIRMAN HOFSTAD			REP. MUSCHA		
REP. ANDERSON			REP. OVERSEN		
REP. DAMSCHEN					
REP. FEHR					
REP. KIEFERT					
REP. LANING					
REP. LOOYSEN					
REP. PORTER					
REP. SILBERNAGEL					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

move to adopt amendment

voice vote motion carried

Date: 1-28-13
Roll Call Vote #: 2

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1214

House Human Services Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Rep. Hofstad Seconded By Rep. Silbernagel

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN WEISZ	✓		REP. MOONEY	✓	
VICE-CHAIRMAN HOFSTAD	✓		REP. MUSCHA	✓	
REP. ANDERSON	✓		REP. OVERSEN	✓	
REP. DAMSCHEN	✓				
REP. FEHR	✓				
REP. KIEFERT	✓				
REP. LANING	✓				
REP. LOOYSEN	✓				
REP. PORTER	✓				
REP. SILBERNAGEL	✓				

Total (Yes) 13 No 0

Absent _____

Floor Assignment Rep. Overesen

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1214: Human Services Committee (Rep. Weisz, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1214 was placed on the Sixth order on the calendar.

Page 1, line 3, after "Code" insert "; and to declare an emergency"

Page 1, line 5, after the bold period insert "**REPEAL.**"

Page 1, after line 5 insert:

"SECTION 2. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

2013 SENATE HUMAN SERVICES

HB 1214


2013 SENATE STANDING COMMITTEE MINUTES

Senate Human Services Committee Red River Room, State Capitol

HB 1214
3/12/13
19761

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to the parenting coordinator program and elimination of the expiration date for chapter

Minutes:

Written testimony

Chairwoman Judy Lee opened the hearing on Engrossed HB1214.

Representative Monson, District 10, introduce HB 1214. He said it was a simple bill and all it does is repeals the sunset on the parenting coordinating program started in 2009.

Written testimony #1

Senator Dever asked for an explanation of why it was constructed this way instead of going back to the code and repealing that sunset.

Representative Monson explained that he took his idea to Legislative Council and they said that this is all that was needed.

Senator Dever clarified that the only House amendment was to add the emergency clause.

Representative Monson replied that the emergency clause was the only change. Without an emergency clause the program will end June 30, 2013. This bill would not save the program since it would not go into effect until August 1, 2013.

Sherry Moore, a volunteer lobbyist for the State Bar Association of North Dakota, explained the Parenting Coordinator Program and testifies in support of HB 1214. She also presented Parenting Coordinator Program Evaluation final report, January 1, 2013.

Written testimony #2

Senator Anderson asked who these parenting coordinators were and how does the courts find them.

Sherry Moore explained that they have to be trained; they have to be mediators first and then have additional training to do this. They can be lawyers but they don't have to be

lawyers. They have to have continuous training each year and then their names can be put on a list that is kept by the North Dakota Supreme Court.

Senator Larsen asked what the cost of ^{for}parent coordinators is.

Sherry Moore said that would depend on the parenting coordinator. They can set their own rates. The mediator rate is \$170 per hour but she doesn't know the parent coordinator's rate.

Bill Newman, Executive Director of the North Dakota State Bar Association, testified in support of HB 1214.

No opposing testimony

Chairperson Judy Lee closed the hearing on HB 1214.

There was discussion on effective date.

Senator Anderson moved a **Do Pass** on Engrossed HB 1247.

Senator Larsen seconded.

Do pass **5-0-0**

Senator Larsen is the carrier.

FISCAL NOTE
Requested by Legislative Council
01/15/2013

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Name: Don Wolf
Agency: Court System
Telephone: 328-3509
Date Prepared: 01/16/2013

FISCAL NOTE
Requested by Legislative Council
01/15/2013

Bill/Resolution No.: HB 1214

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Name: Don Wolf
Agency: Court System
Telephone: 328-3509
Date Prepared: 01/16/2013

Date: 3-12-13
 Roll Call Vote #: 1

**2013 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1214**

Senate Human Services Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By SEN ANDERSON Seconded By SEN LARSEN

Senators	Yes	No	Senator	Yes	No
Chariman Judy Lee	✓		Senator Tyler Axness	✓	
Vice Chairman Oley Larsen	✓				
Senator Dick Dever	✓				
Senator Howard Anderson, Jr.	✓				

Total (Yes) 5 No 0

Absent _____

Floor Assignment SEN. LARSEN

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1214, as engrossed: Human Services Committee (Sen. J. Lee, Chairman)
recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed HB 1214 was placed on the Fourteenth order on the calendar.

2013 TESTIMONY

HB 1214

Testimony on HB 1214

Rep. David Monson

Jan. 28, 2013

Mr. Chairman and members of the House Human Services Committee, this bill is about as short and simple as any bill I've ever introduced. It has one line which does one thing. It repeals the sunset on the parenting coordinating program started in 2009. Without this bill, the program, which I understand has been very well received and very successful, will terminate on June 30, 2013.

I have a new constituent after redistricting for whom I have sponsored another bill. HB 1214 should or could help his situation even better than that bill. That, however, is for another day, but this is how I got into this area of code about which I know very little.

I'm hoping others who know more about this program will follow me and be able to answer questions for you. I know that the Chief Justice in his address to the legislature the first week of our session stated that this has been a good program and the sunset needs to be repealed. I have since talked to him, and he indicated he was happy someone submitted this bill.

One last item; I was told this bill needs an emergency clause. Without an emergency clause, the program will end June 30, 2013. This bill would not save the program since it would not go into effect until August 1, 2013. In order for this bill to work, I ask that you please amend an emergency clause onto this bill.

Thank you for your time. I'll try to answer any questions you may have, but I freely admit this is not my area of expertise. I know others can answer any of your questions far better than I.

#2

January 28, 2013

House Human Services Committee

House Bill No. 1214

CHAIRMAN WEISZ AND COMMITTEE MEMBERS:

My name is Bill Neumann, Executive Director of the State Bar Association of North Dakota. The Bar Association strongly supports H.B. 1214.

In 2009 the Legislative Assembly enacted chapter 14-09.2 of the Century Code, authorizing appointment of “parenting coordinators” for high conflict divorce cases. The purpose was to help parents resolve disagreements about parenting time provisions in their divorce decree, and to decide those issues for parents if they can’t reach an agreement. Basically, it gives high-conflict parents quick access to a resolution that might otherwise require a wait of several weeks before they could get into court to have their disagreement resolved by the judge.

For some reason the statute was enacted with a sunset provision, and will expire June 30, 2013, unless that clause is lifted. The evaluation report I handed to you explains that, while the statute has been used sparingly in the past three and a half years, it has been fairly successful. According to the report, the satisfaction surveys that have been returned following the use of parenting coordinators, while not many, do show “surprisingly high satisfaction ratings,” considering the high level of conflict in these cases.

The State Bar Association strongly urges the continuation of this program. It costs taxpayers nothing, and it is very helpful in those high-conflict cases in which it is needed. The sunset provision should be removed.

In addition, because the sunset is effective June 30 instead of the normal July 31, H.B. 1214, to be effective, must be amended to include an emergency clause. Without an emergency clause, the law H.B. 1214 is intended to preserve will have disappeared before this bill can go into effect, and your efforts will be for nothing.

If you have any questions, I will try to answer them.

HOUSE BILL 1214

State Bar Association of North Dakota Amendment

“SECTION 2. EMERGENCY. This Act is declared to be an emergency.”

3



Greacen Associates, LLC

**North Dakota Supreme Court
Parenting Coordinator Program
Evaluation**

Final Report

January 1, 2013

Executive Summary

During its 2009 session, the North Dakota legislature enacted Chapter 14-09.2 of the Century Code authorizing the appointment of parenting coordinators in high conflict divorce cases to help parents reach agreement concerning the meaning of the provisions of a judge's parenting time order and to decide those issues if the parties do not agree. The statute was enacted with a sunset provision and will expire the end of June 2013 if not extended by the legislature.

Greacen Associates, LLC., has been retained by the North Dakota Supreme Court to assess the effectiveness of the parenting coordinator program and to make recommendations concerning its continuation. We have reviewed information collected by the Supreme Court, by parenting coordinators, and by the North Dakota Bar Association through an online survey of family law practitioners. In August 2012 we conducted a series of interviews with judges, mediators, parenting coordinators, and family law practitioners about the program. We have assessed the use of the program and its apparent effectiveness in:

- Producing more timely decisions in parenting time disputes in high conflict cases,
- Reducing the number of times the parties return to court for a judicial determination of such disputes,
- Reducing the amount of attorney's fees in these cases,
- Altering the behavior of the parties in high conflict cases by improving communication, problem solving, and parenting skills of the parents, and
- Reducing the negative impact of parenting time disputes on children.

During the past three and a half years since its enactment, the parenting coordinator statute has been used sparingly. The North Dakota Supreme Court is aware of only eleven cases in which parenting coordinators have been appointed, although it suspects that there may be one or two more instances of its use. Because the program has not been used extensively, very little information is available on which to base an assessment of its effectiveness.

