

Article 2.

Expedited Process for Child Support Cases.

**§ 50-30. Findings; policy; and purpose.**

(a) Findings. – The General Assembly makes the following findings:

- (1) There is a strong public interest in providing fair, efficient, and swift judicial processes for establishing and enforcing child support obligations. Children are entitled to support from their parents, and court assistance is often required for the establishment and enforcement of parental support obligations. Children who do not receive support from their parents often become financially dependent on the State.
- (2) The State shall have laws that meet the federal requirements on expedited processes for obtaining and enforcing child support orders for purposes of federal reimbursement under Title IV-D of the Social Security Act, 42 U.S.C. § 66(a)(2). The Secretary of the United States Department of Health and Human Services may waive the expedited process requirement with respect to one or more district court district as defined in G.S. 7A-133 on the basis of the effectiveness and timeliness of support order issuance and enforcement within the district.
- (3) The State has a strong financial interest in complying with the expedited process requirement, and other requirements, of Title IV-D of the Social Security Act, but the State would incur substantial expense in creating statewide an expedited child support process as defined by federal law.
- (4) The State's judicial system is largely capable of processing child support cases in a timely and efficient manner and has a strong commitment to an expeditious system.
- (5) The substantial expense the State would incur in creating a new system for obtaining and enforcing child support orders would be reduced and better spent by improving the present system.

(b) Purpose and Policy. – It is the policy of this State to ensure, to the maximum extent possible, that child support obligations are established and enforced fairly, efficiently, and swiftly through the judicial system by means that make the best use of the State's resources. It is the purpose of this Article to facilitate this policy. The Administrative Office of the Courts and judicial officials in each district court district as defined in G.S. 7A-133 shall make a diligent effort to ensure that child support cases, from the time of filing to the time of disposition, are handled fairly, efficiently, and swiftly. The Administrative Office of the Courts and the State Department of Health and Human Services shall work together to improve procedures for the handling of child support cases in which the State or county has an interest, including all cases that qualify in any respect for federal reimbursement under Title IV-D of the Social Security Act. (1985 (Reg. Sess., 1986), c. 993, s. 1; 1987 (Reg. Sess., 1988), c. 1037, s. 86; 1997-443, s. 11A.18.)

**§ 50-31. Definitions.**

As used in this Article, unless the context clearly requires otherwise:

- (1) "Child support case" means the part of any civil or criminal action or proceeding, whether intrastate or interstate, that involves a claim for the establishment or enforcement of a child support obligation.
- (2) "Dispose" or "disposition" of a child support case means the entry of an order in a child support case that:
  - a. Dismisses the claim for establishment or enforcement of the child support obligation; or
  - b. Establishes a child support obligation, either temporary or permanent, and directs how that obligation is to be satisfied; or
  - c. Orders a particular child support enforcement remedy.
- (3) "Expedited process" means a procedure for having child support orders established and enforced by a magistrate or clerk who has been designated as a child support hearing officer pursuant to this Article.
- (4) "Federal expedited process requirement" means the provision in Title IV, Part D of the Social Security Act, 42 U.S.C. § 666(a)(2), that requires as a condition of the receipt of federal funds that a state have laws that require the use of federally defined expedited processes for obtaining and enforcing child support orders.
- (5) "Filing" means the date the defendant is served with a pleading that seeks establishment or enforcement of a child support obligation, or the date written notice or a pleading is sent to a party seeking establishment or enforcement of a child support obligation.
- (6) "Hearing officer" or "child support hearing officer" means a clerk or assistant clerk of superior court or a magistrate who has been designated pursuant to this Article to hear and enter orders in child support cases.
- (7) "Initiating party" means the party, the attorney for a party, a child support enforcement agency established pursuant to Title IV, Part D of the Social Security Act, or the clerk of superior court who initiates an action, proceeding, or procedure as allowed or required by law for the establishment or enforcement of a child support obligation. (1985 (Reg. Sess., 1986), c. 993, s. 1; 1987, c. 346.)

**§ 50-32. Disposition of cases within 60 days; extension.**

Except where paternity is at issue, in all child support cases the district court judge shall dispose of the case from filing to disposition within 60 days, except that this period may be extended for a maximum of 30 days by order of the court if:

- (1) Either party or his attorney cannot be present for the hearing; or
- (2) The parties have consented to an extension. (1985 (Reg. Sess., 1986), c. 993, s. 1.)

**§ 50-33. Waiver of expedited process requirement.**

(a) State to Seek Waiver. – The State Department of Health and Human Services, with the assistance of the Administrative Office of the Courts, shall vigorously pursue application to the United States Department of Health and Human Services for waivers of the federal expedited process requirement.

(b) Districts That Do Not Qualify. – In any district court district as defined in G.S. 7A-133 that does not qualify for a waiver of the federal expedited process requirement, an expedited process shall be established as provided in G.S. 50-34. (1985 (Reg. Sess., 1986), c. 993, s. 1; 1987 (Reg. Sess., 1988), c. 1037, s. 87; 1997-443, s. 11A.19.)

**§ 50-34. Establishment of an expedited process.**

(a) Districts Required to Have Expedited Process. – In any district court district as defined in G.S. 7A-133 that is required by G.S. 50-33(b) to establish an expedited child support process, the Director of the Administrative Office of the Courts shall notify the chief district court judge and the clerk or clerks of superior court in the district in writing of the requirement. The Director of the Administrative Office of the Courts, the chief district court judge, and the clerk or clerks of superior court in the district shall implement an expedited child support process as provided in this section.

(b) Procedure for Establishing Expedited Process. – When a district court district as defined in G.S. 7A-133 is required to implement an expedited process, the Director of the Administrative Office of the Courts, the chief district judge, and the clerk of superior court in an affected county shall determine by agreement whether the child support hearing officer or officers for that county shall be one or more clerks or one or more magistrates. If such agreement has not been reached within 15 days after the notice required by subsection (a) when implementation is required, the Director of the Administrative Office of the Courts shall make the decision. If it is decided that the hearing officer or officers for a county shall be magistrates, the chief district judge, the clerk of superior court, and the Director of the Administrative Office of the Courts shall ensure his or their qualification for the position. If it is decided that the hearing officer or officers for a county shall be the clerk or assistant clerks, the clerk of superior court in the county shall designate the person or persons to serve as hearing officer, and the chief district judge, the clerk of superior court, and the Director of the Administrative Office of the Courts shall ensure his or their qualification for the position.

(c) Public To Be Informed. – When an expedited process is to be implemented in a county or district court district as defined in G.S. 7A-133, the chief district court judge, the clerk or clerks of superior court in affected counties in the district, and the Administrative Office of the Courts shall take steps to ensure that attorneys, the general public, and parties to pending child support cases in the county or district are informed of the change in procedures and helped to understand and use the new system effectively. (1985 (Reg. Sess., 1986), c. 993, s. 1; 1987 (Reg. Sess., 1988), c. 1037, s. 88.)

