

**Representative Tim M. Cosgrove** proposes the following substitute bill:

**CUSTODY EVALUATION AND PARENT  
COORDINATION**

2008 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Tim M. Cosgrove**

Senate Sponsor: Scott D. McCoy

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**LONG TITLE**

**General Description:**

This bill creates the Child Custody Evaluation Act and the Parent Coordination Act.

**Highlighted Provisions:**

This bill:

▶ creates the Child Custody Evaluation Act, which:

- sets standards for education and training of child custody evaluators;
- requires the Administrative Office of the Courts to maintain a list of qualified child custody evaluators;
- requires the court in a divorce, separation, or child custody matter to select an evaluator from the Administrative Office of the Courts' list; and

- allows the court to divide the evaluator's fees equitably between the parties; and

▶ creates the Parent Coordination Act, which:

- sets standards for education and training of parent coordinators;
- requires the Administrative Office of the Courts to maintain a list of qualified parent coordinators;
- sets standards for decision-making responsibilities of parent coordinators;
- requires the court to specify a time period for the parent coordinator; and



26 • allows the court to divide the coordinator's fees equitably between the parties.

27 **Monies Appropriated in this Bill:**

28 None

29 **Other Special Clauses:**

30 This bill takes effect on July 1, 2009.

31 **Utah Code Sections Affected:**

32 ENACTS:

33 **30-10-101**, Utah Code Annotated 1953

34 **30-10-102**, Utah Code Annotated 1953

35 **30-10-103**, Utah Code Annotated 1953

36 **30-10-104**, Utah Code Annotated 1953

37 **30-10-105**, Utah Code Annotated 1953

38 **30-10-106**, Utah Code Annotated 1953

39 **30-11-101**, Utah Code Annotated 1953

40 **30-11-102**, Utah Code Annotated 1953

41 **30-11-103**, Utah Code Annotated 1953

42 **30-11-104**, Utah Code Annotated 1953

43 **30-11-105**, Utah Code Annotated 1953

44 **30-11-106**, Utah Code Annotated 1953



46 *Be it enacted by the Legislature of the state of Utah:*

47 Section 1. Section **30-10-101** is enacted to read:

48 **CHAPTER 10. CHILD CUSTODY EVALUATION ACT**

49 **30-10-101. Title.**

50 This chapter is known as the "Child Custody Evaluation Act."

51 Section 2. Section **30-10-102** is enacted to read:

52 **30-10-102. Definitions.**

53 As used in this chapter:

54 (1) "Custody evaluation" means a process where information is gathered by a custody  
55 evaluator from parties to a divorce, separation, or custody proceeding which is used to provide  
56 the court with information it can use to make decisions regarding custody and parenting time

57 arrangements that are in the child's best interest.

58 (2) "Custody evaluator" means a person who performs custody evaluations.

59 (3) "Party" means either the petitioner or respondent, or their respective attorneys, in an  
60 action for separation, divorce, or custody of a minor child.

61 Section 3. Section **30-10-103** is enacted to read:

62 **30-10-103. Qualifications and training.**

63 (1) Subject to meeting the educational, training, and continuing education requirements  
64 in Subsection (2), the following persons may conduct custody evaluations in response to a  
65 request from a court:

66 (a) social workers with the designation of Licensed Clinical Social Worker or  
67 equivalent license by the state ~~to~~ [in which they practice] ~~in~~ ;

68 (b) doctoral level psychologists who are licensed by the state ~~to~~ [in which they  
68a practice] ~~in~~ ;

69 (c) physicians who are board certified in psychiatry and are licensed by the state ~~to~~ [in  
70 which they practice] ~~in~~ ; or

71 (d) marriage and family therapists who hold the designation of Licensed Marriage and  
72 Family Therapist or equivalent license by the state ~~to~~ [in which they practice] ~~in~~ .

73 (2) Licensed professionals in Subsection (1) shall have:

74 (a) a minimum of a master's degree in a mental health field that includes:

75 (i) formal education and training in child development, child and adult  
76 psychopathology, interviewing techniques, and family systems; and

77 (ii) by formal education or by supervised work experience, advanced knowledge of the  
78 complexities of the divorce or separation process, a working knowledge of the legal issues in  
79 divorce or separation, and an understanding of the legal, social, familial, and cultural issues  
80 involved in custody decisions; ~~and~~ and ~~and~~

81 (b) ~~to~~ [initial training totaling a minimum of 12 hours, and eight hours annually of  
82 continuing education, specific to custody evaluation; and

83 ———(c) ~~to~~ at least ~~to~~ [24] three ~~to~~ hours ~~to~~ [of initial] annual ~~to~~ training ~~to~~ [and  
83a 16 hours annually of continuing education;  
84 on] in ~~to~~ domestic violence ~~to~~ issues ~~to~~ .