Data on the eleven known cases shows that when appointed, parenting coordinators have been relatively successful in obviating the need for further court proceedings. Although they were instructed to administer participant satisfaction surveys at the close of every parenting coordinator session, very

few completed surveys were returned to the Supreme Court. The surveys that were returned showed surprisingly high satisfaction ratings for the sessions and for the parenting coordinators, given the high level of conflict in the cases in which they have been appointed. The average rating of overall satisfaction with the process was 3.6 on a 5 point scale. The participants did not perceive any improvement in the ability of the parents to communicate with each other or to resolve their own disputes in the future.

The Bar Association survey showed that quite a few attorneys had considered the appointment of a parenting coordinator. The main reason for not following through was the inability of the parties to pay for such services. When a parenting coordinator was appointed, the attorneys reported that the process produced more timely decisions, reduced the number of subsequent court proceedings, and lowered the amounts of attorneys' fees for the parties. They also believe that the program reduced the negative impact of parental conflict on the children. They rated less favorably the likelihood that the process had changed the behavior of the conflicted parties.

During our interviews, judges expressed mixed views of the program. Some had used it and found it effective. Others believed that it is, or would be, unhelpful because the parties would bring their disputes about how to pay for the parenting coordinator to court in addition to their disputes about the parenting coordinator's decisions. One judge thought that the mandatory parenting time mediation program could meet the needs for conflict resolution services for post-judgment issues in high conflict cases.

Attorneys generally supported the program, pointing out that post-judgment mediation required the filing of a motion in court before a mediator could be appointed and that the parenting coordinator statute guarantees a faster decision making process than the mediation rules.

Parenting coordinators found the process effective. They were not surprised that it is rarely used. One attorney reported that she had been on the Minnesota counterpart of the North Dakota parenting coordinator list for twenty years and had been appointed to only one case. One compared the parenting coordinator program to a pair of "vice grip pliers" – you want to have a pair in your toolbox for difficult situations even though ordinary pliers work for most repair jobs.

We urge the continuation of North Dakota's parenting coordinator statute. We are unconcerned that it has been used sparingly. It should be used sparingly – only for high conflict cases. We believe that the limited evidence

available shows that, for the most part, the legislation has proved well-conceived and that the program has been working as designed. It has reduced the time required to reach decisions in parenting time disputes, the number of times the parties have to return to court, the amount of the parties' legal expenses, and – because it is reduced the time to reach decisions – the negative impact on children of parental conflict.

We think it unlikely that the program has to date, or will in the future, have a significant impact on the behavior of the parties in these high conflict cases. These parties remain deeply wounded from the breakup of their marriages and will continue to feud with one another for an extended period of time, using their children as weapons to inflict pain on each other. Parenting coordinators are not therapists and cannot be expected to alter the emotional makeup of the feuding parties. But they can reduce the negative impact of the ongoing feuds on the children, simply by producing a quick decision on each dispute as it arises – a decision that remains in effect until or unless it is changed by a judge following a court hearing.

When the legislature addresses the statute to remove the sunset provision, we suggest that it consider amendments to address three issues that came to our attention during the course of this assessment:

- Expanding the scope of the parenting coordinator's authority to include all issues associated with parenting,
- Explicitly making parenting coordinator decisions legally enforceable when accompanied by the court order appointing the parenting coordinator, and
- Providing a source of funding for parenting coordinator services for persons who cannot afford the expense.

These recommendations are explained in more detail in the body of this report.

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Background

In 2008, the Family Law Section of the North Dakota Bar Association made a series of recommendations to the legislature for changes in the law concerning child custody disputes arising from divorce. The recommendations were made within the context of the mandatory child custody mediation program implemented on a pilot basis by the North Dakota Supreme Court that same year.

The principal recommendation was a change in nomenclature – that the law in the future refer to these matters as “parenting time” disputes and decisions rather than as “child custody” matters.

At the same time, the Section recommended the creation of a new position of “parenting coordinator” – a “neutral individual” authorized to “resolve parenting time disputes by interpreting, clarifying, and addressing circumstances not specifically addressed by an existing court order.” The purpose of this proposal was to provide an additional resource for parents with a highly conflicted relationship. The hope was that the appointment of a neutral third party would result in faster decisions for the benefit of the children and the parties, savings in attorney’s fees, and a reduced burden on the courts from having to conduct hearings on these disputes. There was also some hope that the process would improve the communications and problem solving skills of the parties.

During its 2009 session, the legislature enacted the recommended legislation, to take effect July 1, 2009, with a sunset clause limiting the effectiveness of the new statute to four years unless extended. The statutory authorization will expire on July 1, 2013 unless the legislature acts to remove the sunset provision or to extend the date on which the statute sunsets.

The parenting coordinator statute is codified in Chapter 14-09.2 of the North Dakota Century Code. It consists of eight sections, which provide in summary the following process:

- The North Dakota Supreme Court is to establish qualifications for the position of parenting coordinator and maintain and make available to the public a list of persons eligible to serve in that role.
- A court may appoint a parenting coordinator in any action for divorce, legal separation, paternity, or guardianship in which children are involved, upon its own motion or by motion or agreement of the

parties. The court may not make such an appointment if there has been domestic violence directed to a party or a child in the relationship.

- The appointment may be to resolve a specific dispute or to provide ongoing parenting time dispute resolution services. The statute makes clear that the parenting time issues include the terms of visitation.
- The parenting coordinator may assess for the parties whether there has been a violation of an existing court order and, if so, recommend further court proceedings.
- The parenting coordinator may use any dispute resolution process to assist the parties in resolving a dispute, and, if it becomes apparent that the parties cannot agree on a resolution, make a decision resolving the dispute, based on existing court orders. The parenting coordinator may not modify a court order.
- Parenting coordinators are to resolve disputes quickly. They are to contact the parties within five days of their appointment and make a "diligent effort" to facilitate agreement. If agreement is not possible, a coordinator is to make a decision within five days of receiving all information necessary for a decision. The decision is to be in writing with a copy provided to both parties. The parenting coordinator's decision is binding on the parties until further order of the court.
- The parties are to pay the fees of the parenting coordinator, split equally between the parties unless the court sets a different payment allocation.
- All discussions and documents produced as part of the parenting coordinator process are confidential and will not be admissible in evidence in court, even for purposes of impeachment. A parenting coordinator may not be called to testify in court concerning the relationship between the parties. The exception is if notes or records contain information related to a state or federal crime.
- The parenting coordinator is immune from civil liability for acts or omissions committed in the course of fulfilling the duties of the position.

- A parenting coordinator appointment may be terminated or modified upon agreement of the parties, upon motion of a party, at the request of the parenting coordinator, or on the court's own motion for good cause, which includes:
 - Lack of reasonable progress over a significant period of time,
 - A determination that the parties no longer need parenting coordinator services,
 - Impairment of a party that interferes with the process, or
 - The parenting coordinator's unwillingness or inability to continue to serve.

The North Dakota Supreme Court commissioned Greacen Associates, LLC., which has been evaluating the mandatory parenting time mediation program, to assess the effectiveness of the parenting coordinator process and to prepare a report setting forth its findings and recommendations.

This report summarizes the following information bearing on the effectiveness of the parenting coordinator program:

- A brief summary of eleven cases known to the Supreme Court to have had a parenting coordinator appointed;
- Five satisfaction surveys completed by parties in those cases;
- The results of an on-line poll of 94 members of the North Dakota family bar concerning the program; and
- Interviews with judges, parenting coordinators, and family law bar members in Bismarck, Fargo, Grand Forks, and Minot during the first week of August 2012.

Project Accomplishments

The North Dakota Supreme Court established qualifications for the parenting coordinator position.

Qualifications. To qualify as a parenting coordinator and be listed on the roster under N.D.C.C. §14-09.2-03, a person shall provide the State Court Administrator with written credentials. A parenting coordinator:

(1) Shall have either an Associate Degree in an academic field related to child care, child development, or children's services with two years of experience in family and children services; or a Bachelor's Degree;

(2) Shall have completed at least 12 hours of specialized parenting coordinator training which includes developmental stages of children, the dynamics of high conflict, the stages and effects of divorce, problem-

solving techniques, and the dynamics of domestic violence, its impact on children and lethality assessment;

(3) Shall have completed a minimum 40 hours of domestic relations mediation training;

(4) Shall have no criminal conviction for, or substantiated instance of child abuse or neglect, and shall not be or have been restrained by a domestic violence protection order or disorderly conduct restraining order entered after notice and hearing; and

(5) Shall complete at least 18 hours of parenting coordinator related training every three years after receiving the initial hours of specialized training. Parenting Investigators otherwise qualified and trained under this rule, may use either parenting investigator continuing education or parenting coordinator continuing education to meet this requirement.

Sixteen persons are currently listed as qualified to serve as a parenting coordinator.

The Supreme Court has provided both the initial and continuing training required by the qualifications standards.