**§ 50-35. Authority and duties of a child support hearing officer.**

A child support hearing officer who is properly qualified and designated under this Article has the following authority and responsibilities in all child support cases:

- (1) To conduct hearings and to ensure that the parties' due process rights are protected;
- (2) To take testimony and establish a record;
- (3) To evaluate evidence and make decisions regarding the establishment or enforcement of child support orders;
- (4) To accept and approve voluntary acknowledgements of support liability and stipulated agreements setting the amount of support obligations;
- (5) To accept and approve voluntary acknowledgements and affirmations of paternity;
- (6) Except as otherwise provided in this Article, to enter child support orders that have the same force and effect as orders entered by a district court judge;
- (7) To enter temporary child support orders pending the resolution of unusual or complicated issues by a district court judge;
- (8) To enter default orders; and
- (9) To subpoena witnesses and documents. (1985 (Reg. Sess., 1986), c. 993, s. 1.)

**§ 50-36. Child support procedures in districts with expedited process.**

(a) Scheduling of Cases. – The procedures of this section shall apply to all child support cases in any district court district as defined in G.S. 7A-133 or county in which an expedited process has been established. All claims for the establishment or enforcement of a child support obligation, whether the claim is made in a separate action or as part of a divorce or any other action, shall be scheduled for hearing before the child support hearing officer. The initiating party shall send a notice of the date, time, and place of the hearing to all other parties. Service of process shall be made and notices given as provided by G.S. 1A-1, Rules of Civil Procedure.

(b) Place of Hearing. – The hearing before the child support hearing officer need not take place in a courtroom, but shall be conducted in an appropriate judicial setting.

(c) Hearing Procedures. – The hearing of a case before a child support officer is without a jury. The rules of evidence applicable in the trial of civil actions generally are observed; however, the hearing officer may require the parties to produce and may consider financial affidavits, State and federal tax returns, and other financial or employment records. Except as otherwise provided in this Article, the hearing officer shall determine the parties' child support rights and obligations and enter an appropriate order based on the evidence and the child support laws of the State. All parties shall be provided with a copy of the order.

(d) Record of Proceeding. – The record of a proceeding before a child support hearing officer shall consist of the pleadings filed in the child support case, documentation of proper service or notice or waiver, and a copy of the hearing officer's order. No verbatim recording or transcript shall be required or provided at State expense.

(e) Transfer to District Court Judge. – Upon his own motion or upon motion of any party, the hearing officer shall transfer a case for hearing before a district court judge when the case involves:

- (1) A contested paternity action;
- (2) A custody dispute;
- (3) Contested visitation rights;
- (4) The ownership, possession, or transfer of an interest in property to satisfy a child support obligation; or
- (5) Other complex issues.

Upon ordering such a transfer, except in cases of contested paternity, the hearing officer shall also enter a temporary order that provides for the payment of a money amount or otherwise addresses the child's need for support pending the resolution of the case by the district court judge. The chief district court judge shall establish a procedure for such transferred cases to be given priority for hearing before a district court judge. (1985 (Reg. Sess., 1986), c. 993, s. 1; 1987 (Reg. Sess., 1988), c. 1037, s. 89.)

**§ 50-37. Enforcement authority of child support hearing officer; contempt.**

When a child support case is before a child support hearing officer for enforcement of a child support order, the hearing officer has the same authority that a district court judge would have, except in cases of contempt. Orders that commit a party to jail for civil or criminal contempt for the nonpayment of child support, or for otherwise failing to comply with a child support order, may be entered only by a district court judge. When it appears to a hearing officer that there is probable cause for finding such contempt in a case before the child support hearing officer and that no other enforcement remedy would be effective or sufficient, the hearing officer shall enter an order finding probable cause and referring the case for hearing before a district court judge. The order may indicate the amount of payment the responsible parent may make, or other action he may take, or both, to comply with the child support order. If proof of compliance is made to the hearing officer within a time specified in the order, the hearing officer may cancel the referral of the contempt case to district court. Except as specifically limited by this section, a clerk or magistrate acting as a child support hearing officer retains all of the contempt powers he or she otherwise has by virtue of being a clerk or magistrate. (1985 (Reg. Sess., 1986), c. 993, s. 1.)

**§ 50-38. Appeal from orders of the child support hearing officer.**

(a) Appeal; Hearing De Novo. – Any party may appeal an order of a child support hearing officer for a hearing de novo before a district court judge by giving notice of appeal at the hearing or in writing within 10 days after entry of judgment. Upon appeal noted, the clerk of superior court shall place the case on the civil issue docket of the district court. The chief district court judge shall establish a procedure for such transferred cases to be given priority for hearing before a district court judge. Unless appealed from, the order of the hearing officer is final.

(b) Order Not Stayed Pending Appeal. – Appeal from an order of a child support hearing officer does not stay the execution or enforcement of the order unless, on application of the appellant, a district court judge orders such a stay. (1985 (Reg. Sess., 1986), c. 993, s. 1.)

**§ 50-39. Qualifications of child support hearing officer.**

(a) Qualifications. – A clerk or assistant clerk of superior court or a magistrate, to be designated and serve as a child support hearing officer, shall satisfy each of the following qualifications:

- (1) Be at least 21 years of age and not older than 70 years of age, and have a high school degree or its equivalent.
- (2) Be qualified by training and temperament to be effective in relating to parties in child support cases and in conducting hearings fairly and efficiently.
- (3) Be certified by the Administrative Office of the Courts as having completed the training required by subsection (b).
- (4) Establish that he has one of the following qualifications;
  - a. Election or appointment as the clerk of superior court; or
  - b. Three years experience as an assistant clerk of superior court working in child support or related matters; or
  - c. Six years experience as an assistant clerk of superior court; or
  - d. Four years experience as a magistrate whose duties have included, in substantial part, the disposition of civil matters; or
  - e. Pursuant to G.S. 7A-171.1, five to seven years eligibility for pay as a magistrate; or
  - f. Three years experience working in the field of child support enforcement or a related field.

(b) Training Required. – Before a clerk or assistant clerk or a magistrate may conduct hearings as a child support hearing officer he must satisfactorily complete a course of instruction in the conduct of such hearings established by the Administrative Office of the Courts. The Administrative Office of the Courts shall establish a course in the conduct of such hearings. The Administrative Office of the Courts may contract with qualified educational organizations to conduct the course of instruction and must reimburse the clerks or magistrates attending for travel and subsistence incurred in taking such training. (1985 (Reg. Sess., 1986), c. 993, s. 1.)

**§ 50-40. Reserved for future codification purposes.**

Article 3.

Family Law Arbitration Act.

**§ 50-41. Purpose; short title.**

(a) It is the policy of this State to allow, by agreement of all parties, the arbitration of all issues arising from a marital separation or divorce, except for the divorce itself, while preserving a right of modification based on substantial change of circumstances related to alimony, child custody, and child support. Pursuant to this policy, the purpose of this Article is to provide for arbitration as an efficient and speedy means of resolving these disputes, consistent with Chapters 50, 50A, 50B, 51, 52, 52B, and 52C of the General Statutes and similar legislation, to provide default rules for the conduct of arbitration proceedings, and to assure access to the courts of this State for proceedings ancillary to this arbitration.

(b) This Article may be cited as the North Carolina Family Law Arbitration Act. (1999-185, s. 1.)

