

TEXAS MEDIATION LEGISLATION UPDATES SEPTEMBER 1, 2021

87 (R) HB 385 – SIGNED BY GOVERNOR – EFFECTIVE 9/1/21

Relating to conditions of community supervision and procedures applicable to the reduction or termination of a defendant's period of community supervision.

(14) [~~(15)~~] with the consent of the victim of a misdemeanor offense or of any offense under Title 7, Penal Code, participate in victim-defendant ~~Mediation~~ ;

87(R) HB 1123 – LEFT PENDING IN COMMITTEE

Relating to sheriff's department civil service systems in certain counties; creating criminal offenses.

(d) If the employee chooses to appeal to a hearing examiner, the employee and the sheriff, or their designees, shall first attempt to agree on the selection of an impartial hearing examiner. If the parties do not agree on the selection of a hearing examiner on or within 10 days after the date the appeal is filed, the commission shall immediately request a list of seven qualified neutral arbitrators from the American Arbitration Association or the Federal ~~Mediation~~ and Conciliation Service, or their successors in function. The employee and the sheriff, or their designees, may agree on one of the seven neutral arbitrators on the list. If they do not agree within five working days after the date they received the list, each party or the party's designee shall alternate striking a name from the list and the name remaining is the hearing examiner. The parties or their designees shall agree on a date for the hearing.

Relating to attachments for broadband service on utility poles owned by an electric cooperative and establishing and funding a pole replacement program for deployment of certain broadband facilities.

Sec. 253.0203. CONTRACT NEGOTIATIONS AND ~~MEDIATION~~. (a)

If a broadband provider and an electric cooperative are unable to agree to a new pole attachment contract before the expiration date of an existing contract, the rates, terms, and conditions of the existing contract and the terms and conditions of the electric cooperative's application and permitting processes remain in force:

(1) during the 90-day negotiation period described by Subsection (b) and during the period of any agreed extension;

(2) during the 60-day ~~mediation~~ period described by Subsection (b) and during the period of any agreed extension; and

(3) pending final disposition of any litigation commenced under Subsection (c).

(b) If a broadband provider and an electric cooperative are unable to agree to a new pole attachment contract before the 91st day after the expiration date of an existing contract, and are unable to agree to an extension of the negotiation period for a certain number of days, the broadband provider and electric cooperative shall attempt to resolve any disagreement over the rates, terms, or conditions by submitting the contract negotiations to a ~~mediation~~ process. The ~~mediation~~ process may not extend later than the 60th day after the end of the initial 90-day negotiation period and any agreed extension of that period unless the broadband provider and electric cooperative agree to an extension of the ~~mediation~~ period for a certain number of days. The ~~mediation~~ process must be conducted in a county in which the electric cooperative has distribution poles. The broadband provider and electric cooperative must share equally the expenses for the mediator.

(c) If the ~~mediation~~ process under Subsection (b) does not resolve the disagreement over the rates, terms, or conditions of a new pole attachment agreement, the broadband provider or electric cooperative may file suit in a district court to resolve the disagreement or dispute.

87(R) SB 1283 – REFERRED TO TRANSPORTATION

Relating to attachments for broadband service on utility poles owned by an electric cooperative.

Sec. 253.0502. CONTRACT NEGOTIATIONS AND **MEDIATION** . (a)

If a broadband provider and an electric cooperative are unable to agree to a new pole attachment contract before the expiration date of an existing contract, the rates, terms, and conditions of the existing contract and the terms and conditions of the electric cooperative's application and permitting processes remain in force:

(1) during the 90-day negotiation period described by Subsection (b) and during the period of any agreed extension;

(2) during the 60-day **mediation** period described by Subsection (b) and during the period of any agreed extension; and

(3) pending final disposition of any litigation commenced under Subsection (c).