85 Section 4. Section **30-10-104** is enacted to read:

86 **30-10-104. Court responsibilities.**

87 (1) The Administrative Office of the Courts shall maintain an approved list of custody

88 evaluators who have met the qualifications in Section 30-10-103.

89 (2) If the court determines that a custody evaluator is needed in an action, the court  
90 shall appoint an evaluator from a list of court-approved evaluators.

91 (3) A child custody evaluator appointed in accordance with this chapter may not also  
92 be appointed as a special master in accordance with URCP 53 or a parenting coordinator  
93 appointed in accordance with Title 30, Chapter 11, Parent Coordination Act, in an action  
94 involving the same parties.

95 (4) All custody evaluations shall be conducted in accordance with Code of Judicial  
96 Administration, Rule 4-903.

97 Section 5. Section 30-10-105 is enacted to read:

98 **30-10-105. Custody evaluator responsibilities.**

99 A custody evaluator ~~H→~~ who accepts a case ~~←H~~ shall:

100 (1) ~~H→~~ ~~[accept cases referred by the court without regard to the financial situation of the~~  
101 ~~parties;~~

102 ~~——(2)] ←H~~ review with each party the custody evaluator's policies and procedures, including  
103 fees, for conducting an evaluation;

104 ~~H→~~ ~~[(3)] (2) ←H~~ provide the court with ~~H→~~ ~~[copies of all written documentation and~~  
104a ~~reports] a copy of the written custody evaluation or report, if one is prepared ←H ; and~~

105 ~~H→~~ ~~[(4)] (3) ←H~~ note in the final report provided to the court, any missing or incomplete  
106 information.

107 Section 6. Section 30-10-106 is enacted to read:

108 **30-10-106. Fees and costs.**

109 (1) A child custody evaluator shall provide to the parties and the court an itemized  
110 accounting of all amounts charged.

111 (2) The court shall consider the financial situation ~~H→~~ and the merits of the claims ~~←H~~ of  
111a both parties in determining

112 payment for the custody evaluator's services, and make a final determination on the record of  
113 the ~~H→~~ ~~[amounts] percentage of the evaluator's fee ←H~~ each party is responsible for paying.

114 Section 7. Section 30-11-101 is enacted to read:

115 **CHAPTER 11. PARENT COORDINATION ACT**

116 **30-11-101. Title.**

117 This chapter shall be known as the "Parent Coordination Act."

118 Section 8. Section 30-11-102 is enacted to read:

119 **30-11-102. Definitions.**120 As used in this chapter:

121 (1) "Parent coordinator" means a person appointed by the court to minimize trauma to  
 122 the children of divorce by resolving custody ~~H→ [=]~~ **and parent-time** ~~←H~~ related disputes  
 122a between the parents within the  
 123 scope of the court's order.

124 (2) "Party" means the petitioner, respondent, or their respective attorneys in an action  
 125 for separation, divorce, or child custody.

126 Section 9. Section **30-11-103** is enacted to read:127 **30-11-103. Qualifications and training.**

128 (1) Subject to meeting the educational and training requirements in Subsection (2), the  
 129 following persons may be appointed by a court as a parent coordinator:

130 (a) a doctoral level psychologist who is licensed by the state ~~H→~~ **[in which they**  
 130a **practice]** ~~←H~~ ;

131 (b) a legal professional who is licensed by the state ~~H→~~ **[in which they practice]** ~~←H~~ ;

132 (c) a certified family mediator with a master's degree in a mental health field; or

133 (d) social workers with the designation of Licensed Clinical Social Worker or

134 equivalent license by the state ~~H→~~ **[in which they practice]** ~~←H~~ ;

135 (2) Parent coordinators shall have:

136 (a) ~~H→~~ **[formal]** ~~←H~~ training ~~H→~~ **[or advanced knowledge]** ~~←H~~ in child development,  
 136a child and adult

137 psychopathology, interviewing techniques, and family systems;

138 (b) advanced knowledge of the complexities of the divorce or separation process, a

139 working knowledge of the legal issues in divorce or separation, and an understanding of the

140 legal, social, familial, and cultural issues involved in a proceeding relating to child custody;

141 (c) advanced experience and knowledge in family mediation, and, preferably, be a

142 certified family mediator according to court rule;

143 (d) advanced experience with high conflict or litigating parents;

144 (e) a minimum of ~~H→~~ **[40] three** ~~←H~~ hours of initial training which includes training  
 144a in parent

145 coordination, family dynamics in separation and divorce, domestic violence, child abuse, and

146 court specific parenting procedures; and

147 (f) ~~H→~~ **[an additional 20] three** ~~←H~~ hours ~~H→~~ **annually** ~~←H~~ of specialized training which

147a includes maintenance of

148 professional competence in the parenting coordination process ~~H→~~ , domestic violence, and child

148a abuse ~~←H~~ .