#### **§ 50-42. Arbitration agreements made valid, irrevocable, and enforceable.**

(a) During, or after marriage, parties may agree in writing to submit to arbitration any controversy, except for the divorce itself, arising out of the marital relationship. Before marriage, parties may agree in writing to submit to arbitration any controversy, except for child support, child custody, or the divorce itself, arising out of the marital relationship. This agreement is valid, enforceable, and irrevocable except with both parties' consent, without regard to the justiciable character of the controversy and without regard to whether litigation is pending as to the controversy.

(b) This Article does not apply to an agreement to arbitrate in which a provision stipulates that this Article does not apply or to any arbitration or award under an agreement in which a provision stipulates that this Article does not apply. (1999-185, s. 1.)

#### **§ 50-42.1. Nonwaivable provisions.**

(a) Except as otherwise provided in subsections (b) and (c) of this section or in this Article, a party to an agreement to arbitrate or an arbitration proceeding may waive, or the parties may vary the effect of, the requirements of this Article to the extent provided by law. Any waiver or agreement must be in writing.

(b) Before a controversy arises that is subject to an agreement to arbitrate, a party to the agreement may not:

- (1) Waive or agree to vary the effect of the requirements of G.S. 50-42, 50-49(a), (b), or (c), 50-58, or 50-59.
- (2) Agree to unreasonably restrict the right to notice of the initiation of an arbitration proceeding under G.S. 50-42.2(a) or (b).
- (3) Agree to unreasonably restrict the right to disclosure of any facts by a neutral arbitrator under G.S. 50-45.1.

(c) Except as otherwise provided in this Article, a party to an agreement to arbitrate or an arbitration proceeding may not waive, or the parties shall not vary the effect of, the requirements of this section or G.S. 50-43, 50-45(f), 50-52 through 50-57, or 50-60 through 50-62.

(d) Any waiver contrary to this section shall not be effective but shall not have the effect of voiding the agreement to arbitrate. (2005-187, s. 1.)

**§ 50-42.2. Notice.**

(a) A person initiates an arbitration proceeding by giving written notice to the other parties to the agreement to arbitrate in the manner in which the parties have agreed or, in the absence of agreement, by certified or registered mail, return receipt requested, or by service as authorized for the commencement of a civil action under the North Carolina Rules of Civil Procedure.

(b) Unless a person objects to the lack or insufficiency of notice not later than the beginning of the hearing, the person's appearance at the hearing waives the objection.

(c) Except as otherwise provided in this Article, a person gives notice to another person by taking action that is reasonably necessary to inform the other person in the ordinary course of business, regardless of whether the person acquires knowledge of the notice.

(d) A person has notice if the person has knowledge of the notice or has received notice.

(e) A person receives notice when it comes to the person's attention or the notice is delivered at the person's place of residence or place of business or at another location held out by the person as a place of delivery of communications. (2005-187, s. 1.)

**§ 50-43. Proceedings to compel or stay arbitration.**

(a) On a party's application showing an agreement under G.S. 50-42 and an opposing party's refusal to arbitrate, the court shall order the parties to proceed with the arbitration. If an opposing party denies existence of an agreement to arbitrate, the court shall proceed summarily to determine whether a valid agreement exists and shall order arbitration if it finds for the moving party; otherwise, the application shall be denied.

(b) Upon the application of a party, the court may stay an arbitration proceeding commenced or threatened on a showing that there is no agreement to arbitrate. This issue, when in substantial and bona fide dispute, shall be immediately and summarily tried and the court shall order a stay if it finds for the moving party. If the court finds for the opposing party, the court shall order the parties to go to arbitration. An arbitrator shall decide whether a condition precedent to arbitrability has been fulfilled and whether a contract containing a valid agreement to arbitrate is enforceable. If a party to a judicial proceeding challenges the existence of, or claims that a controversy is not subject to, an agreement to arbitrate, the arbitration proceeding may continue pending final resolution of the issue by the court unless the court otherwise orders.

(c) If an issue referable to arbitration under an alleged agreement is involved in an action or proceeding pending in a court of competent jurisdiction, the application shall be made in that court. Otherwise, the application may be made in any court of competent jurisdiction.

(d) The court shall order a stay in any action or proceeding involving an issue subject to arbitration if an order or an application for arbitration has been made under this

section. If the issue is severable, the stay may be with respect to that specific issue only. When the application is made in an action or proceeding, the order compelling arbitration shall include a stay of the court action or proceeding.

(e) An order for arbitration shall not be refused and a stay of arbitration shall not be granted on the ground that the claim in issue lacks merit or because grounds for the claim have not been shown. (1999-185, s. 1; 2005-187, s. 2.)

**§ 50-44. Interim relief and interim measures.**

(a) In the case of an arbitration where arbitrators have not yet been appointed, or where the arbitrators are unavailable, a party may seek interim relief directly from a court as provided in subsection (c) of this section. Enforcement shall be granted as provided by the law applicable to the type of interim relief sought.

(b) In all other cases a party shall seek interim measures as described in subsection (d) of this section from the arbitrators. A party has no right to seek interim relief from a court, except that a party to an arbitration governed by this Article may request from the court enforcement of the arbitrators' order granting interim measures and review or modification of any interim measures governing child support or child custody.

(c) In connection with an agreement to arbitrate or a pending arbitration, the court may grant under subsection (a) of this section any of the following:

- (1) An order of attachment or garnishment;
- (2) A temporary restraining order or preliminary injunction;
- (3) An order for claim and delivery;
- (4) Appointment of a receiver;
- (5) Delivery of money or other property into court;
- (6) Notice of lis pendens;
- (7) Any relief permitted by G.S. 7B-502, 7B-1902, 50-13.5(d), 50-16.2A, 50-20(h), 50-20(i), or 50-20(i1); or Chapter 50A, Chapter 50B, or Chapter 52C of the General Statutes;
- (8) Any relief permitted by federal law or treaties to which the United States is a party; or
- (9) Any other order necessary to ensure preservation or availability of assets or documents, the destruction or absence of which would likely prejudice the conduct or effectiveness of the arbitration.

(d) The arbitrators may, at a party's request, order any party to take any interim measures of protection that the arbitrators consider necessary in respect to the subject matter of the dispute, including interim measures analogous to interim relief specified in subsection (c) of this section. The arbitrators may require any party to provide appropriate security, including security for costs as provided in G.S. 50-51, in connection with interim measures.

(e) In considering a request for interim relief or enforcement of interim relief, any finding of fact of the arbitrators in the proceeding shall be binding on the court, including any finding regarding the probable validity of the claim that is the subject of the interim

relief sought or granted, except that the court may review any findings of fact or modify any interim measures governing child support or child custody.

(f) Where the arbitrators have not ruled on an objection to their jurisdiction, the findings of the arbitrators shall not be binding on the court until the court has made an independent finding as to the arbitrators' jurisdiction. If the court rules that the arbitrators do not have jurisdiction, the application for interim relief shall be denied.