(b) If a broadband provider and an electric cooperative are unable to agree to a new pole attachment contract before the 91st day after the expiration date of an existing contract, and are unable to agree to an extension of the negotiation period for a certain number of days, the broadband provider and electric cooperative shall attempt to resolve any disagreement over the rates, terms, or conditions by submitting the contract negotiations to a **mediation** process. The **mediation** process may not extend later than the 60th day after the end of the initial 90-day negotiation period and any agreed extension of that period unless the broadband provider and electric cooperative agree to an extension of the **mediation** period for a certain number of days. The **mediation** process must be conducted in a county in which the electric cooperative has distribution poles. The broadband provider and electric cooperative must share equally the expenses for the mediator.

(c) If the **mediation** process under Subsection (b) does not resolve the disagreement over the rates, terms, or conditions of a new pole attachment agreement, or if a dispute arises under the terms of an existing agreement or the requirements of this chapter, the broadband provider or electric cooperative may file suit in a district court to resolve the disagreement or dispute, including to enforce the terms of the agreement or of this chapter.

87 (R) HB 1616 – SIGNED BY GOVERNOR – EFFECTIVE 09/01/21

Relating to the Interstate Medical Licensure Compact; authorizing fees.

(b) The interstate commission shall promulgate rules providing for both ~~mediation~~ and binding dispute resolution as appropriate.

87(R) SB 517 – Companion HB 1616, REFERRED TO HHS

Relating to the Interstate Medical Licensure Compact; authorizing fees.

87(R) HB 1633 – Bill passed the House – REFERRED TO HHS

Relating to the audiology and speech-language pathology interstate compact; authorizing fees.

SECTION 11. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

A. Dispute Resolution

1. Upon request by a member state, the Commission shall attempt to resolve disputes related to the Compact that arise among member states and between member and non-member states.

2. The Commission shall promulgate a rule providing for both ~~mediation~~ and binding dispute resolution for disputes as appropriate.

87(R) SB 1497 – Companion -HB 1633, REFERRED TO HHS

Relating to the audiology and speech-language pathology interstate compact; authorizing fees.

87(R) HB 1641 – REFERRED TO HHS

Relating to the rights of a foster parent.

(24) to receive **mediation** or an administrative review, or both, regarding decisions that affect the foster parent's license; and

87(R) HB 1903 – REFERRED TO HHS

Relating to the Occupational Therapy Licensure Compact; authorizing fees.

2. The Commission shall promulgate a Rule providing for both **mediation** and binding dispute resolution for disputes as appropriate.

87(R) SB 458 – Companion HB 1903, REFERRED TO HHS

Relating to the Occupational Therapy Licensure Compact; authorizing fees.

87(R) HB 2087 – PLACED ON GENERAL STATE CALENDAR

Relating to mandatory arbitration for certain municipal fire departments and employee bargaining agents.

(2) the parties made every reasonable effort, including **mediation**, to settle the dispute through good-faith collective bargaining; and

87(R) HB 2387 – WITHDRAWN FROM SCHEDULE

Relating to suits to collect past due property owners' association assessments.

Sec. 31.006. **MEDIATION**. (a) A justice court in a suit under this chapter may order **mediation** of the dispute at no cost to the property owner. **Mediation** ordered under this section shall be conducted as provided by Chapter 154, Civil Practice and Remedies Code.

87(R) HB 2561 – COMMITTEE REPORT SENT TO CALENDAR

Relating to deputy sheriff civil service appeals of certain sheriff's department actions.

(b) If the deputy and the sheriff do not agree on the selection of a hearing examiner before the 11th day after the date the appeal is filed, the commission shall request a list of seven qualified arbitrators from the American Arbitration Association or the Federal ~~Mediation~~ and Conciliation Service, or their successors in function.

87(R) HB 2869 – COMMITTEE REPORT SENT TO CALENDAR

Relating to binding interest arbitration for fire fighters in certain political subdivisions.

SUBCHAPTER D-1. ~~MEDIATION~~

SECTION 3. Section 174.151, Local Government Code, is transferred to Subchapter D-1, Chapter 174, Local Government Code, as added by this Act, and redesignated as Section 174.131, Local Government Code, to read as follows:

Sec. 174.131 [~~174.151~~]. ~~MEDIATION~~. (a) A public employer and an association that is a bargaining agent may use ~~mediation~~ to assist them in reaching an agreement.

