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Opinion No. 00-178

Parent Educational Seminar Provisions of Parenting Plans[1]

QUESTIONS

1. Does Public Chapter No. 889, Public Acts of 2000, Section 1, § 36-6-408(c), which provides that "no court shall deny the granting of a divorce . . . for failure of a party or both parties to attend the education session," mean that the education sessions are voluntary and thus of no legal significance?

2. Who is responsible for establishing the "education session?"

3. Who determines what the "sliding scale" is and who is "indigent?" By whom and how is this determination enforced or regulated?

4. How are the "federal, state or local funds" obtained to pay for the process?

5. Public Chapter No. 889, Public Acts of 2000, Section 1, § 36-6-409(c) states that "dispute resolutions shall be preceded by pretrial conference and the attendance by parents at the parent education seminar." Can the court order "dispute resolution" as required by Public Chapter No. 889, Public Acts of 2000, Section 1, § 36-6-403(a)(2) if the parties do not attend the "voluntary" education seminar or there is not an education seminar available?

OPINIONS

1. No. The parent education sessions are not voluntary or legally insignificant. Public Chapter No. 889, Public Acts of 2000, Section 1, § 36-6-408(a) requires each parent to attend a parent education seminar unless this requirement is waived by the court upon motion by either party for good cause. The

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[1]The questions presented in this opinion relate to the Parenting Plan codified in Acts 2000 as Pub. L. No. 889. This Act replaces the current Tenn. Code Ann. §§ 36-6-401, *et seq.*, a pilot project on the same subject, effective January 1, 2001.

court has the power to order the parents to attend this seminar, to compel obedience with this order, and to punish for contempt the willful disobedience of a party to the court's order. Although the court may not refuse to grant a divorce based on the failure of the parent(s) to attend the educational seminar, the court may also consider this factor in determining the child's residential schedule and in allocating decision-making authority between the parents.

2. Responsibility for establishing the parent education seminar required by this legislation lies within the discretion of the state courts having jurisdiction over actions for annulment, divorce, or legal separation. The circuit and chancery courts have concurrent jurisdiction to grant divorces.

3. Responsibility for determining what the "sliding scale" is, who is "indigent," and enforcement or regulation of these determinations lies within the discretion of the courts.

4. The statute provides no express mechanism for obtaining federal, state and local funds to pay for dispute resolution and parent education seminars. The courts would be responsible for applying for any funds available to pay for these programs. Parents would also be responsible for applying for any funds available to assist them to pay for dispute resolution and parent education seminars.

5. No. The court may not order dispute resolution pursuant to Public Chapter No. 889, Public Acts of 2000, Section 1, § 36-6-403(a)(2) if parents do not attend the parent education seminar unless the circumstances allow the court to waive the education seminar requirement. If the court determines that unavailability of an education seminar or the parents' reasons for not attending the education seminar constitute good cause, the education seminar requirement could be waived and dispute resolution ordered.

ANALYSIS

I.

The first question concerns whether the parent educational seminar provisions of the Parenting Plan are "voluntary and thus of no legal significance" by virtue of Public Chapter No. 889, Public Acts of 2000, Section 1, § 36-6-408(c), which provides that "no court shall deny the granting of a divorce . . . for failure of a party or both parties to attend the education session." It is our opinion that the parent education seminar requirements are not voluntary and do have legal significance.

Basic rules of statutory construction require that the words of a statute be given their ordinary and natural meaning. *State v. Williams*, 690 S.W.2d 517, 529 (Tenn. 1985). The meaning of a statute is determined by viewing the statute as a whole and in light of its general purposes. *City of Lenoir City v. State*, 571 S.W.2d 297, 299 (Tenn. 1978).

Public Chapter No. 889, Public Acts of 2000, Section 1, § 36-6-408(a) mandates that "in an action where a permanent parenting plan is or will be entered each parent shall attend a parent educational seminar. . .." A permanent parenting plan must be incorporated in every final decree or decree of modification for divorce, legal separation, annulment, or separate maintenance involving a minor child. Public Chapter No. 889, Public Acts of 2000, Section 1, § 36-6-404(a). The attendance requirement may be waived by the court upon motion by either party and good cause shown for such relief. Public Chapter No. 889, Public Acts of 2000, Section 1, § 36-6-408(a).