Data Concerning Parenting Coordinator Appointments

The North Dakota Supreme Court is aware of eleven cases in which parenting coordinators have been appointed. It believes that two or three additional appointments may have been made, but the parenting coordinators have not responded to requests for information about those cases. The data from North Dakota family law practitioners shows that at least sixteen North Dakota attorneys have been involved in cases in which a parenting coordinator has been appointed. Because two attorneys may be involved in a case, the survey data does not necessarily conflict with the data gathered by the North Dakota Supreme Court.

In one of the cases, the parties agreed to the use of parenting coordinator in their parenting plan. In another they agreed during mediation to make use of one. In one case, the court appointed a parenting coordinator at the time of entry of an interim order in the divorce. In another case, the parenting coordinator was appointed as part of a partial divorce judgment. In the other seven instances, a parenting coordinator was appointed after entry of a divorce judgment as part of post-judgment litigation.

In one of the cases – in the North East Central District – the parties chose not to make use of the parenting coordinator. In another, in the East

Central District, the parties did not pay the parenting coordinator and the appointment was terminated. Of the nine other cases, four were in the North East Central District, two in the South East District, and one each in the South Central and Northeast Districts.

Two of the appointments – including the appointment in the East Central District – were made in 2010. Six were made in 2011. Two have been made in 2012. There is no evidence that interest in and use of the parenting coordinator position has been growing consistently over time.

Four of the parenting coordinator appointments have been terminated. Seven remain in effect.

Post judgment motions have been filed in three of the nine cases in which parenting coordinators have been appointed and have been active. This is a positive finding. One would expect a high rate of post judgment motions in high conflict divorce cases.

Satisfaction of the Parties with Parenting Coordinator Proceedings

All parenting coordinators were given reporting forms to be submitted to the Supreme Court at the close of each parenting coordinator dispute resolution process. The reporting forms include information on the case and the parties, the services provided by the parenting coordinator, and the outcome of the session. They were also given participant satisfaction surveys to administer at the close of each dispute resolution process following a procedure that ensured their confidentiality. Completed surveys were to be returned to the Supreme Court for use by the evaluator.

Very few forms were returned to the Supreme Court. Reporting forms were submitted for five sessions. Participant surveys were submitted for three sessions – two surveys were submitted for two of the sessions (one for each party) and one survey was submitted for the other session. Hence, we have a total of five satisfaction surveys for parenting coordinator sessions.

The number of responses is very low. Assuming that at least one session was conducted in each of the ten cases in which any activity took place, the response rate for reporting forms is 50% or lower. Satisfaction surveys

were completed in no more than one third of the sessions.¹ Because the number of reports submitted is so small and the response rates are so low, readers should not assume that the information provided is representative of all parenting coordinator sessions.

The five reporting forms showed:

- That the cases all involved post judgment issues
- That the parenting coordinator provided education in two sessions, mediation in four sessions, and decision making in all five sessions. No referrals to other services were made in any of the sessions.
- The parties were represented by counsel in four of the five sessions. Representation information was not provided for the fifth session.
- In one instance, the parties reached complete agreement on all issues during the session, but within days decided not to follow any of the terms of the agreement. In two instances, the parties reached a partial agreement and the parenting coordinator decided the remaining issues. In the other two instances, the parenting coordinator decided all of the matters at issue.

The satisfaction surveys included demographic data on the participants. Three of the five respondents were male. All were between 25 and 54 years of age. Four of the five had two children; the other had one child. One of the participants was very poor (reporting annual before tax income of \$6,000 or less). The other four had middle class incomes (from \$30,000 to \$72,000 annual before tax income). None were wealthy. Four had some college or an associates degree; one had a graduate degree. All five were White and spoke English as their primary language.

Participant Satisfaction Ratings

¹ Greacen Associates, LLC has been the evaluator for the mandatory parenting time mediation program. Similar reporting requirements were established for mediators under that program. Compliance with the reporting requirements have been much higher in the mediation program – probably because mediators are paid for their services by the Supreme Court while parenting coordinators are paid by the parties and therefore have less incentive to provide information to the Supreme Court.

We present the participant satisfaction data for the five completed surveys below.

Participants reported their satisfaction by responding to various statements with Strongly Agree, Agree, Neutral, Disagree, or Strongly Disagree. For purposes of assessing this data, we have created two alternative scores. The first is the "percentage satisfied" which compares the sum of those responding Strongly Agree and Agree with those responding Disagree and Strongly Disagree. This measure disregards "Neutral" scores. The second assigns the values 5, 4, 3, 2, and 1 to the five ratings. Although this scoring process involves assigning a strict numerical ranking to a series of qualitative statements that may not be related to each other in this strict proportion, it is nonetheless a standard research practice. This scoring practice takes into account the "Neutral" ratings. The maximum score would be 5.0; the minimum would be 1.0; and all "Neutrals" would be 3.0.

The statements were set forth in the survey instrument in both positive and negative formulations to discourage respondents from answering all questions the same way. For reporting purposes, we set forth the statements as they appeared on the survey form but have transformed the average scores as if all statements had been stated in their positive formulation. For example, "The parenting coordinator did not care about our case" is reported as 100% satisfied and a 4.4 average even though the actual scores are the converse – 0% and 1.6 respectively.

Participant Satisfaction Scores

Statement	% Satisfied	Average
The session was at a time relatively convenient for me	100%	4.0
The parenting coordinator treated me with respect	60%	4.0
I did not understand the process that we were to follow	80%	4.2
I was able to say what I needed to say during the session	60%	3.4
I learned something new today about my former spouse	20%	2.2
This process has improved the communication between me and the other parent	0%	2.2
I was able to do a good job representing my point of view	40%	3.6
The parenting coordinator treated both of us equally	80%	3.6
As a result of this process, I have improved parenting skills	20%	3.2
As a result of this process, the other parent has improved parenting skills	0%	2.8
The parenting coordinator did not care about our case	100%	4.4
I learned today how to negotiate more successfully with my former spouse	0%	2.4
The session with the parenting coordinator was not fair to me	60%	3.2
I did not feel safe here today	100%	3.2
Overall, I am satisfied with the parenting coordinator process	60%	3.6

Statement	% Satisfied	Average
Meeting with the parenting coordinator is better than going to court	60%	3.6
The session today included new ideas for resolving our disagreement	80%	3.8
I had difficulty participating because an interpreter was not present	100%	4.2
I had difficulty participating because of physical barriers	100%	4.3

The most significant score is the overall satisfaction rating – which is 3.6 – between “agree” and “neutral.” Six of the scores are 4.0 or higher. Four of the scores are 2.8 or lower.

Because Greacen Associates, LLC has served as the evaluator for the mandatory parenting time mediation program, we are able to provide some comparative perspective to these scores.

Even though the parenting coordinator program is intended for only the most highly conflicted divorce cases, its overall satisfaction rating is only slightly lower than the rating for the mediation program (3.6 compared to 3.8); the mediation program is used in all North Dakota family law proceedings in which there is a dispute concerning parenting time. The rating for bringing new ideas into the process is actually higher for the parenting coordinator sessions (3.8 versus 3.4). The ratings for convenient time for the session, understanding the process, the parenting coordinator’s caring about the process, and feeling safe are comparable for both programs. Several of the parenting coordinator scores do reflect a higher level of conflict between the parties; the scores for learning something new about my former spouse, learning better how to negotiate, and the process being better than going to court were all lower than the corresponding scores for the mandatory mediation program. (The questions concerning improving communication with the other parent and improved parenting skills – which scored very low for the parenting coordinator program – were not included in the mandatory mediation surveys.) Although the average scores are quite positive for parenting coordinator session participants, they did not feel as positive as mediation participants about being treated with respect, being treated equally, or the fairness of the process.

Our overall assessment of these satisfaction scores is that they are surprisingly high for cases characterized as involving highly conflicted relationships. They suggest that the parenting coordinator sessions are successful in resolving the issues presented, but are not successful in changing the underlying dynamics of the relationship.

The survey forms gave parenting coordinator session participants an opportunity to record the aspects of the parenting coordinator process that

were most and least helpful. Here are those comments with the “most helpful” and “least helpful” comments of each participant reported side by side.

Participant Narrative Comments

Most helpful	Least helpful
I was able to directly communicate ideas to my ex.	
Seeing that the schedule she set up will be more normal for the kids	Coordinator misjudged me and basically called me a liar. I have a tremendous amount of stress in my life and remembering how many times I called her (and I won't do it again) isn't a favorable thing I am going to recall. I thought we could call her if there was a problem.
Her making a decision for us that would otherwise not happen.	Cost.

Comments from North Dakota Family Law Section Members

Greacen Associates, LLC prepared a survey for members of the North Dakota Bar Association Family Law Section asking about their views on both the mandatory mediation program and the parenting coordinator program. The North Dakota Bar Association administered the survey online. Emails asking members to participate in the on-line survey went to 94 North Dakota family law practitioners. Thirty-three participated in the portion of the survey dealing with the parenting coordinator program.