(b) If a mediator is used, then a mediator may be appointed by agreement of the parties or by an appropriate state agency.

(c) A mediator may:

(1) hold separate or joint conferences as the mediator considers expedient to settle issues voluntarily, amicably, and expeditiously; and

(2) notwithstanding Subsection (d), recommend or suggest to the parties any proposal or procedure that in the mediator's judgment might lead to settlement.

(d) A mediator may not:

(1) make a public recommendation on any negotiation issue in connection with the mediator's service; or

(2) make a public statement or report that evaluates the relative merits of the parties' positions.

SECTION 4. The heading to Subchapter E, Chapter 174, Local Government Code, is amended to read as follows:

SUBCHAPTER E. ~~POLICE OFFICER~~ ~~MEDIATION~~ → ARBITRATION

SECTION 5. Subchapter E, Chapter 174, Local Government Code, is amended by adding Section 174.1511 to read as follows:

Sec. 174.1511. APPLICABILITY. This subchapter applies to arbitration between a public employer and an association that is a bargaining agent for the police officers of a political subdivision's police department.

SECTION 6. Section 174.154(b), Local Government Code, is amended to read as follows:

(b) Not later than the 10th day after the date an agreement

to arbitrate is executed, the arbitrators named under Subsection (a) shall attempt to select a third (neutral) arbitrator. If the arbitrators are unable to agree on a third arbitrator, either party may request the American Arbitration Association to select the third arbitrator, and the American Arbitration Association may appoint the third arbitrator according to its fair and regular procedures. Unless both parties consent, the third arbitrator may not be the same individual who served as a mediator under Section 174.131 [~~174.151~~].

SECTION 7. Section 174.156(a), Local Government Code, is amended to read as follows:

(a) The issues to be arbitrated are all matters the parties are unable to resolve through collective bargaining and ~~mediation~~ procedures required by Subchapters D and D-1 [~~this chapter~~].

SECTION 8. Section 174.163, Local Government Code, is amended to read as follows:

Sec. 174.163. COMPULSORY ARBITRATION NOT REQUIRED. This subchapter [~~chapter~~] does not require compulsory arbitration.

SECTION 9. Section 174.164(b), Local Government Code, is amended to read as follows:

(b) The compensation, if any, of an arbitrator selected by [~~fire fighters,~~] police officers[~~, or both~~] shall be paid by the association representing the employees.

SECTION 10. Chapter 174, Local Government Code, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. FIRE FIGHTER BINDING INTEREST ARBITRATION

Sec. 174.301. APPLICABILITY. This subchapter applies to arbitration between a public employer and an association that is a bargaining agent for the fire fighters of a political subdivision's fire department.

Sec. 174.302. IMPASSE. (a) For purposes of this subchapter, an impasse in the collective bargaining process is considered to have occurred if the parties do not settle in writing each issue in dispute before the 61st day after the date on which the collective bargaining process begins.

(b) The period specified in Subsection (a) may be extended by written agreement of the parties. An extension must be for a definite period not to exceed 15 days.

Sec. 174.303. BINDING INTEREST ARBITRATION. (a) A public employer and an association that is a bargaining agent shall submit to binding interest arbitration if the parties:

- (1) reach an impasse in collective bargaining; or
- (2) are unable to settle after the 61st day after the date the appropriate lawmaking body fails to approve a contract reached through collective bargaining.

(b) Each party shall send to the other party a written notice specifying each issue in dispute for purposes of binding interest arbitration not later than the fifth day after:

- (1) the date an impasse was reached under Section 174.302;
- (2) the expiration of an extension period under Section 174.302; or
- (3) the expiration of the period described by Subsection (a) (2).

(c) A notice under Subsection (b) is considered sent on the date the notice is placed in the mail, personally delivered, or transmitted by e-mail or any other means of electronic transfer.