(g) Availability of interim relief or interim measures under this section may be limited by the parties' prior written agreement, except for relief pursuant to G.S. 7B-502, 7B-1902, 50-13.5(d), 50-20(h), 50B-3, Chapter 52C of the General Statutes; federal law; or treaties to which the United States is a party, whose purpose is to provide immediate, emergency relief or protection.

(h) Arbitrators who have cause to suspect that any child is abused or neglected shall report the case of that child to the director of the department of social services of the county where the child resides or, if the child resides out-of-state, of the county where the arbitration is conducted.

(i) A party seeking interim measures, or any other proceeding before the arbitrators, shall proceed in accordance with the agreement to arbitrate. If the agreement to arbitrate does not provide for a method of seeking interim measures, or for other proceedings before the arbitrators, the party shall request interim measures or a hearing by notifying the arbitrators and all other parties of the request. The arbitrators shall notify the parties of the date, time, and place of the hearing.

(j) A party does not waive the right to arbitrate by proceeding under this section. (1999-185, s. 1; 2005-187, s. 3.)

#### **§ 50-45. Appointment of arbitrators; rules for conducting the arbitration.**

(a) Unless the parties otherwise agree in writing, a single arbitrator shall be chosen by the parties to arbitrate all matters in dispute.

(b) If the arbitration agreement provides a method of appointment of arbitrators, this method shall be followed. The agreement may provide for appointing one or more arbitrators. Upon the application of a party, the court shall appoint arbitrators in any of the following situations:

- (1) The method agreed upon by the parties in the arbitration agreement fails or for any reason cannot be followed.
- (2) An arbitrator who has already been appointed fails or is unable to act, and a successor has not been chosen by the parties.
- (3) The parties cannot agree on an arbitrator.

(c) Arbitrators appointed by the court have all the powers of those arbitrators specifically named in the agreement. In appointing arbitrators, a court shall consult with prospective arbitrators as to their availability and shall refer to each of the following:

- (1) The positions and desires of the parties.
- (2) The issues in dispute.

(3) The skill, substantive training, and experience of prospective arbitrators in those issues, including their skill, substantive training, and experience in family law issues.

(4) The availability of prospective arbitrators.

(d) The parties may agree in writing to employ an established arbitration institution to conduct the arbitration. If the agreement does not provide a method for appointment of arbitrators and the parties cannot agree on an arbitrator, the court may appoint an established arbitration institution the court considers qualified in family law arbitration to conduct the arbitration.

(e) The parties may agree in writing on rules for conducting the arbitration. If the parties cannot agree on rules for conducting the arbitration, the arbitrators shall select the rules for conducting the arbitration after hearing all parties and taking particular reference to model rules developed by arbitration institutions or similar sources. If the arbitrators cannot decide on rules for conducting the arbitration, upon application by a party, the court may order use of rules for conducting the arbitration, taking particular reference to model rules developed by arbitration institutions or similar sources.

(f) Arbitrators and established arbitration institutions, whether chosen by the parties or appointed by the court, have the same immunity as judges from civil liability for their conduct in the arbitration.

(g) "Arbitration institution" means any neutral, independent organization, association, agency, board, or commission that initiates, sponsors, or administers arbitration proceedings, including involvement in appointment of arbitrators.

(h) The court may award costs under G.S. 50-51(f) in connection with applications and other proceedings under this section. (1999-185, s. 1; 2005-187, s. 4.)

#### **§ 50-45.1. Disclosure by arbitrator.**

(a) Before accepting appointment, an individual who is requested to serve as an arbitrator, after making a reasonable inquiry, shall disclose to all parties to the agreement to arbitrate and to the arbitration proceeding and to any other arbitrators any known facts that a reasonable person would consider likely to affect the impartiality of the arbitrator in the arbitration proceeding, including:

(1) A financial or personal interest in the outcome of the arbitration proceeding.

(2) An existing or past relationship with any of the parties to the agreement to arbitrate or to the arbitration proceeding, their counsel or representatives, a witness, or other arbitrators.

(b) An arbitrator has a continuing obligation to disclose to all parties to the agreement to arbitrate and to the arbitration proceeding and to any other arbitrators any facts that the arbitrator learns after accepting appointment that a reasonable person would consider likely to affect the impartiality of the arbitrator.

(c) If an arbitrator discloses a fact required by subsection (a) or (b) of this section to be disclosed and a party timely objects to the appointment or continued service of the

arbitrator based upon the fact disclosed, the objection may be grounds for vacating an award made by the arbitrator under G.S. 50-54(a)(2).

(d) If the arbitrator did not disclose a fact as required by subsection (a) or (b) of this section, upon timely objection by a party, the court may vacate an award pursuant to G.S. 50-54(a)(2).

(e) An arbitrator appointed as a neutral arbitrator who does not disclose a known, direct, and material interest in the outcome of the arbitration proceeding or a known, existing, and substantial relationship with a party is presumed to act with evident partiality under G.S. 50-54(a)(2).

(f) If the parties to an arbitration proceeding agree to the procedures of an arbitration institution or any other procedures for challenges to arbitrators before an award is made, substantial compliance with those procedures is a condition precedent to a motion to vacate an award on those grounds pursuant to G.S. 50-54(a)(2). (2005-187, s. 5.)

#### **§ 50-46. Majority action by arbitrators.**

The arbitrators' powers shall be exercised by a majority unless otherwise provided by the parties' written arbitration agreement or this Article. (1999-185, s. 1; 2005-187, s. 6.)

#### **§ 50-47. Hearing.**

Unless otherwise provided by the parties' written agreement:

- (1) The arbitrators shall appoint a time and place for the hearing and notify the parties or their counsel by personal service or by registered or certified mail, return receipt requested, not less than five days before the hearing. Appearance of a party at the hearing waives any claim of deficiency of notice. The arbitrators may adjourn the hearing from time to time as necessary and, on request of a party and for good cause shown, or upon their own motion, may postpone the hearing to a time not later than the date fixed by the written agreement for making the award unless the parties consent to a later date. The arbitrators may hear and determine the controversy upon the evidence produced notwithstanding the failure of a party duly notified to appear. Upon application of a party, the court may direct the arbitrators to proceed promptly with the hearing and determination of the controversy.
- (2) The parties are entitled to be heard, to present evidence material to the controversy, and to cross-examine witnesses appearing at the hearing.
- (3) All the arbitrators shall conduct the hearing, but a majority may determine any question and may render a final award. If, during the course of the hearing, an arbitrator for any reason ceases to act, the remaining arbitrators appointed to act as neutrals may continue with the hearing and determination of the controversy.
- (4) Upon request of any party or at the election of any arbitrator, the arbitrators shall cause to be made a record of testimony and evidence

introduced at the hearing. The arbitrators shall decide how the cost of the record will be apportioned. (1999-185, s. 1; 2005-187, s. 7.)

**§ 50-48. Representation by attorney.**

A party has the right to be represented by counsel at any proceeding or hearing under this Article. A waiver of representation prior to a proceeding or hearing is ineffective. (1999-185, s. 1.)

**§ 50-49. Witnesses; subpoenas; depositions; court assistance.**

(a) The arbitrators have the power to administer oaths and may issue subpoenas for attendance of witnesses and for production of books, records, documents, and other evidence. Subpoenas issued by the arbitrators shall be served and, upon application to the court by a party or the arbitrators, enforced in the manner provided by law for service and enforcement of subpoenas in a civil action.