Sixty-one percent reported that they had considered the use of a parenting coordinator in one of their cases. Twenty of them reported that a parenting coordinator was not appointed. Participants were allowed to choose more than one reason. As a result, the percentages in the table below add up to more than 100%.

Inability to pay for the services of a parenting coordinator figured strongly in the decisions not to seek appointment of a parenting coordinator.

Reason Parenting Coordinator Was Not Appointed

Reason	Number of Responses	Percentage of Responses
The level of conflict in the case was not sufficient to warrant appointing a parenting coordinator	2	10%
One of the parties objected to the appointment or to paying for the parenting coordinator	12	60%
The parties were not able to afford the services of a parenting coordinator	14	70%
The judge did not agree that a parenting coordinator should be appointed	4	20%
Other	4	20%

The "other" reasons given were:

- The fact that the statute was soon to expire
- The statute is too limited overall and people think that they can only use a parenting coordinator for issues contained in the statute rather than in all parenting issues, which it really should be
- Post-divorce litigation, prior to emphasis on PCs
- The case is still ongoing, no final decision has been made yet

Sixteen attorneys (49% of those responding) reported that they had had a parenting coordinator appointed in a case in which they have been involved. Those sixteen had the following responses to statements concerning the involvement of a parenting coordinator in the case.

Attorney Perceptions of the Involvement of a Parenting Coordinator in Their Case
Ratings based on strongly agree = 5, agree = 4, neutral = 3, disagree = 2, strongly disagree = 1

Statement	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Average Rating
Reduced the level of parental conflict	0	7	6	0	3	3.06
Produced more timely decisions on parenting time disputes	7	6	1	1	1	4.06
Reduced the negative impact of parental conflict on the children	1	8	4	1	2	3.31
Increased the parents' ability to resolve future disputes	2	4	6	1	3	3.06
Reduced the amount of judge time required for the case	5	7	3	0	1	3.94
Reduced the amount of attorney's fees in the case	5	6	3	1	1	3.81

An average score of "neutral" would be 3.00. The average scores for reducing the level of parental conflict and increasing their ability to resolve future disputes are very close to this number – showing that North Dakota attorneys are skeptical that the appointment of a parenting coordinator has changed the behavior of highly conflicted parents. On the other hand, they

are relatively confident that a parenting coordinator has reduce the time required to resolve parenting time disputes, the judge time required for the case, and the attorney's fees incurred by the parties (offset, of course, by the cost of the parenting coordinator). They believe that children have benefited from the process, most probably as a result of less delay in decision making.

Sixty percent of those family law attorneys answering the question believe that the North Dakota legislature should remove the sunset provision on the parenting coordinator enabling statute.

Participants were given an opportunity to provide additional comments on the statute. Nine took advantage of the opportunity. Their comments are set forth below.

Comments on the Parenting Coordinator Statute

I have had 2 experiences with parenting coordinators. They have not been useful in either situation because the PC failed to act upon the issues and disputes, and instead tried to continually be in the middle, rather than make a decision. I believe it is a useless law and, if the legislature is looking for something in the busier districts, to implement the family law court as it had in Grand Forks county at one time. This did work for the situations that I am aware of.
Provide funding.
Any lawyer should qualify to function in this capacity or at least any lawyer with mediation training. We have a problem with qualified individuals to serve. Lawyers and judges will naturally select attorneys who are well suited for this function. If lawyers are qualified to serve as judges, they should be qualified to serve as a facilitator of parenting disputes without further training. Experienced family lawyers are not taking the training because the program is not widely used and they are busy enough without the work.
I don't believe that parenting coordinators are used in the majority of the cases but when you have that one case which is very difficult and continually ongoing, the parenting coordinator is a very necessary and useful position. I have a dispute right now for parenting time in which the parties have brought to the parenting coordinator for final determination. If we didn't have the coordinator, we would likely end up in court every time an issue as such arises which is a waste of the court's time and expensive for the parties.
Parenting coordinators are a terrific option for parties, attorneys, and the courts, in high conflict cases.
It is too easy for people to just refuse to pay a PC even if they have the money. There is also very little that a person can do about that. Most of the cases I've been involved in as a PC are very difficult and involve difficult and entrenched positions. These people tend not to pay the retainer or participate or follow decisions of the PC and one party has to go back to court. I also think judges and lawyers still need more information on it and how it works.
Let it die. It was worthless when it was drafted and it's worthless today.
While good in theory, the PC program has yet to pay any real dividends in my eyes. Most of the cases that I have referred to a PC are high conflict cases. When one party does not get a result they want, they blame the PC and think they are aligned with the other parent. This leads to the "defeated" parent withdrawing or refusing to cooperate with the PC. While the program was designed to limit the number of disputes that make it to courtroom, I don't see in my practice that it has done that. If anything it has done the opposite and increased animosity.
Parenting coordinators should be more similar to MN's parenting expeditors and/or be given more authority to resolve all parenting issues, not just time. If possible, the legislature should authorize these to be in the same or similar program to the mandatory mediation.

Interviews

As noted earlier, we had an opportunity to discuss the parenting coordinator program with judges, mediators, parenting coordinators, and family law attorneys in four locations around North Dakota in early August 2012.

This is a summary of the comments we received.

Judges

Judges had mixed responses. Some felt positively about the program, feeling that it had been successful the few times they had used it, whether or not it eliminated all post-judgment hearings in the case.² Others were negative, doubting that parenting coordinators actually save any time for the parties or the judges and expressing concern about the cost to the parties. Several reported that the issue of deciding how the parties should pay for the parenting coordinator created collateral litigation just as difficult to resolve as the parenting time disputes themselves.

One judge suggested that the mandatory mediation program was capable of meeting all the alternative dispute resolution needs of these high conflict cases. Simply ordering the parties to return to mediation had resolved most cases in that judge's court.

Family law practitioners

With one exception, the family attorneys had positive impressions of the effectiveness of the program for those persons who can afford it. The exception was a particular parenting coordinator who was assigned in two cases but would not make timely decisions. This parenting coordinator persisted in trying to get the parties to reach agreement rather than perform the decision-making part of the role.

The lawyers all agreed that parenting coordinators need training in dispute resolution. Simply having a law degree is not a sufficient qualification.

The lawyers reported that the process resulted in quick decisions. The parties knew where to turn for a decision and decisions were made quickly.

² One judge took the position that reducing the burden on judges to resolve post-judgment issues in high conflict divorces is not an appropriate objective for the parenting coordinator program. The judge feels that it is the job of a judge to decide all issues parties choose to place before her or him.

They reported that the mandatory mediation program was not an adequate alternative. It requires the filing of a motion to enforce or modify a court order, followed by a judge's order referring the matter to mediation. Mediations must be completed within 90 days. Parenting coordinator processes are to commence within 5 days and to be decided within 5 days following the presentation of all necessary information.

One attorney suggested that the statute should be broadened to cover all parenting matters, not simply parenting time disputes. One of the judges provided us with a copy of a decision prepared by a parenting coordinator in that judge's court. The decision covered a wide range of parenting issues – such as information sharing and communications processes – not just those relating to parenting time.

Parenting coordinators

All the parenting coordinators with whom we spoke felt that the process was effective. They felt that it produced quick resolution of parenting time disputes, for the benefit of the children and the parents. They did report observing some changes in the behavior of the parents.

The parenting coordinators were not concerned about the low level of use of the program. One parenting coordinator reported that she had been on the panel of the counterpart program in Minnesota for twenty years and had been appointed only once during that time. One suggested that the program be compared to a pair of "vice grip pliers" – good to have in the toolbox for difficult situations even though they are not needed for most repair jobs.

One coordinator noted that the county had paid for a case in which one of the parties was indigent. Another noted that law enforcement had refused to enforce a parenting coordinator decision because it did not have a judge's signature.

Conclusions and Recommendations

It is clear that the parenting coordinator statute has not been widely used during the past three and a half years since its effective date. In our view, that is to be expected and is not a reason to eliminate Chapter 14-09.2 from the Century Code. Appointment of a parenting coordinator should be reserved for use in a small number of high conflict cases. We agree with the

parenting coordinator who compared it to vice grip pliers – it is a tool that should be available in the toolbox for use when needed.

This report suggests that the parenting coordinator statute has been effective. It has created a structure for identifying persons suitable for appointment as parenting coordinators. It sets forth the legal authority of a parenting coordinator. It requires that when a parenting coordinator is appointed, parenting time decisions are made quickly. It resolves the issue of confidentiality of statements and documents in parenting coordinator sessions and prohibits testimony of parenting coordinators in court hearings. These issues have been problematic when they were not addressed appropriately in other states.

