

## SUMMARY RECAP OF CHANGES TO PROPOSED MODEL ORDER

- I. Eliminated unconstitutional or unlawful provisions.
  - A. Specifically, provisions restricting access to court without first participating in subjectively-managed “grievance” procedure (see *Van Schaik v. Van Schaik*, 24 A.3d 241 (Md. Ct. Spec. App. 2011)) and those that apparently could be read as permitting PC to interfere with attorney/client privilege (see, e.g., *Gideon v. Wainwright*, 83 S. Ct. 792 ((1963) (noting that such access, unimpaired and unimpeded, was guaranteed by the 14<sup>th</sup> Amendment); *Morales v. Turman*, 326 F. Supp. 677 (E.D. Tex. 1971) (noting the fundamental nature of the right to confer with counsel of one’s own choosing)).
  - B. Altered virtually all references to PC having “authority” to “resolve issues” (with the exception of specific enumerated powers) in favor of duty to obey existing orders and to recommend changes, while resolving conflicting interpretations or applications where orders are imprecise or silent, and to facilitate non-substantive administrative details such as pick ups and drop-offs.
  - C. Eliminated unenforceable assertion of authority to “compel” participation by third parties (non-parties to the dispute before the court) in favor of power to “request the participation” of third parties.
  - D. Made explicit the need to abide by current orders, not attempt to “treat” any person involved, to respect the attorney/client relationship, and to not interfere in any way with access to court.
- II. Moved matters of judicial discretion to specific section to be individually delegated – or not.
  - A. Power to resolve minor disputes pending court decision on modification.
  - B. Power to recommend modifications to the Parenting Plan (as opposed to simply enforcing/facilitating the existing order).
  - C. Power to direct the parties to drug screens, parenting classes, psychological services, etc.
- III. Moved to Court discretion the methodology of communications.
  - A. Specifically, removed unilateral power of unlimited ex parte communications (which have been abused, according to some counsel), in favor of judicial call whether all communications are to be joint (verbal) or contemporaneous (written), or in the alternative to permit ex parte communications with counsel and parties.
- IV. Streamlined requirements for recommendations and objections to recommendations.

- A. Eliminated the months of unreviewed time the PCs were given to impose on litigants in favor of 10-day curve for objections to recommendations for proposed dispute resolutions.
  - B. Made it clear that the court can allocate costs in any way it wishes among the parties and the PC.
- V. Made explicit the judicial authority to terminate/alter the PC (both the person and the process) upon motion or *sua sponte*.