(b) On the application of a party and for use as evidence, the arbitrators may permit depositions to be taken in the manner and upon the terms the arbitrators designate.

(c) All provisions of law compelling a person under subpoena to testify apply.

(d) The arbitrators or a party with the approval of the arbitrators may request assistance from the court in obtaining discovery and taking evidence, in which event the Rules of Civil Procedure under Chapter 1A of the General Statutes and Chapters 50, 50A, 52B, and 52C of the General Statutes apply. The court may execute the request within its competence and according to its rules on discovery and evidence and may impose sanctions for failure to comply with its orders.

(e) A subpoena may be issued as provided by G.S. 8-59, in which case the witness compensation provisions of G.S. 6-51, 6-53, and 7A-314 shall apply. (1999-185, s. 1.)

**§ 50-50:** Repealed by Session Laws 2005-187, s. 8, effective October 1, 2005.

**§ 50-50.1. Consolidation.**

(a) Except as otherwise provided in subsection (c) of this section, upon motion of a party to an agreement or arbitration proceeding, the court may order consolidation of separate arbitration proceedings as to all or some of the claims if all of the following apply:

- (1) There are separate agreements to arbitrate or separate arbitration proceedings between the same parties or one of them is a party to a separate agreement to arbitrate or a separate arbitration with a third party.
- (2) The claims subject to the agreements to arbitrate arise in substantial part from the same transaction or series of related transactions.
- (3) The existence of a common issue of law or fact creates the possibility of conflicting decisions in the separate arbitration proceedings.

(4) Prejudice resulting from a failure to consolidate is not outweighed by the risk of undue delay or prejudice to the rights of or hardship to parties opposing consolidation.

(b) The court may order consolidation of separate arbitration proceedings as to some claims and allow other claims to be resolved in separate arbitration proceedings.

(c) The court shall not order consolidation of the claims of a party to an agreement to arbitrate if the agreement prohibits consolidation. (2005-187, s. 9.)

**§ 50-51. Award; costs.**

(a) The award shall be in writing, dated and signed by the arbitrators joining in the award, with a statement of the place where the arbitration was conducted and the place where the award was made. Where there is more than one arbitrator, the signatures of a majority of the arbitrators suffice, but the reason for any omitted signature shall be stated. The arbitrators shall deliver a copy of the award to each party personally or by registered or certified mail, return receipt requested, or as provided in the parties' written agreement. Time of delivery shall be computed from the date of personal delivery or date of mailing.

(b) Unless the parties otherwise agree in writing, the award shall state the reasons upon which it is based.

(c) Unless the parties otherwise agree in writing, the arbitrators may award interest as provided by law.

(d) The arbitrators in their discretion may award specific performance to a party requesting an award of specific performance when that would be an appropriate remedy.

(e) Unless the parties otherwise agree in writing, the arbitrators may not award punitive damages. If arbitrators award punitive damages, they shall state the award in a record and shall specify facts justifying the award and the amount of the award attributable to punitive damages.

(f) Costs:

(1) Unless the parties otherwise agree in writing, awarding of costs of an arbitration shall be in the arbitrators' discretion.

(2) In making an award of costs, the arbitrators may include any or all of the following as costs:

a. Fees and expenses of the arbitrators, expert witnesses, and translators;

b. Fees and expenses of counsel, to the extent allowed by law unless the parties otherwise agree in writing, and of an institution supervising the arbitration, if any;

c. Any other expenses incurred in connection with the arbitration proceedings;

d. Sanctions awarded by the arbitrators or the court, including those provided by N.C.R. Civ. P. 11 and 37; and

e. Costs allowed by Chapters 6 and 7A of the General Statutes.

(3) In making an award of costs, the arbitrators shall specify each of the following:

- a. The party entitled to costs;
- b. The party who shall pay costs;
- c. The amount of costs or method of determining that amount; and
- d. The manner in which costs shall be paid.

(g) An award shall be made within the time fixed by the agreement. If no time is fixed by the agreement, the award shall be made within the time the court orders on a party's application. The parties may extend the time in writing either before or after the expiration of this time. A party waives objection that an award was not made within the time required unless that party notifies the arbitrators of his or her objection prior to delivery of the award to that party. (1999-185, s. 1; 2005-187, s. 10.)

#### **§ 50-52. Change of award by arbitrators.**

(a) On a party's application to the arbitrators or, if an application to the court is pending under G.S. 50-53 through G.S. 50-56, on submission to the arbitrators by the court under the conditions ordered by the court, the arbitrators may modify or correct the award for any of the following reasons:

- (1) Upon grounds stated in G.S. 50-55(a)(1) and (a)(3).
- (2) If the arbitrators have not made a final and definite award upon a claim submitted by the parties to the arbitration proceeding.
- (3) To clarify the award.

(b) The application shall be made within 20 days after delivery of the award to the opposing party. The application must include a statement that the opposing party must serve any objections to the application within 10 days from notice. An award modified or corrected under this section is subject to the provisions of G.S. 50-51(a) through G.S. 50-51(f) and G.S. 50-53 through G.S. 50-56. (1999-185, s. 1; 2005-187, s. 11.)

#### **§ 50-53. Confirmation of award.**

(a) Unless the parties otherwise agree in writing that part or all of an award shall not be confirmed by the court, upon a party's application, the court shall confirm an award, except when within time limits imposed under G.S. 50-54 through G.S. 50-56 grounds are urged for vacating or modifying or correcting the award, in which case the court shall proceed as provided in G.S. 50-54 through G.S. 50-56.

(b) The court may award costs, as provided in G.S. 50-51(f), of the application and subsequent proceedings. (1999-185, s. 1; 2003-61, s. 1; 2005-187, s. 12.)

#### **§ 50-54. Vacating an award.**

(a) Upon a party's application, the court shall vacate an award for any of the following reasons:

- (1) The award was procured by corruption, fraud, or other undue means;
- (2) There was evident partiality by an arbitrator appointed as a neutral, corruption of an arbitrator, or misconduct prejudicing the rights of a party;
- (3) The arbitrators exceeded their powers;

- (4) The arbitrators refused to postpone the hearing upon a showing of sufficient cause for the postponement, refused to hear evidence material to the controversy, or otherwise conducted the hearing contrary to the provisions of G.S. 50-47;
- (5) There was no arbitration agreement, the issue was not adversely determined in proceedings under G.S. 50-43, and the party did not participate in the arbitration hearing without raising the objection. The fact that the relief awarded either could not or would not be granted by a court is not a ground for vacating or refusing to confirm the award;
- (6) The court determines that the award for child support or child custody is not in the best interest of the child. The burden of proof at a hearing under this subdivision is on the party seeking to vacate the arbitrator's award;
- (7) The award included punitive damages, and the court determines that the award for punitive damages is clearly erroneous; or
- (8) If the parties contract in an arbitration agreement for judicial review of errors of law in the award, the court shall vacate the award if the arbitrators have committed an error of law prejudicing a party's rights.

