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# A SUGGESTED JURIDICAL BASIS FOR THE APPOINTMENT OF A **PARENTING COORDINATOR**

by **EZRA GOLDSTEIN***

There is no doubt that a parenting coordinator is necessary in situations of high conflict between the parents of minor children. In such situations, both minor and major disputes often arise, and the route of ordinary litigation is generally cumbersome, expensive and often ineffective. The parenting coordinator, who gets to know the parties and often their children too, can act far more informally and expeditiously than can a court, which is beset by procedural and time complications, and has limited background knowledge and experience of the parties and their children.

As is apparent from the thorough and impressive judgment of Diane Davis AJ in *TC v SC* 2018 (4) SA 530 (WCC), our courts – and the courts of other countries too – have struggled with the central problem that the parenting coordinator can often appear to play the role of a judge, but should not be able to displace the court. A possible solution to this is to find a juridical basis for the parenting coordinator in the Children's Act 38 of 2005. Sections 23 and 24 allow the High Court to assign contact and care and guardianship of a child to a person other than a parent of the child.

These sections, of course, require account to be taken of the best interests of the child. This is a requirement too of section 28(2) of the Constitution. And so, I would argue, the parenting coordinator becomes, in effect, a third parent with the power of making decisions about the child in a dispute between the two conflicting parents concerned. And just as the decision of any parent can be challenged in the High Court, so too can the parenting coordinator's decision, which remains in effect like any other parental decision until the High Court sets it aside. In this way the parenting coordinator acts as a decision-making parent and the High Court's authority remains intact. Moreover, section 7(1) of the Act includes:

> "Whenever a provision of this Act requires the best interest of the child standard to be applied, the following factors must be taken into account where relevant, namely:
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> …
>
> (n) which act or decision would avoid or minimise further legal or administrative proceedings in relation to the child."

The appointment of a parenting coordinator certainly does that.

***Ezra Goldstein** is a judge of the High Court not on active duty.*