Sec. 174.304. SELECTION OF ARBITRATOR. Not later than the fifth day after the date a party sends the notice required under Section 174.303, the public employer shall immediately request a list of seven qualified neutral arbitrators from the American Arbitration Association or the Federal ~~Mediation~~ and Conciliation Service, or a successor in function. The bargaining agent and the municipality, or their designees, may agree on one of the seven arbitrators on the list. If the parties do not select an arbitrator before the sixth working day after the date the parties received the list, each party or the party's designee shall alternate striking a name from the list and the name remaining is the arbitrator.

Sec. 174.305. ARBITRATION HEARING. (a) The arbitrator shall:

(1) call a hearing to be held not later than the 10th day after the date on which the arbitrator is selected; and

(2) notify the public employer and the association in writing of the time and place of the hearing, not later than the eighth day before the hearing.

(b) An arbitration hearing shall end not later than the 20th day after the date the hearing begins.

(c) An arbitration hearing shall be informal.

Sec. 174.306. SCOPE OF ARBITRATION. (a) The issues to be arbitrated are all matters the parties are unable to resolve through collective bargaining and ~~Mediation~~ procedures required by Subchapters D and D-1.

(b) The arbitrator shall render an award in accordance with the requirements of Section 174.021. In settling disputes relating to compensation, hours, and other conditions of employment, the arbitrator shall consider:

- (1) hazards of employment;
- (2) physical qualifications;
- (3) educational qualifications;
- (4) mental qualifications;
- (5) job training;
- (6) skills; and
- (7) other factors.

87(R) HB 3245 – REFERRED TO JUVENILE JUSTICE AND FAMILY ISSUES

Relating to eliminating the court appointed advocates.

Sec. 36.003. EXEMPTION. The reporting requirements of Section 36.004 do not apply to:

(1) a ~~mediation~~ conducted by an alternative dispute resolution system established under Chapter 152, Civil Practice and Remedies Code;

(2) information made confidential under state or federal law, including applicable rules;

(3) a guardian ad litem [~~or other person appointed under a program authorized by Section 107.031, Family Code~~];

(4) an attorney ad litem, guardian ad litem, amicus attorney, or mediator appointed under a domestic relations office established under Chapter 203, Family Code;

(5) an attorney ad litem, guardian ad litem, amicus attorney, or mediator providing services without expectation or receipt of compensation; or

(6) an attorney ad litem, guardian ad litem, amicus attorney, or mediator providing services as a volunteer of a nonprofit organization that provides pro bono legal services to the indigent.

SECTION 21. Section 37.002, Government Code, is amended to read as follows:

Sec. 37.002. EXEMPTION. The appointment requirements of Section 37.004 do not apply to:

(1) a ~~mediation~~ conducted by an alternative dispute resolution system established under Chapter 152, Civil Practice and Remedies Code;

(2) a guardian ad litem [~~or other person appointed under a program authorized by Section 107.031, Family Code~~];

(3) an attorney ad litem, guardian ad litem, amicus attorney, or mediator appointed under a domestic relations office established under Chapter 203, Family Code;

(4) a person other than an attorney or a private professional guardian appointed to serve as a guardian as defined by Section 1002.012, Estates Code;

(5) an attorney ad litem, guardian ad litem, amicus attorney, or mediator providing services without expectation or receipt of compensation; or

(6) an attorney ad litem, guardian ad litem, amicus attorney, or mediator providing services as a volunteer of a nonprofit organization that provides pro bono legal services to the indigent.

87(R) HB 3318 – Companion SB 1129 - Referred to Judiciary and Civil Jurisprudence, In Committee, LEFT PENDING IN COMMITTEE

Relating to guardianships, alternatives to guardianship, and supports and services for incapacitated persons.

87(R) SB 1129 – SIGNED BY GOVERNOR – EFFECTIVE 09/01/21

Relating to guardianships, alternatives to guardianship, and supports and services for incapacitated persons.