(b) An application under this section shall be made within 90 days after delivery of a copy of the award to the applicant. If the application is predicated on corruption, fraud, or other undue means, it shall be made within 90 days after these grounds are known or should have been known.

(c) In vacating an award on grounds other than stated in subdivision (5) of subsection (a) of this section, the court may order a rehearing before arbitrators chosen as provided in the agreement, or in the absence of a provision regarding the appointment of arbitrators, by the court in accordance with G.S. 50-45, except in the case of a vacated award for child support or child custody in which case the court may proceed to hear and determine all such issues. The time within which the agreement requires an award to be made applies to the rehearing and commences from the date of the order.

(d) The court shall confirm the award and may award costs of the application and subsequent proceedings under G.S. 50-51(f) if an application to vacate is denied, no motion to modify or correct the award is pending, and the parties have not agreed in writing that the award shall not be confirmed under G.S. 50-53. (1999-185, s. 1; 2005-187, s. 13.)

#### **§ 50-55. Modification or correction of award.**

(a) Upon application made within 90 days after delivery of a copy of an award to an applicant, the court shall modify or correct the award where at least one of the following occurs:

- (1) There is an evident miscalculation of figures or an evident mistake in the description of a person, thing, or property referred to in the award;

- (2) The arbitrators have awarded upon a matter not submitted to them, and the award may be corrected without affecting the merits of the decision upon the issues submitted; or
- (3) The award is imperfect in a matter of form, not affecting the merits of the controversy.

(b) If the application is granted, the court shall modify or correct the award to effect its intent and shall confirm the award as modified or corrected. Otherwise, the court shall confirm the award as made.

(c) An application to modify or correct an award may be joined in the alternative with an application to vacate the award.

(d) The court may award costs, as provided in G.S. 50-51(f), of the application and subsequent proceedings. (1999-185, s. 1.)

**§ 50-56. Modification of award for alimony, postseparation support, child support, or child custody based on substantial change of circumstances.**

(a) A court or the arbitrators may modify an award for postseparation support, alimony, child support, or child custody under conditions stated in G.S. 50-13.7 and G.S. 50-16.9 as provided in subsections (b) through (f) of this section.

(b) Unless the parties have agreed in writing that an award for postseparation support or alimony shall be nonmodifiable, an award by arbitrators for postseparation support or alimony under G.S. 50-16.2A, 50-16.3A, 50-16.4, or 50-16.7 may be modified if a court order for alimony or postseparation support could be modified under G.S. 50-16.9.

(c) An award by arbitrators for child support or child custody may be modified if a court order for child support or child custody could be modified under G.S. 50-13.7.

(d) If an award for modifiable postseparation support or alimony, or an award for child support or child custody, has not been confirmed under G.S. 50-53, upon the parties' written agreement these matters may be submitted to arbitrators chosen by the parties under G.S. 50-45. G.S. 50-52 through G.S. 50-56 shall apply to this modified award.

(e) If an award for modifiable postseparation support or alimony, or an award for child support or child custody has been confirmed pursuant to G.S. 50-53, upon the parties' agreement in writing and joint motion, the court may remit these matters to arbitrators chosen by the parties as provided in G.S. 50-45, in which case G.S. 50-52 through G.S. 50-56 apply to this modified award.

(f) Except as otherwise provided in this section, the provisions of G.S. 50-55 apply to modifications or corrections of awards for postseparation support, alimony, child support, or child custody. (1999-185, s. 1; 2005-187, s. 14.)

**§ 50-57. Orders or judgments on award.**

(a) Upon granting an order confirming, modifying, or correcting an award, an order or judgment shall be entered in conformity with the order and docketed and enforced as any other order or judgment. The court may award costs, as provided in G.S.

50-51(f), of the application and of proceedings subsequent to the application and disbursements.

(b) Notwithstanding G.S. 7A-109, 7A-276.1, or 132-1 or similar law, the court, in its discretion, may order that any arbitration award or order or any judgment or court order entered as a court order or judgment under this Article, or any part of the arbitration award or order or judgment or court order, be sealed, to be opened only upon order of the court upon good cause shown. Upon good cause shown, the court may order resealing of the opened arbitration awards or orders or judgments or court orders. The court, in its discretion, may order that any arbitration award or order or any judgment or court order entered as a court order or judgment under this Article, or any part of the arbitration award or order or judgment or court order, be redacted, the redactions to be opened only upon order of the court upon good cause shown. Upon good cause shown, the court may order redaction of the previously redacted arbitration awards or orders or judgments or court orders opened under the court's order. (1999-185, s. 1; 2005-187, s. 15.)

#### **§ 50-58. Applications to the court.**

Except as otherwise provided, an application to a court under this Article shall be by motion and shall be heard in the manner and upon notice provided by law or rule of court for making and hearing motions in civil actions. Unless the parties otherwise agree in writing, notice of an initial application for an order shall be served in the manner provided by law for service of summons in civil actions. (1999-185, s. 1; 2005-187, s. 16.)

#### **§ 50-59. Court; jurisdiction; other definitions.**

(a) The term "court" means a court of competent jurisdiction of this State. Making an agreement in this State described in G.S. 50-42 or any agreement providing for arbitration in this State or under its laws confers jurisdiction on the court to enforce the agreement under this Article and to enter judgment on an award under the agreement.

(b) The term "person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency or instrumentality, public corporation, or any other legal or commercial entity. (1999-185, s. 1; 2005-187, s. 17.)

#### **§ 50-60. Appeals.**

(a) An appeal may be based on failure to comply with the procedural aspects of this Article. An appeal may be taken from any of the following:

- (1) An order denying an application to compel arbitration made under G.S. 50-43;
- (2) An order granting an application to stay arbitration made under G.S. 50-43(b);
- (3) An order confirming or denying confirmation of an award;
- (4) An order modifying or correcting an award;
- (5) An order vacating an award without directing a rehearing; or

(6) A judgment entered pursuant to provisions of this Article.

(b) Unless the parties contract in an arbitration agreement for judicial review of errors of law as provided in G.S. 50-54(a), a party may not appeal on the basis that the arbitrator failed to apply correctly the law under Chapters 50, 50A, 52B, or 52C of the General Statutes.

(c) The appeal shall be taken in the manner and to the same extent as from orders or judgments in a civil action. (1999-185, s. 1.)

**§ 50-61. Article not retroactive.**

This Article applies to agreements made on or after October 1, 1999, unless parties by separate written agreement after that date state that this Article shall apply to agreements dated before October 1, 1999. (1999-185, s. 1; 2005-187, s. 18.)

**§ 50-62. Construction; uniformity of interpretation.**

(a) Certain provisions of this Article have been adapted from the Uniform Arbitration Act formerly in force in this State, the Revised Uniform Arbitration Act in force in this State, the North Carolina International Commercial Arbitration and Conciliation Act, and Chapters 50, 50A, 50B, 51, 52, and 52C of the General Statutes. This Article shall be construed to effect its general purpose to make uniform provisions of these Acts and Chapters 50, 50A, 50B, 51, 52, 52B, and 52C of the General Statutes.