149 Section 10. Section **30-11-104** is enacted to read:

150 **30-11-104. Court responsibilities.**

151 (1) The Administrative Office of the Courts shall maintain an approved list of parent  
 152 coordinators who have met the qualifications in this chapter.

153 (2) If the court determines that a parent coordinator is needed, the court, after  
 154 consultation with both parties, shall appoint a coordinator from the list maintained by the  
 155 Administrative Office of the Courts.

156 (3) A parent coordinator ~~H→~~ **[may] should** ~~←H~~ decline appointment if the case is  
 156a beyond the parent  
 157 coordinator's skill or expertise.

158 (4) The court order appointing a parent coordinator shall:

159 (a) require the coordinator to work with the parties in order to create workable  
 160 solutions to disputes that will, in time, lessen the need for a parent coordinator;

161 (b) allow the coordinator to make recommendations ~~H→~~ **[and decisions]** ~~←H~~ necessary  
 161a to allow  
 162 as little disruption in the children's home and routine as possible, yet carry out specific court  
 163 orders regarding parent-time; and

164 (c) provide a term of service for the parent coordinator, including start and end dates.

165 (5) Upon the expiration of the parent coordinator's term of service, one or both parents  
 166 may request the coordinator continue for additional time. The court shall determine whether  
 167 the coordinator may continue and set a specific length of time if the decision is made to  
 168 continue the coordinator.

169 ~~**H→ [(6) If one parent requests additional time and the other parent declines, the court shall**~~  
 170 ~~**determine the matter.] ←H**~~

171 Section 11. Section 30-11-105 is enacted to read:

172 **30-11-105. Parent coordinator responsibilities.**

173 (1) The parent coordinator's primary role is to assist the parties impartially to work out  
 174 disagreements regarding their children to minimize conflict.

175 (2) The parent coordinator shall report suspected child abuse or neglect to the proper  
 176 agency.

177 (3) The parent coordinator shall communicate ~~H→~~ **[decisions] recommendations** ~~←H~~ in a  
 177a timely manner in person  
 178 or by fax, e-mail, or telephone. In the event ~~H→~~ **[decisions] recommendations** ~~←H~~ are provided  
 178a orally, a written version  
 179 shall follow in a timely manner.

180 (4) The parent coordinator shall discuss with both parties all policies, procedures, fees,

181 and standards for decision-making. In addition, each party shall be given a copy of the court's  
182 order ~~H~~→ [to] appointing ←~~H~~ the coordinator.

183 (5) A parent coordinator may not serve in multiple roles in the same case.

184 (6) The parent coordinator shall make every effort to avoid conflicts of interest and  
185 shall disclose any conflicts to the court and all parties involved in the case.

186 (7) The parent coordinator shall provide a report to the court at intervals determined by  
187 the court, and a final report upon the expiration of the coordinator's term.

188 Section 12. Section **30-11-106** is enacted to read:

189 **30-11-106. Fees and costs.**

190 (1) The parent coordinator shall provide to the court and the parties an itemized  
191 accounting of all amounts charged.

192 (2) The court shall make an initial determination of each party's share of the parent  
193 coordinator's fees. It shall consider the financial situation of both parties in determining  
194 payment for the parent coordinator's services. Upon the termination of the parent coordinator's  
195 services, the court shall make a final determination on the record of any outstanding amounts  
196 each party is responsible for paying.

197 Section 13. **Effective date.**

198 This bill takes effect on July 1, 2009.

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**H.B. 169 1st Sub. (Buff) - Custody Evaluation and Parent Coordination**

**Fiscal Note**

2008 General Session

State of Utah

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**State Impact**

Enactment of this bill will require ongoing General Funds to the Courts of \$19,500.

	<u>FY 2008 Approp.</u>	<u>FY 2009 Approp.</u>	<u>FY 2010 Approp.</u>	<u>FY 2008 Revenue</u>	<u>FY 2009 Revenue</u>	<u>FY 2010 Revenue</u>
General Fund	\$0	\$19,500	\$19,500	\$0	\$0	\$0
<b>Total</b>	<b>\$0</b>	<b>\$19,500</b>	<b>\$19,500</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.