

FAMILY LAW SASKATCHEWAN

MCKERCHER LLP BARRISTERS & SOLICITORS

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On July 15, 2019, *The Children's Law Act* of Saskatchewan was amended.

The new version of the Act contains several new definitions and roles for those involved in legal disputes in family law. The goal of the amendments is to provide increased opportunity to resolve family law disputes outside of the Court process.

Family Arbitrators

Section 2 of the Act contains a new definition for a "Family Arbitrator". The description of the training required to become a Family Arbitrator is provided in section 3 of *The Arbitration Act* of Saskatchewan.

Family Arbitrators can arbitrate disputes for parties and decide on outcomes much like a judge would in Court. The benefits to using a Family Arbitrator include that parties may receive a decision more quickly than they might through the Court process, they may feel that the dispute is more private since it is not held in open Court, and they may have a sense of control of the process since they can choose their arbitrator together. However, arbitration will also come with increased fees, and a Family Arbitrator might not be easy to find for disputes that require urgent action.

Family Arbitrators can conduct arbitrations for any disputes that *The Children's Law Act* applies to. If parties wish to have their dispute arbitrated, they must enter into a written agreement with the Family Arbitrator where they agree that he or she can decide the outcome of the dispute for them.

Parenting Coordinators

Section 21.1 of *The Children's Law Act* contains a new definition for a "Parenting Coordinator". Section 2.1 of *The Children's Law Act Regulations* lists the necessary qualifications of a Parenting Coordinator.

What Can Parenting Coordinators Do?

Parenting Coordinators can assist parties in resolving disputes in the following areas provided in *The Children's Law Act Regulations*:

- a child's daily routine, including a child's schedule in relation to access by either parent;
- the education of a child, including in relation to the child's special needs;
- the participation of a child in extracurricular activities and special events;



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- the temporary care of a child by a person other than
 - o the child's guardian; or
 - o a person who has access to the child pursuant to an agreement or order;
- the provision of medical, dental or other health care to a child;
- the discipline of a child;
- the transportation and exchange of a child for the purposes of exercising access;
- a child's travel plans in relation to the exercise of parental responsibilities or access with respect to the child;
- access during vacations and special occasions;
- communication, including any form of electronic communication, between a parent and child when the child is not in the parent's care;
- any other matter relating to the exercise of parental responsibilities or access that is agreed to by the parties and the parenting coordinator.

Parenting Coordinators cannot assist parties in resolving disputes in the following areas:

- the legal custody of a child;
- the division of parental responsibilities;
- the granting of access to a person who does not already have access to the child;
- the relocation of a child;
- the division or possession of property; or
- the division of family debt.

Parenting Coordination Agreements and Orders

If parties wish to have their dispute decided by a Parenting Coordinator, they can agree to enter into a written agreement with the Parenting Coordinator where they agree that he or she can decide the outcome of the dispute for them. This agreement is called a Parenting Coordination Agreement. The Parenting Coordinator cannot make decisions for the parties that are beyond the scope of this Agreement.

If parties do not agree on the use of a Parenting Coordinator to resolve a dispute, however, either may apply to the Court to request an order to this effect. The Court has the power to order that a dispute should be resolved through a Parenting Coordinator and to specify what proportion of the Parenting Coordinator's fees each party is required to pay.

A Parenting Coordination Agreement or Order expires automatically 2 years after it is made, unless the parties or the Judge agree that it should be extended for another maximum of 2 years. A Parenting Coordination Agreement or Order can also be predetermined to expire on an earlier date or on the occurrence of a specific event. The Parties can also agree to terminate or apply to the Court to terminate a

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Parenting Coordination Agreement or Order at any time. The Parenting Coordinator can also terminate a Parenting Coordination Order by giving notice to the Parties and to the Court if the Parenting Coordinator is acting under an Order.

The Process of Using a Parenting Coordinator

After entering into a Parenting Coordination Agreement or receiving a Parenting Coordination Order, the parties will discuss the issues with the Parenting Coordinator. The process for this discussion is not specifically set out in the legislation. The goal is for the Parenting Coordinator to assist the parties by building consensus, creating guidelines for communication and implementation of decisions, identifying strategies to resolve conflicts, and providing information or other resources to assist the parties in their parenting.

The parties are required to share any information with the Parenting Coordinator that he or she requests to resolve the dispute. Unless the Parenting Coordinator and the parties agree otherwise, evidence of things said or done with the Parenting Coordinator's assistance will not be admissible in any further Court proceedings.

Once the Parenting Coordinator receives all the necessary information, he or she will make a decision based on the best interests of the child. This decision can be oral but must be put into writing as soon as possible and signed by the Parenting Coordinator. Once the decision is made, it is binding on the parties and enforceable as if it were a Court Order when filed with the Court. If a party feels that the Parenting Coordinator acted outside the scope of his or her authority, or made an error when making the decision, he or she can apply to the Court to have it set aside and make another Order.

About Family Law Saskatchewan:

Samantha, Kate and Zina are active members of the larger McKercher LLP Family Law Group. This group is dedicated to the delivery of honest, focused and experienced legal solutions for families in Saskatchewan who are transitioning to a next chapter in their lives together, or apart.

About McKercher LLP:

McKercher LLP is one of Saskatchewan's largest, most established law firms, with offices in Saskatoon and Regina. Our deep roots and client-first philosophy have helped our firm to rank in the top 5 in Saskatchewan by Canadian Lawyer magazine (2019/20). Integrity, experience, and capacity provide innovative solutions for our clients' diverse legal issues and complex business transactions.



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