We suggest that the North Dakota legislature remove the sunset provision on Chapter 14-09.2. We also suggest that it address three issues during the 2013 legislative session in the bill removing the sunset provision. They are:

- Expansion of the scope of the parenting coordinator’s authority to include all issues associated with parenting

As noted in the report, some lawyers believe that a parenting coordinator lacks authority to address any issues other than parenting time, strictly construed – when the children are to be with each parent. In our view, that is an unreasonable interpretation of the statute, since other issues, such as pick up and delivery responsibilities, are an inherent part of parenting time issues. However, we believe that parenting coordinators should be able to address all parenting issues – such as how parents share information and communicate with each other, conflicts about medical, religious, and educational decisions, issues relating to child discipline, and the myriad other issues that often end up being decided in court, such as whether a child should be allowed to go to the high school prom. In high conflict cases, parents use their children as weapons in their ongoing, unresolvable conflict with each other – to the great detriment of the children. In most instances, the particular issue about which the parties are fighting is less important than the fight itself. Having a parenting coordinator available to make an immediate decision on any issue would be of benefit – particularly to the children (i.e., the daughter who has been told that she may not attend the prom tomorrow night). The parties will always have the option of placing any matter before the court for ultimate determination so there is little opportunity for harm from

empowering a parenting coordinator to make an immediate decision on any parenting issue. The parenting coordinator decision shared with us – which went well beyond parenting time issues – was affirmed in its entirety when one of the parties asked the judge to review the decision.

- Explicitly making parenting coordinator decisions legally enforceable when accompanied by the court order appointing the parenting coordinator

Parenting coordinator decisions need to be honored by law enforcement.

- Providing a source of funding for parenting coordinator services for persons who cannot afford the expense

If parenting coordinators are advantageous for children of middle class and well-to-do parents caught up in a high conflict divorce, they are equally advantageous for children of low income parents in the same situation. We are not sufficiently familiar with North Dakota funding mechanisms to suggest any particular form of public funding for this purpose.

1

Testimony on HB 1214

Rep. David Monson

Jan. 28, 2013

Chairman Lee and members of the Senate Human Services Committee, this bill is about as short and simple as any bill I've ever introduced. It has one line which does one thing. It repeals the sunset on the parenting coordinating program started in 2009. Without this bill, the program, which I understand has been very well received and very successful, will terminate on June 30, 2013.

I have a new constituent after redistricting for whom I sponsored another bill. HB 1214 should or could help his situation even more. That is how I got into this area of code about which I know very little.

I'm hoping others who know more about this program will follow me and be able to answer questions for you. I know that the Chief Justice in his address to the legislature the first week of our session stated that this has been a good program and the sunset needs to be repealed. I have since talked to him, and he indicated he was happy someone submitted this bill.

One last item; I was told this bill needs an emergency clause. Without an emergency clause, the program will end June 30, 2013. This bill would not save the program since it would not go into effect until August 1, 2013. The House added an emergency clause, and I ask that you be aware of the need to keep it on the bill.

Thank you for your time. I'll try to answer any questions you may have, but I freely admit this is not my area of expertise. I know others can answer any of your questions far better than I.

#2

STATE BAR ASSOCIATION OF NORTH DAKOTA

**TESTIMONY ON HOUSE BILL 1214
SHERRY MILLS MOORE**

Good Morning, I am Sherry Mills Moore, a volunteer lobbyist for the State Bar Association of North Dakota, here today on behalf of the State Bar Association of North Dakota to support HB 1214. I am an attorney in private practice here in Bismarck, with a focus on family law. The parenting coordinator option was put into law in 2009 with a sunset clause, to allow it time to prove itself. It has done so and we ask that you lift the sunset and add an emergency clause. Here is why:

Some of the most audible problems facing parents who are not raising their children in the same home are visitation issues. There are a variety of reasons for this:

- Visitation disputes often require speedier resolution than the courts are able to give – (if disagreeing about Thanksgiving arises on the weekend before Thanksgiving it is unlikely to be resolved in time for Thanksgiving)
- To some degree the system feels “done” with them -- attorneys and court having tried the case or settled the case and are reluctant to jump right back in with the same energy and resources as the first time around.
- Sometimes the only end to these problems is the aging out of the children, so while the actual initial custody placement may be done at some point, the issues of application, can go on for a long time.
- Cost of these disputes can be prohibitive, limiting access to the courts, and tying up the court’s time.

Back in 2009 following a year-long study of parenting rights and responsibilities a committee comprised of judges, legislators, attorney’s, laypeople, parenting investigators and guardians ad litem asked for changes to the law to meet the concerns about the family law system. One of these changes was to allow the courts to appoint parenting coordinators for those families in the court system who had already had their day in court but still needed help from the court.

A parenting coordinator is used for the most contentious and high risk families after there is a court order. The job of the parenting coordinator is to help these parents apply the court's directive to their lives. They are some kind of hybrid between a special master and a mediator. Mediators try to get people to reach their own agreement. Parenting coordinators would do the same, but failing that, would make a decision. Stated perhaps simplistically, parenting coordinators are mediators with teeth.

Parenting coordinators can be one solution to this problem. For parents who are in high conflict over post judgment scheduling issues HB1214 leaves the parenting coordinators in the court's tool chest. Perhaps it is helpful to remember that the alternative to the parenting coordinator is court. Repetitive disputes hike up the expense and swamp the system. And, perhaps worst of all, they leave lots of children in the middle between two warring factions with no end in sight.

If you look at the information provided by John Greacen's study of the parenting coordinators you will note that by any measure it has been successful, albeit not overused. Continuing the toolbox metaphor, the parenting coordinator is described as the vice grips in the kitchen drawer. You more commonly use the pliers, but when you need the needle-vice grips, you need it.

We want to keep our vice grips in the box. The good news is that they are fully funded by the parties. If the parties can't afford it, there is no parenting coordinator.

Finally, a word on the emergency clause. The reason we need this is because the sun sets on June 30, 2013 and if HB1214 passes, it would not go into effect until August 1, 2013. The gap apparently would void the power of the parenting coordinators going backward and put nothing in place for that month. There isn't any good reason to leave it in limbo for that month nor to undo those orders in place. So we ask your support of an amendment adding an emergency clause and your support of the bill as a whole.

If you have any questions, I am happy to answer them. If you think of something later you are welcome to contact me at sherry@millsmoorelaw.com or call me at 222-4777, or Bill Neumann at bill@sband.org, telephone number 255-1404.



Greacen Associates, LLC

**North Dakota Supreme Court
Parenting Coordinator Program
Evaluation**

Final Report

January 1, 2013

Executive Summary

During its 2009 session, the North Dakota legislature enacted Chapter 14-09.2 of the Century Code authorizing the appointment of parenting coordinators in high conflict divorce cases to help parents reach agreement concerning the meaning of the provisions of a judge's parenting time order and to decide those issues if the parties do not agree. The statute was enacted with a sunset provision and will expire the end of June 2013 if not extended by the legislature.

Greacen Associates, LLC., has been retained by the North Dakota Supreme Court to assess the effectiveness of the parenting coordinator program and to make recommendations concerning its continuation. We have reviewed information collected by the Supreme Court, by parenting coordinators, and by the North Dakota Bar Association through an online survey of family law practitioners. In August 2012 we conducted a series of interviews with judges, mediators, parenting coordinators, and family law practitioners about the program. We have assessed the use of the program and its apparent effectiveness in:

- Producing more timely decisions in parenting time disputes in high conflict cases,
- Reducing the number of times the parties return to court for a judicial determination of such disputes,
- Reducing the amount of attorney's fees in these cases,
- Altering the behavior of the parties in high conflict cases by improving communication, problem solving, and parenting skills of the parents, and
- Reducing the negative impact of parenting time disputes on children.

During the past three and a half years since its enactment, the parenting coordinator statute has been used sparingly. The North Dakota Supreme Court is aware of only eleven cases in which parenting coordinators have been appointed, although it suspects that there may be one or two more instances of its use. Because the program has not been used extensively, very little information is available on which to base an assessment of its effectiveness.

Data on the eleven known cases shows that when appointed, parenting coordinators have been relatively successful in obviating the need for further court proceedings. Although they were instructed to administer participant satisfaction surveys at the close of every parenting coordinator session, very

few completed surveys were returned to the Supreme Court. The surveys that were returned showed surprisingly high satisfaction ratings for the sessions and for the parenting coordinators, given the high level of conflict in the cases in which they have been appointed. The average rating of overall satisfaction with the process was 3.6 on a 5 point scale. The participants did not perceive any improvement in the ability of the parents to communicate with each other or to resolve their own disputes in the future.

The Bar Association survey showed that quite a few attorneys had considered the appointment of a parenting coordinator. The main reason for not following through was the inability of the parties to pay for such services. When a parenting coordinator was appointed, the attorneys reported that the process produced more timely decisions, reduced the number of subsequent court proceedings, and lowered the amounts of attorneys' fees for the parties. They also believe that the program reduced the negative impact of parental conflict on the children. They rated less favorably the likelihood that the process had changed the behavior of the conflicted parties.

During our interviews, judges expressed mixed views of the program. Some had used it and found it effective. Others believed that it is, or would be, unhelpful because the parties would bring their disputes about how to pay for the parenting coordinator to court in addition to their disputes about the parenting coordinator's decisions. One judge thought that the mandatory parenting time mediation program could meet the needs for conflict resolution services for post-judgment issues in high conflict cases.