(b) The provisions of this Article governing the legal effect, validity, or enforceability of electronic records or electronic signatures, or of contracts performed with the use of these records or signatures, conform to the requirements of section 102 of the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001, et seq., or as otherwise authorized by federal or State law governing these electronic records or electronic signatures. (1999-185, s. 1; 2005-187, s. 19.)

**§§ 50-63 through 50-69: Reserved for future codification purposes.** (2003-371, s. 1.)

Article 4.

Collaborative Law Proceedings.

**§ 50-70. Collaborative law.**

As an alternative to judicial disposition of issues arising in a civil action under this Article, except for a claim for absolute divorce, on a written agreement of the parties and their attorneys, a civil action may be conducted under collaborative law procedures as set forth in this Article. (2003-371, s. 1.)

**§ 50-71. Definitions.**

As used in this article, the following terms mean:

- (1) Collaborative law. – A procedure in which a husband and wife who are separated and are seeking a divorce, or are contemplating separation and divorce, and their attorneys agree to use their best efforts and make a

good faith attempt to resolve their disputes arising from the marital relationship on an agreed basis. The procedure shall include an agreement by the parties to attempt to resolve their disputes without having to resort to judicial intervention, except to have the court approve the settlement agreement and sign the orders required by law to effectuate the agreement of the parties as the court deems appropriate. The procedure shall also include an agreement where the parties' attorneys agree not to serve as litigation counsel, except to ask the court to approve the settlement agreement.

- (2) Collaborative law agreement. – A written agreement, signed by a husband and wife and their attorneys, that contains an acknowledgement by the parties to attempt to resolve the disputes arising from their marriage in accordance with collaborative law procedures.
- (3) Collaborative law procedures. – The process for attempting to resolve disputes arising from a marriage as set forth in this Article.
- (4) Collaborative law settlement agreement. – An agreement entered into between a husband and wife as a result of collaborative law procedures that resolves the disputes arising from the marriage of the husband and wife.
- (5) Third-party expert. – A person, other than the parties to a collaborative law agreement, hired pursuant to a collaborative law agreement to assist the parties in the resolution of their disputes. (2003-371, s. 1.)

#### **§ 50-72. Agreement requirements.**

A collaborative law agreement must be in writing, signed by all the parties to the agreement and their attorneys, and must include provisions for the withdrawal of all attorneys involved in the collaborative law procedure if the collaborative law procedure does not result in settlement of the dispute. (2003-371, s. 1.)

#### **§ 50-73. Tolling of time periods.**

A validly executed collaborative law agreement shall toll all legal time periods applicable to legal rights and issues under law between the parties for the amount of time the collaborative law agreement remains in effect. This section applies to any applicable statutes of limitations, filing deadlines, or other time limitations imposed by law or court rule, including setting a hearing or trial in the case, imposing discovery deadlines, and requiring compliance with scheduling orders. (2003-371, s. 1.)

#### **§ 50-74. Notice of collaborative law agreement.**

(a) No notice shall be given to the court of any collaborative law agreement entered into prior to the filing of a civil action under this Article.

(b) If a civil action is pending, a notice of a collaborative law agreement, signed by the parties and their attorneys, shall be filed with the court. After the filing of a notice of a collaborative law agreement, the court shall take no action in the case, including

dismissal, unless the court is notified in writing that the parties have done one of the following:

- (1) Failed to reach a collaborative law settlement agreement.
- (2) Both voluntarily dismissed the action.
- (3) Asked the court to enter a judgment or order to make the collaborative law settlement agreement an act of the court in accordance with G.S. 50-75. (2003-371, s. 1.)

**§ 50-75. Judgment on collaborative law settlement agreement.**

A party is entitled to an entry of judgment or order to effectuate the terms of a collaborative law settlement agreement if the agreement is signed by each party to the agreement. (2003-371, s. 1.)

**§ 50-76. Failure to reach settlement; disposition by court; duty of attorney to withdraw.**

(a) If the parties fail to reach a settlement and no civil action has been filed, either party may file a civil action, unless the collaborative law agreement first provides for the use of arbitration or alternative dispute resolution.

(b) If a civil action is pending and the collaborative law procedures do not result in a collaborative law settlement agreement, upon notice to the court, the court may enter orders as appropriate, free of the restrictions of G.S. 50-74(b).

(c) If a civil action is filed or set for trial pursuant to subsection (a) or (b) of this section, the attorneys representing the parties in the collaborative law proceedings may not represent either party in any further civil proceedings and shall withdraw as attorney for either party. (2003-371, s. 1.)

**§ 50-77. Privileged and inadmissible evidence.**

(a) All statements, communications, and work product made or arising from a collaborative law procedure are confidential and are inadmissible in any court proceeding. Work product includes any written or verbal communications or analysis of any third-party experts used in the collaborative law procedure.

(b) All communications and work product of any attorney or third-party expert hired for purposes of participating in a collaborative law procedure shall be privileged and inadmissible in any court proceeding, except by agreement of the parties. (2003-371, s. 1.)

**§ 50-78. Alternate dispute resolution permitted.**

Nothing in this Article shall be construed to prohibit the parties from using, by mutual agreement, other forms of alternate dispute resolution, including mediation or binding arbitration, to reach a settlement on any of the issues included in the collaborative law agreement. The parties' attorneys for the collaborative law proceeding may also serve as counsel for any form of alternate dispute resolution pursued as part of the collaborative law agreement. (2003-371, s. 1.)

**§ 50-79. Collaborative law procedures surviving death.**

Consistent with G.S. 50-20(1), the personal representative of the estate of a deceased spouse may continue a collaborative law procedure with respect to equitable distribution that has been initiated by a collaborative law agreement prior to death, notwithstanding the death of one of the spouses. The provisions of G.S. 50-73 shall apply to time limits applicable under G.S. 50-20(1) for collaborative law procedures continued pursuant to this section. (2003-371, s. 1.)

§ 50-80: Reserved for future codification purposes.

§ 50-81: Reserved for future codification purposes.

§ 50-82: Reserved for future codification purposes.

§ 50-83: Reserved for future codification purposes.

§ 50-84: Reserved for future codification purposes.

§ 50-85: Reserved for future codification purposes.

§ 50-86: Reserved for future codification purposes.

§ 50-87: Reserved for future codification purposes.

§ 50-88: Reserved for future codification purposes.

**§ 50-89: Reserved for future codification purposes.**

Article 5.

Parenting Coordinator.

**§ 50-90. Definitions.**

As used in this Article, the following terms mean:

- (1) High-conflict case. – A child custody action involving minor children brought under Article 1 of this Chapter where the parties demonstrate an ongoing pattern of any of the following:
  - a. Excessive litigation.
  - b. Anger and distrust.
  - c. Verbal abuse.
  - d. Physical aggression or threats of physical aggression.
  - e. Difficulty communicating about and cooperating in the care of the minor children.

- f. Conditions that in the discretion of the court warrant the appointment of a parenting coordinator.
- (2) Minor child. – A person who is less than 18 years of age and who is not married or legally emancipated.
- (3) Parenting coordinator. – An impartial person who meets the qualifications of G.S. 50-93. (2005-228, s. 1.)