The court may not refuse to grant a divorce based on the failure of a party or both parties to attend the parent education session. Public Chapter No. 889, Public Acts of 2000, Section 1, § 36-6-408(c). However, the court has the power to order parents to attend this seminar, to compel obedience with this order, and to punish for contempt the willful disobedience of a party to the court's order. Public Chapter No. 889, Public Acts of 2000, Section 1, §§ 36-6-407(a)(2), 36-6-407(a)(3), and 36-6-404(b)(4); Tenn. Code Ann. §§16-1-102, 16-1-103, 29-9-102, and 29-9-103. *See also* Tenn. Code Ann. §36-6-101(e)(3). In addition, Public Chapter No. 889, Public Acts of 2000, Section 1, § 36-6-407(a)(3) requires the court to consider, in allocating decision-making authority for a minor child, whether each parent attended a court ordered parent education seminar. Public Chapter No. 889, Public Acts of 2000, Section 1, § 36-6-407(a)(2) specifically permits the court to "consider a parent's refusal, without just cause, to attend a court ordered parental educational seminar in making an award of sole decision-making authority to the other parent." Public Chapter No. 889, Public Acts of 2000, Section 1, § 36-6-404(b)(4) also permits the court, in determining a child's residential schedule, to consider a parent's "willful refusal to attend a court-ordered parent education seminar . . . as evidence of that parent's lack of good faith in these proceedings."

II.

The next question seeks to ascertain who is responsible for establishing the parent education seminar required by Public Chapter No. 889, Public Acts of 2000, Section 1, § 36-6-408. As previously noted, Public Chapter No. 889, Public Acts of 2000, Section 1, § 36-6-408(a) requires that each parent attend a parent educational seminar in an action where a permanent parenting plan is or will be entered. A permanent parenting plan must be incorporated in every final decree or decree of modification for divorce, legal separation, annulment, or separate maintenance involving a minor child. Public Chapter No. 889, Public Acts of 2000, Section 1, § 36-6-404(a).

Neither the statute nor its legislative history specifically addresses this issue. However, the legislature has generally vested the courts with jurisdiction over actions for annulment, divorce, or legal separation with responsibility for interpreting and applying this legislation. The circuit and chancery courts have concurrent jurisdiction to grant divorces. Tenn. Code Ann. §§ 16-10-108 and 16-11-110. Therefore, responsibility for establishing the parent education seminar required by this legislation lies within the discretion of these courts.

III.

The third question concerns payment of the costs of dispute resolution and the parental education seminars by indigent parents. Specifically, the question is who determines what the "sliding scale" is, who is "indigent," and how this determination is enforced or regulated.

Public Chapter No. 889, Public Acts of 2000, Section 1, § 36-6-413(a) permits the court to assess as discretionary costs of the action the costs of mediation. Public Chapter No. 889, Public Acts of 2000, Section 1, § 36-6-413(b)(1) requires that, for indigent persons, the cost of the mediation and parent education seminar be based on a sliding scale based on the person's ability to pay. The statute does not define the term "indigent" or establish a sliding scale schedule. The statute is also silent regarding enforcement or regulation of this determination. These decisions are left to the discretion of the court.

IV.

The next question seeks to ascertain how federal, state and local funds are obtained to pay for dispute resolution and parent education seminars. This question is based on Public Chapter No. 889, Public Acts of 2000, Section 1, § 36-6-413(b)(2) which provides that the cost of mediation and education be paid from all available federal, state or local funds.

The statute provides no express mechanism for obtaining federal, state and local funds to pay for dispute resolution and parent education seminars. The courts would be responsible for applying for any funds available to pay for these programs. Parents would also be responsible for applying for any funds available to assist them to pay for dispute resolution and parent education seminars.

V.

The final question is whether the court can order dispute resolution as required by Public Chapter No. 889, Public Acts of 2000, Section 1, § 36-6-403(a)(2) if the parties do not attend the parent education seminar or there is not an education seminar available. Public Chapter No. 889, Public Acts of 2000, Section 1, § 36-6-409(c) requires that "when dispute resolution is utilized in this chapter, it shall be preceded by a pretrial conference and the attendance by parents at the parent education seminar set forth in § 36-6-408." Therefore, it is our opinion that the court may not order dispute resolution pursuant to Public Chapter No. 889, Public Acts of 2000, Section 1, § 36-6-403(a)(2) unless the circumstances allow the court to waive the education seminar requirement.

Attendance by parents at the parent education seminar is mandatory. Public Chapter No. 889, Public Acts of 2000, Section 1, § 36-6-408(a) requires the attendance of both parents at a parent education seminar unless this requirement is waived by the court upon motion by either party for good cause. If the court determines that unavailability of an education seminar or the parents'

reasons for not attending the education seminar constitute good cause, the education seminar requirement could be waived and dispute resolution ordered.

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