Attorneys generally supported the program, pointing out that post-judgment mediation required the filing of a motion in court before a mediator could be appointed and that the parenting coordinator statute guarantees a faster decision making process than the mediation rules.

Parenting coordinators found the process effective. They were not surprised that it is rarely used. One attorney reported that she had been on the Minnesota counterpart of the North Dakota parenting coordinator list for twenty years and had been appointed to only one case. One compared the parenting coordinator program to a pair of "vice grip pliers" – you want to have a pair in your toolbox for difficult situations even though ordinary pliers work for most repair jobs.

We urge the continuation of North Dakota's parenting coordinator statute. We are unconcerned that it has been used sparingly. It should be used sparingly – only for high conflict cases. We believe that the limited evidence

available shows that, for the most part, the legislation has proved well-conceived and that the program has been working as designed. It has reduced the time required to reach decisions in parenting time disputes, the number of times the parties have to return to court, the amount of the parties' legal expenses, and – because it is reduced the time to reach decisions – the negative impact on children of parental conflict.

We think it unlikely that the program has to date, or will in the future, have a significant impact on the behavior of the parties in these high conflict cases. These parties remain deeply wounded from the breakup of their marriages and will continue to feud with one another for an extended period of time, using their children as weapons to inflict pain on each other. Parenting coordinators are not therapists and cannot be expected to alter the emotional makeup of the feuding parties. But they can reduce the negative impact of the ongoing feuds on the children, simply by producing a quick decision on each dispute as it arises – a decision that remains in effect until or unless it is changed by a judge following a court hearing.

When the legislature addresses the statute to remove the sunset provision, we suggest that it consider amendments to address three issues that came to our attention during the course of this assessment:

- Expanding the scope of the parenting coordinator's authority to include all issues associated with parenting,
- Explicitly making parenting coordinator decisions legally enforceable when accompanied by the court order appointing the parenting coordinator, and
- Providing a source of funding for parenting coordinator services for persons who cannot afford the expense.

These recommendations are explained in more detail in the body of this report.

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Background

In 2008, the Family Law Section of the North Dakota Bar Association made a series of recommendations to the legislature for changes in the law concerning child custody disputes arising from divorce. The recommendations were made within the context of the mandatory child custody mediation program implemented on a pilot basis by the North Dakota Supreme Court that same year.

The principal recommendation was a change in nomenclature – that the law in the future refer to these matters as “parenting time” disputes and decisions rather than as “child custody” matters.

At the same time, the Section recommended the creation of a new position of “parenting coordinator” – a “neutral individual” authorized to “resolve parenting time disputes by interpreting, clarifying, and addressing circumstances not specifically addressed by an existing court order.” The purpose of this proposal was to provide an additional resource for parents with a highly conflicted relationship. The hope was that the appointment of a neutral third party would result in faster decisions for the benefit of the children and the parties, savings in attorney’s fees, and a reduced burden on the courts from having to conduct hearings on these disputes. There was also some hope that the process would improve the communications and problem solving skills of the parties.

During its 2009 session, the legislature enacted the recommended legislation, to take effect July 1, 2009, with a sunset clause limiting the effectiveness of the new statute to four years unless extended. The statutory authorization will expire on July 1, 2013 unless the legislature acts to remove the sunset provision or to extend the date on which the statute sunsets.

The parenting coordinator statute is codified in Chapter 14-09.2 of the North Dakota Century Code. It consists of eight sections, which provide in summary the following process:

- The North Dakota Supreme Court is to establish qualifications for the position of parenting coordinator and maintain and make available to the public a list of persons eligible to serve in that role.
- A court may appoint a parenting coordinator in any action for divorce, legal separation, paternity, or guardianship in which children are involved, upon its own motion or by motion or agreement of the

parties. The court may not make such an appointment if there has been domestic violence directed to a party or a child in the relationship.

- The appointment may be to resolve a specific dispute or to provide ongoing parenting time dispute resolution services. The statute makes clear that the parenting time issues include the terms of visitation.
- The parenting coordinator may assess for the parties whether there has been a violation of an existing court order and, if so, recommend further court proceedings.
- The parenting coordinator may use any dispute resolution process to assist the parties in resolving a dispute, and, if it becomes apparent that the parties cannot agree on a resolution, make a decision resolving the dispute, based on existing court orders. The parenting coordinator may not modify a court order.
- Parenting coordinators are to resolve disputes quickly. They are to contact the parties within five days of their appointment and make a "diligent effort" to facilitate agreement. If agreement is not possible, a coordinator is to make a decision within five days of receiving all information necessary for a decision. The decision is to be in writing with a copy provided to both parties. The parenting coordinator's decision is binding on the parties until further order of the court.
- The parties are to pay the fees of the parenting coordinator, split equally between the parties unless the court sets a different payment allocation.
- All discussions and documents produced as part of the parenting coordinator process are confidential and will not be admissible in evidence in court, even for purposes of impeachment. A parenting coordinator may not be called to testify in court concerning the relationship between the parties. The exception is if notes or records contain information related to a state or federal crime.
- The parenting coordinator is immune from civil liability for acts or omissions committed in the course of fulfilling the duties of the position.

- A parenting coordinator appointment may be terminated or modified upon agreement of the parties, upon motion of a party, at the request of the parenting coordinator, or on the court's own motion for good cause, which includes:
 - Lack of reasonable progress over a significant period of time,
 - A determination that the parties no longer need parenting coordinator services,
 - Impairment of a party that interferes with the process, or
 - The parenting coordinator's unwillingness or inability to continue to serve.

The North Dakota Supreme Court commissioned Greacen Associates, LLC., which has been evaluating the mandatory parenting time mediation program, to assess the effectiveness of the parenting coordinator process and to prepare a report setting forth its findings and recommendations.

This report summarizes the following information bearing on the effectiveness of the parenting coordinator program:

- A brief summary of eleven cases known to the Supreme Court to have had a parenting coordinator appointed;
- Five satisfaction surveys completed by parties in those cases;
- The results of an on-line poll of 94 members of the North Dakota family bar concerning the program; and
- Interviews with judges, parenting coordinators, and family law bar members in Bismarck, Fargo, Grand Forks, and Minot during the first week of August 2012.

Project Accomplishments

The North Dakota Supreme Court established qualifications for the parenting coordinator position.

Qualifications. To qualify as a parenting coordinator and be listed on the roster under N.D.C.C. §14-09.2-03, a person shall provide the State Court Administrator with written credentials. A parenting coordinator:

- (1) Shall have either an Associate Degree in an academic field related to child care, child development, or children's services with two years of experience in family and children services; or a Bachelor's Degree;
- (2) Shall have completed at least 12 hours of specialized parenting coordinator training which includes developmental stages of children, the dynamics of high conflict, the stages and effects of divorce, problem-

solving techniques, and the dynamics of domestic violence, its impact on children and lethality assessment;

(3) Shall have completed a minimum 40 hours of domestic relations mediation training;

(4) Shall have no criminal conviction for, or substantiated instance of child abuse or neglect, and shall not be or have been restrained by a domestic violence protection order or disorderly conduct restraining order entered after notice and hearing; and

(5) Shall complete at least 18 hours of parenting coordinator related training every three years after receiving the initial hours of specialized training. Parenting Investigators otherwise qualified and trained under this rule, may use either parenting investigator continuing education or parenting coordinator continuing education to meet this requirement.

Sixteen persons are currently listed as qualified to serve as a parenting coordinator.

The Supreme Court has provided both the initial and continuing training required by the qualifications standards.

Data Concerning Parenting Coordinator Appointments

The North Dakota Supreme Court is aware of eleven cases in which parenting coordinators have been appointed. It believes that two or three additional appointments may have been made, but the parenting coordinators have not responded to requests for information about those cases. The data from North Dakota family law practitioners shows that at least sixteen North Dakota attorneys have been involved in cases in which a parenting coordinator has been appointed. Because two attorneys may be involved in a case, the survey data does not necessarily conflict with the data gathered by the North Dakota Supreme Court.

In one of the cases, the parties agreed to the use of parenting coordinator in their parenting plan. In another they agreed during mediation to make use of one. In one case, the court appointed a parenting coordinator at the time of entry of an interim order in the divorce. In another case, the parenting coordinator was appointed as part of a partial divorce judgment. In the other seven instances, a parenting coordinator was appointed after entry of a divorce judgment as part of post-judgment litigation.

In one of the cases – in the North East Central District – the parties chose not to make use of the parenting coordinator. In another, in the East

Central District, the parties did not pay the parenting coordinator and the appointment was terminated. Of the nine other cases, four were in the North East Central District, two in the South East District, and one each in the South Central and Northeast Districts.

Two of the appointments – including the appointment in the East Central District – were made in 2010. Six were made in 2011. Two have been made in 2012. There is no evidence that interest in and use of the parenting coordinator position has been growing consistently over time.

Four of the parenting coordinator appointments have been terminated. Seven remain in effect.

Post judgment motions have been filed in three of the nine cases in which parenting coordinators have been appointed and have been active. This is a positive finding. One would expect a high rate of post judgment motions in high conflict divorce cases.