**§ 50-91. Appointment of parenting coordinator.**

(a) The court may appoint a parenting coordinator at any time during the proceedings of a child custody action involving minor children brought under Article 1 of this Chapter if all parties consent to the appointment. The parties may agree to limit the parenting coordinator's decision-making authority to specific issues or areas.

(b) The court may appoint a parenting coordinator without the consent of the parties upon entry of a custody order other than an ex parte order, or upon entry of a parenting plan only if the court also makes specific findings that the action is a high-conflict case, that the appointment of the parenting coordinator is in the best interests of any minor child in the case, and that the parties are able to pay for the cost of the parenting coordinator.

(c) The order appointing a parenting coordinator shall specify the issues the parenting coordinator is directed to assist the parties in resolving and deciding. The order may also incorporate any agreement regarding the role of the parenting coordinator made by the parties under subsection (a) of this section. The court shall give a copy of the appointment order to the parties prior to the appointment conference. Notwithstanding the appointment of a parenting coordinator, the court shall retain exclusive jurisdiction to determine fundamental issues of custody, visitation, and support, and the authority to exercise management and control of the case.

(d) The court shall select a parenting coordinator from a list maintained by the district court. Prior to the appointment conference, the court must complete and give to the parenting coordinator a referral form listing contact information for the parties and their attorneys, the court's findings in support of the appointment, and any agreement by the parties. (2005-228, s. 1.)

**§ 50-92. Authority of parenting coordinator.**

(a) The authority of a parenting coordinator shall be specified in the court order appointing the parenting coordinator and shall be limited to matters that will aid the parties:

- (1) Identify disputed issues.
- (2) Reduce misunderstandings.
- (3) Clarify priorities.
- (4) Explore possibilities for compromise.
- (5) Develop methods of collaboration in parenting.
- (6) Comply with the court's order of custody, visitation, or guardianship.

(b) Notwithstanding subsection (a) of this section, the court may authorize a parenting coordinator to decide issues regarding the implementation of the parenting plan that are not specifically governed by the court order and which the parties are unable to resolve. The parties must comply with the parenting coordinator's decision until the court reviews the decision. The parenting coordinator, any party, or the attorney for any party may request an expedited hearing to review a parenting coordinator's decision. Only the judge presiding over the case may subpoena the parenting coordinator to appear and testify at the hearing.

(c) The parenting coordinator shall not provide any professional services or counseling to either parent or any of the minor children. The parenting coordinator shall refer financial issues to the parties' attorneys. (2005-228, s. 1.)

### **§ 50-93. Qualifications.**

(a) To be eligible to be included on the district court's list of parenting coordinators, a person must meet all of the following requirements:

- (1) Hold a masters or doctorate degree in psychology, law, social work, counseling, medicine, or a related subject area.
- (2) Have at least five years of related professional post-degree experience.
- (3) Hold a current license in the parenting coordinator's area of practice, if applicable.
- (4) Participate in 24 hours of training in topics related to the developmental stages of children, the dynamics of high-conflict families, the stages and effects of divorce, problem solving techniques, mediation, and legal issues.

(b) In order to remain eligible as a parenting coordinator, the person must also attend parenting coordinator seminars that provide continuing education, group discussion, and peer review and support. (2005-228, s. 1.)

### **§ 50-94. Appointment conference.**

(a) The parties, their attorneys, and the proposed parenting coordinator must all attend the appointment conference.

(b) At the time of the appointment conference, the court shall do all of the following:

- (1) Explain to the parties the parenting coordinator's role, authority, and responsibilities as specified in the appointment order and any agreement entered into by the parties.
- (2) Determine the information each party must provide to the parenting coordinator.
- (3) Determine financial arrangements for the parenting coordinator's fee to be paid by each party and authorize the parenting coordinator to charge any party separately for individual contacts made necessary by that party's behavior.

- (4) Inform the parties, their attorneys, and the parenting coordinator of the rules regarding communications among them and with the court.
- (5) Enter the appointment order.

(c) The parenting coordinator and any guardians ad litem shall bring to the appointment conference all necessary releases, contracts, and consents. The parenting coordinator must also schedule the first sessions with the parties. (2005-228, s. 1.)

**§ 50-95. Fees.**

(a) The parenting coordinator shall be entitled to reasonable compensation from the parties for services rendered and to a reasonable retainer. The parenting coordinator may request a hearing in the event of a fee dispute.

(b) The court may make the appointment of a parenting coordinator contingent upon the parties' payment of a specific fee to the parenting coordinator. The parenting coordinator shall not begin any duties until the fee has been paid. (2005-228, s. 1.)

**§ 50-96. Meetings and communications.**

Meetings between the parenting coordinator and the parties may be informal and ex parte. Communications between the parties and the parenting coordinator are not confidential. The parenting coordinator and the court shall not engage in any ex parte communications. (2005-228, s. 1.)

**§ 50-97. Reports.**

(a) The parenting coordinator shall promptly provide written notification to the court, the parties, and attorneys for the parties if the parenting coordinator makes any of the following determinations:

- (1) The existing custody order is not in the best interests of the child.
- (2) The parenting coordinator is not qualified to address or resolve certain issues in the case.

(b) The court shall schedule a hearing and review the matter no later than two weeks following receipt of the report. The parenting coordinator shall remain involved in the case until the hearing.

(c) If the parties agree to any fundamental change in the child custody order, the parenting coordinator shall send the agreement to the parties' attorneys for preparation of a consent order. (2005-228, s. 1.)

**§ 50-98. Parenting coordinator records.**

(a) The parenting coordinator shall provide the following to the attorneys for the parties and to the parties:

- (1) A written summary of the developments in the case following each meeting with the parties.
- (2) Copies of any other written communications.

(b) The parenting coordinator shall maintain records of each meeting. These records may only be subpoenaed by order of the judge presiding over the case. The court

must review the records in camera and may release the records to the parties and their attorneys only if the court determines release of the information contained in the records will assist the parties with the presentation of their case at trial. (2005-228, s. 1.)

**§ 50-99. Modification or termination of parenting coordinator appointment.**

(a) For good cause shown, the court may terminate or modify the parenting coordinator appointment upon motion of either party at the request of the parenting coordinator, upon the agreement of the parties and the parenting coordinator, or by the court on its own motion. Good cause includes any of the following:

- (1) Lack of reasonable progress over a significant period of time despite the best efforts of the parties and the parenting coordinator.
- (2) A determination that the parties no longer need the assistance of a parenting coordinator.
- (3) Impairment on the part of a party that significantly interferes with the party's participation in the process.
- (4) The parenting coordinator is unable or unwilling to continue to serve.

(b) If the parties agreed to the appointment of the parenting coordinator under G.S. 50-91(a), the court may terminate or modify the appointment according to that agreement or according to a subsequent agreement by the parties. (2005-228, s. 1.)

**§ 50-100. Parenting coordinator immunity.**

A parenting coordinator shall not be liable for damages for acts or omissions of ordinary negligence arising out of that person's duties and responsibilities as a parenting coordinator. This section does not apply to actions arising out of the operation of a motor vehicle. (2005-228, s. 1.)