Satisfaction of the Parties with Parenting Coordinator Proceedings

All parenting coordinators were given reporting forms to be submitted to the Supreme Court at the close of each parenting coordinator dispute resolution process. The reporting forms include information on the case and the parties, the services provided by the parenting coordinator, and the outcome of the session. They were also given participant satisfaction surveys to administer at the close of each dispute resolution process following a procedure that ensured their confidentiality. Completed surveys were to be returned to the Supreme Court for use by the evaluator.

Very few forms were returned to the Supreme Court. Reporting forms were submitted for five sessions. Participant surveys were submitted for three sessions – two surveys were submitted for two of the sessions (one for each party) and one survey was submitted for the other session. Hence, we have a total of five satisfaction surveys for parenting coordinator sessions.

The number of responses is very low. Assuming that at least one session was conducted in each of the ten cases in which any activity took place, the response rate for reporting forms is 50% or lower. Satisfaction surveys

were completed in no more than one third of the sessions.¹ Because the number of reports submitted is so small and the response rates are so low, readers should not assume that the information provided is representative of all parenting coordinator sessions.

The five reporting forms showed:

- That the cases all involved post judgment issues
- That the parenting coordinator provided education in two sessions, mediation in four sessions, and decision making in all five sessions. No referrals to other services were made in any of the sessions.
- The parties were represented by counsel in four of the five sessions. Representation information was not provided for the fifth session.
- In one instance, the parties reached complete agreement on all issues during the session, but within days decided not to follow any of the terms of the agreement. In two instances, the parties reached a partial agreement and the parenting coordinator decided the remaining issues. In the other two instances, the parenting coordinator decided all of the matters at issue.

The satisfaction surveys included demographic data on the participants. Three of the five respondents were male. All were between 25 and 54 years of age. Four of the five had two children; the other had one child. One of the participants was very poor (reporting annual before tax income of \$6,000 or less). The other four had middle class incomes (from \$30,000 to \$72,000 annual before tax income). None were wealthy. Four had some college or an associates degree; one had a graduate degree. All five were White and spoke English as their primary language.

Participant Satisfaction Ratings

¹ Greacen Associates, LLC has been the evaluator for the mandatory parenting time mediation program. Similar reporting requirements were established for mediators under that program. Compliance with the reporting requirements have been much higher in the mediation program – probably because mediators are paid for their services by the Supreme Court while parenting coordinators are paid by the parties and therefore have less incentive to provide information to the Supreme Court.

We present the participant satisfaction data for the five completed surveys below.

Participants reported their satisfaction by responding to various statements with Strongly Agree, Agree, Neutral, Disagree, or Strongly Disagree. For purposes of assessing this data, we have created two alternative scores. The first is the "percentage satisfied" which compares the sum of those responding Strongly Agree and Agree with those responding Disagree and Strongly Disagree. This measure disregards "Neutral" scores. The second assigns the values 5, 4, 3, 2, and 1 to the five ratings. Although this scoring process involves assigning a strict numerical ranking to a series of qualitative statements that may not be related to each other in this strict proportion, it is nonetheless a standard research practice. This scoring practice takes into account the "Neutral" ratings. The maximum score would be 5.0; the minimum would be 1.0; and all "Neutrals" would be 3.0.

The statements were set forth in the survey instrument in both positive and negative formulations to discourage respondents from answering all questions the same way. For reporting purposes, we set forth the statements as they appeared on the survey form but have transformed the average scores as if all statements had been stated in their positive formulation. For example, "The parenting coordinator did not care about our case" is reported as 100% satisfied and a 4.4 average even though the actual scores are the converse – 0% and 1.6 respectively.

Participant Satisfaction Scores

Statement	% Satisfied	Average
The session was at a time relatively convenient for me	100%	4.0
The parenting coordinator treated me with respect	60%	4.0
I did not understand the process that we were to follow	80%	4.2
I was able to say what I needed to say during the session	60%	3.4
I learned something new today about my former spouse	20%	2.2
This process has improved the communication between me and the other parent	0%	2.2
I was able to do a good job representing my point of view	40%	3.6
The parenting coordinator treated both of us equally	80%	3.6
As a result of this process, I have improved parenting skills	20%	3.2
As a result of this process, the other parent has improved parenting skills	0%	2.8
The parenting coordinator did not care about our case	100%	4.4
I learned today how to negotiate more successfully with my former spouse	0%	2.4
The session with the parenting coordinator was not fair to me	60%	3.2
I did not feel safe here today	100%	3.2
Overall, I am satisfied with the parenting coordinator process	60%	3.6

Statement	% Satisfied	Average
Meeting with the parenting coordinator is better than going to court	60%	3.6
The session today included new ideas for resolving our disagreement	80%	3.8
I had difficulty participating because an interpreter was not present	100%	4.2
I had difficulty participating because of physical barriers	100%	4.3

The most significant score is the overall satisfaction rating – which is 3.6 – between “agree” and “neutral.” Six of the scores are 4.0 or higher. Four of the scores are 2.8 or lower.

Because Greacen Associates, LLC has served as the evaluator for the mandatory parenting time mediation program, we are able to provide some comparative perspective to these scores.

Even though the parenting coordinator program is intended for only the most highly conflicted divorce cases, its overall satisfaction rating is only slightly lower than the rating for the mediation program (3.6 compared to 3.8); the mediation program is used in all North Dakota family law proceedings in which there is a dispute concerning parenting time. The rating for bringing new ideas into the process is actually higher for the parenting coordinator sessions (3.8 versus 3.4). The ratings for convenient time for the session, understanding the process, the parenting coordinator’s caring about the process, and feeling safe are comparable for both programs. Several of the parenting coordinator scores do reflect a higher level of conflict between the parties; the scores for learning something new about my former spouse, learning better how to negotiate, and the process being better than going to court were all lower than the corresponding scores for the mandatory mediation program. (The questions concerning improving communication with the other parent and improved parenting skills – which scored very low for the parenting coordinator program – were not included in the mandatory mediation surveys.) Although the average scores are quite positive for parenting coordinator session participants, they did not feel as positive as mediation participants about being treated with respect, being treated equally, or the fairness of the process.

Our overall assessment of these satisfaction scores is that they are surprisingly high for cases characterized as involving highly conflicted relationships. They suggest that the parenting coordinator sessions are successful in resolving the issues presented, but are not successful in changing the underlying dynamics of the relationship.

The survey forms gave parenting coordinator session participants an opportunity to record the aspects of the parenting coordinator process that

were most and least helpful. Here are those comments with the “most helpful” and “least helpful” comments of each participant reported side by side.

Participant Narrative Comments

Most helpful	Least helpful
I was able to directly communicate ideas to my ex.	
Seeing that the schedule she set up will be more normal for the kids	Coordinator misjudged me and basically called me a liar. I have a tremendous amount of stress in my life and remembering how many times I called her (and I won't do it again) isn't a favorable thing I am going to recall. I thought we could call her if there was a problem.
Her making a decision for us that would otherwise not happen.	Cost.

Comments from North Dakota Family Law Section Members

Greacen Associates, LLC prepared a survey for members of the North Dakota Bar Association Family Law Section asking about their views on both the mandatory mediation program and the parenting coordinator program. The North Dakota Bar Association administered the survey online. Emails asking members to participate in the on-line survey went to 94 North Dakota family law practitioners. Thirty-three participated in the portion of the survey dealing with the parenting coordinator program.

Sixty-one percent reported that they had considered the use of a parenting coordinator in one of their cases. Twenty of them reported that a parenting coordinator was not appointed. Participants were allowed to choose more than one reason. As a result, the percentages in the table below add up to more than 100%.

Inability to pay for the services of a parenting coordinator figured strongly in the decisions not to seek appointment of a parenting coordinator.

Reason Parenting Coordinator Was Not Appointed

Reason	Number of Responses	Percentage of Responses
The level of conflict in the case was not sufficient to warrant appointing a parenting coordinator	2	10%
One of the parties objected to the appointment or to paying for the parenting coordinator	12	60%
The parties were not able to afford the services of a parenting coordinator	14	70%
The judge did not agree that a parenting coordinator should be appointed	4	20%
Other	4	20%

The “other” reasons given were:

- The fact that the statute was soon to expire
- The statute is too limited overall and people think that they can only use a parenting coordinator for issues contained in the statute rather than in all parenting issues, which it really should be
- Post-divorce litigation, prior to emphasis on PCs
- The case is still ongoing, no final decision has been made yet

Sixteen attorneys (49% of those responding) reported that they had had a parenting coordinator appointed in a case in which they have been involved. Those sixteen had the following responses to statements concerning the involvement of a parenting coordinator in the case.

Attorney Perceptions of the Involvement of a Parenting Coordinator in Their Case
Ratings based on strongly agree = 5, agree = 4, neutral = 3, disagree = 2, strongly disagree = 1

Statement	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Average Rating
Reduced the level of parental conflict	0	7	6	0	3	3.06
Produced more timely decisions on parenting time disputes	7	6	1	1	1	4.06
Reduced the negative impact of parental conflict on the children	1	8	4	1	2	3.31
Increased the parents' ability to resolve future disputes	2	4	6	1	3	3.06
Reduced the amount of judge time required for the case	5	7	3	0	1	3.94
Reduced the amount of attorney's fees in the case	5	6	3	1	1	3.81

An average score of “neutral” would be 3.00. The average scores for reducing the level of parental conflict and increasing their ability to resolve future disputes are very close to this number – showing that North Dakota attorneys are skeptical that the appointment of a parenting coordinator has changed the behavior of highly conflicted parents. On the other hand, they

are relatively confident that a parenting coordinator has reduce the time required to resolve parenting time disputes, the judge time required for the case, and the attorney's fees incurred by the parties (offset, of course, by the cost of the parenting coordinator). They believe that children have benefited from the process, most probably as a result of less delay in decision making.

Sixty percent of those family law attorneys answering the question believe that the North Dakota legislature should remove the sunset provision on the parenting coordinator enabling statute.

Participants were given an opportunity to provide additional comments on the statute. Nine took advantage of the opportunity. Their comments are set forth below.

Comments on the Parenting Coordinator Statute

I have had 2 experiences with parenting coordinators. They have not been useful in either situation because the PC failed to act upon the issues and disputes, and instead tried to continually be in the middle, rather than make a decision. I believe it is a useless law and, if the legislature is looking for something in the busier districts, to implement the family law court as it had in Grand Forks county at one time. This did work for the situations that I am aware of.
Provide funding.
Any lawyer should qualify to function in this capacity or at least any lawyer with mediation training. We have a problem with qualified individuals to serve. Lawyers and judges will naturally select attorneys who are well suited for this function. If lawyers are qualified to serve as judges, they should be qualified to serve as a facilitator of parenting disputes without further training. Experienced family lawyers are not taking the training because the program is not widely used and they are busy enough without the work.
I don't believe that parenting coordinators are used in the majority of the cases but when you have that one case which is very difficult and continually ongoing, the parenting coordinator is a very necessary and useful position. I have a dispute right now for parenting time in which the parties have brought to the parenting coordinator for final determination. If we didn't have the coordinator, we would likely end up in court every time an issue as such arises which is a waste of the court's time and expensive for the parties.
Parenting coordinators are a terrific option for parties, attorneys, and the courts, in high conflict cases.
It is too easy for people to just refuse to pay a PC even if they have the money. There is also very little that a person can do about that. Most of the cases I've been involved in as a PC are very difficult and involve difficult and entrenched positions. These people tend not to pay the retainer or participate or follow decisions of the PC and one party has to go back to court. I also think judges and lawyers still need more information on it and how it works.
Let it die. It was worthless when it was drafted and it's worthless today.
While good in theory, the PC program has yet to pay any real dividends in my eyes. Most of the cases that I have referred to a PC are high conflict cases. When one party does not get a result they want, they blame the PC and think they are aligned with the other parent. This leads to the "defeated" parent withdrawing or refusing to cooperate with the PC. While the program was designed to limit the number of disputes that make it to courtroom, I don't see in my practice that it has done that. If anything it has done the opposite and increased animosity.
Parenting coordinators should be more similar to MN's parenting expeditors and/or be given more authority to resolve all parenting issues, not just time. If possible, the legislature should authorize these to be in the same or similar program to the mandatory mediation.

Interviews

As noted earlier, we had an opportunity to discuss the parenting coordinator program with judges, mediators, parenting coordinators, and family law attorneys in four locations around North Dakota in early August 2012.

This is a summary of the comments we received.

Judges

Judges had mixed responses. Some felt positively about the program, feeling that it had been successful the few times they had used it, whether or not it eliminated all post-judgment hearings in the case.² Others were negative, doubting that parenting coordinators actually save any time for the parties or the judges and expressing concern about the cost to the parties. Several reported that the issue of deciding how the parties should pay for the parenting coordinator created collateral litigation just as difficult to resolve as the parenting time disputes themselves.

One judge suggested that the mandatory mediation program was capable of meeting all the alternative dispute resolution needs of these high conflict cases. Simply ordering the parties to return to mediation had resolved most cases in that judge's court.

Family law practitioners

With one exception, the family attorneys had positive impressions of the effectiveness of the program for those persons who can afford it. The exception was a particular parenting coordinator who was assigned in two cases but would not make timely decisions. This parenting coordinator persisted in trying to get the parties to reach agreement rather than perform the decision-making part of the role.

The lawyers all agreed that parenting coordinators need training in dispute resolution. Simply having a law degree is not a sufficient qualification.

The lawyers reported that the process resulted in quick decisions. The parties knew where to turn for a decision and decisions were made quickly.

² One judge took the position that reducing the burden on judges to resolve post-judgment issues in high conflict divorces is not an appropriate objective for the parenting coordinator program. The judge feels that it is the job of a judge to decide all issues parties choose to place before her or him.

They reported that the mandatory mediation program was not an adequate alternative. It requires the filing of a motion to enforce or modify a court order, followed by a judge's order referring the matter to mediation. Mediations must be completed within 90 days. Parenting coordinator processes are to commence within 5 days and to be decided within 5 days following the presentation of all necessary information.

One attorney suggested that the statute should be broadened to cover all parenting matters, not simply parenting time disputes. One of the judges provided us with a copy of a decision prepared by a parenting coordinator in that judge's court. The decision covered a wide range of parenting issues – such as information sharing and communications processes – not just those relating to parenting time.

Parenting coordinators

All the parenting coordinators with whom we spoke felt that the process was effective. They felt that it produced quick resolution of parenting time disputes, for the benefit of the children and the parents. They did report observing some changes in the behavior of the parents.

The parenting coordinators were not concerned about the low level of use of the program. One parenting coordinator reported that she had been on the panel of the counterpart program in Minnesota for twenty years and had been appointed only once during that time. One suggested that the program be compared to a pair of "vice grip pliers" – good to have in the toolbox for difficult situations even though they are not needed for most repair jobs.

One coordinator noted that the county had paid for a case in which one of the parties was indigent. Another noted that law enforcement had refused to enforce a parenting coordinator decision because it did not have a judge's signature.

Conclusions and Recommendations

It is clear that the parenting coordinator statute has not been widely used during the past three and a half years since its effective date. In our view, that is to be expected and is not a reason to eliminate Chapter 14-09.2 from the Century Code. Appointment of a parenting coordinator should be reserved for use in a small number of high conflict cases. We agree with the

parenting coordinator who compared it to vice grip pliers – it is a tool that should be available in the toolbox for use when needed.

This report suggests that the parenting coordinator statute has been effective. It has created a structure for identifying persons suitable for appointment as parenting coordinators. It sets forth the legal authority of a parenting coordinator. It requires that when a parenting coordinator is appointed, parenting time decisions are made quickly. It resolves the issue of confidentiality of statements and documents in parenting coordinator sessions and prohibits testimony of parenting coordinators in court hearings. These issues have been problematic when they were not addressed appropriately in other states.

We suggest that the North Dakota legislature remove the sunset provision on Chapter 14-09.2. We also suggest that it address three issues during the 2013 legislative session in the bill removing the sunset provision. They are:

- Expansion of the scope of the parenting coordinator's authority to include all issues associated with parenting

As noted in the report, some lawyers believe that a parenting coordinator lacks authority to address any issues other than parenting time, strictly construed – when the children are to be with each parent. In our view, that is an unreasonable interpretation of the statute, since other issues, such as pick up and delivery responsibilities, are an inherent part of parenting time issues. However, we believe that parenting coordinators should be able to address all parenting issues – such as how parents share information and communicate with each other, conflicts about medical, religious, and educational decisions, issues relating to child discipline, and the myriad other issues that often end up being decided in court, such as whether a child should be allowed to go to the high school prom. In high conflict cases, parents use their children as weapons in their ongoing, unresolvable conflict with each other – to the great detriment of the children. In most instances, the particular issue about which the parties are fighting is less important than the fight itself. Having a parenting coordinator available to make an immediate decision on any issue would be of benefit – particularly to the children (i.e., the daughter who has been told that she may not attend the prom tomorrow night). The parties will always have the option of placing any matter before the court for ultimate determination so there is little opportunity for harm from

empowering a parenting coordinator to make an immediate decision on any parenting issue. The parenting coordinator decision shared with us – which went well beyond parenting time issues – was affirmed in its entirety when one of the parties asked the judge to review the decision.

- Explicitly making parenting coordinator decisions legally enforceable when accompanied by the court order appointing the parenting coordinator

Parenting coordinator decisions need to be honored by law enforcement.

- Providing a source of funding for parenting coordinator services for persons who cannot afford the expense

If parenting coordinators are advantageous for children of middle class and well-to-do parents caught up in a high conflict divorce, they are equally advantageous for children of low income parents in the same situation. We are not sufficiently familiar with North Dakota funding mechanisms to suggest any particular form of public funding for this purpose.