A BILL TO BE ENTITLED

AN ACT

relating to guardianships, alternatives to guardianship, and supports and services for incapacitated persons.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1023.005, Estates Code, is amended to read as follows:

Sec. 1023.005. COURT ACTION. (a) On hearing an application or motion under Section 1023.003, if [good cause is not shown to deny the transfer and] it appears that transfer of the guardianship is in the best interests of the ward and either the ward has resided in the county to which the guardianship is to be transferred for at least six months or good cause is not otherwise shown to deny the transfer, the court shall enter an order:

(1) authorizing the transfer on payment on behalf of the estate of all accrued costs; [and]

(2) requiring that any existing bond of the guardian must remain in effect until a new bond has been given or a rider has been filed in accordance with Section 1023.010; and

(3) certifying that the guardianship is in compliance with this code at the time of transfer.

(b) In making a determination that the transfer is in the best interests of the ward under Subsection (a), the court may consider:

(1) the interests of justice;

(2) the convenience of the parties; and

(3) the preference of the ward, if the ward is 12 years of age or older.

(c) On receipt of an order described by Subsection (a), the county shall accept the transfer of the guardianship.

SECTION 2. Section 1023.008, Estates Code, is amended to read as follows:

Sec. 1023.008. CONTINUATION OF GUARDIANSHIP. (a) When a guardianship is transferred from one county to another in accordance with this chapter:

(1) [,] the guardianship proceeds in the court to which it was transferred as if it had been originally commenced in

that court;

(2) the court to which the guardianship is transferred becomes the court of continuing, exclusive jurisdiction;

(3) a proceeding relating to the guardianship that is commenced in the court ordering the transfer continues in the court to which the guardianship is transferred as if the proceeding commenced in the receiving court;

(4) a judgment or order entered in the guardianship before the transfer has the same effect and must be enforced as a judgment or order entered by the court to which the guardianship is transferred; and

(5) the court ordering the transfer does not retain:

(A) jurisdiction of the ward who is the subject of the guardianship; and

(B) the authority to enforce an order entered for a violation of this title that occurred before or after the transfer.

(b) It is not necessary to record in the receiving court any of the papers in the case that were recorded in the court from which the case was transferred.

SECTION 3. Chapter 1023, Estates Code, is amended by adding Section 1023.011 to read as follows:

Sec. 1023.011. NO LIABILITY OF JUDGE. (a) When a guardianship is transferred from one county to another in accordance with this chapter, a judge of the court from which the guardianship is transferred may not be held civilly liable for any injury, damage, or loss to the ward or the ward's estate that occurs after the transfer.

(b) A judge of the court to which a guardianship is transferred as described by Subsection (a) may not be held civilly liable for any injury, damage, or loss to the ward or the ward's estate that occurred before the transfer.

SECTION 4. Subchapter D, Chapter 1055, Estates Code, is amended to read as follows:

SUBCHAPTER D. MEDIATION

Sec. 1055.151. MEDIATION OF CONTESTED GUARDIANSHIP PROCEEDING. (a) Subject to Subsection (b), on [On] the written agreement of the parties or on the court's own motion, the court may refer a contested guardianship proceeding to mediation.

(b) If the court refers to mediation a proceeding under Subsection (a) regarding the appointment of a guardian for a proposed ward:

(1) a determination of incapacity of the proposed ward may be an issue to be mediated, but the applicant for guardianship must still prove to the court that the proposed ward is an incapacitated person in accordance with the requirements of Chapter 1101; and

(2) all parties to the proceeding shall evaluate during the mediation alternatives to guardianship and supports and services available to the proposed ward, including whether the supports and services and alternatives to guardianship would be feasible to avoid the need for appointment of a guardian.

(c) The cost of mediation shall be paid by the parties to the proceeding unless otherwise ordered by the court. If the parties

are unable to pay the cost of mediation, the court may refer the parties to a local alternative dispute resolution center providing services as part of a system for resolution of disputes established under Section 152.002, Civil Practice and Remedies Code, if a system has been established in the county, and the local center may waive mediation costs as appropriate.

Sec. 1055.152. MEDIATED SETTLEMENT AGREEMENTS. (a) A mediated settlement agreement is binding on the parties if the agreement:

(1) provides, in a prominently displayed statement that is in boldfaced type, in capital letters, or underlined, that the agreement is not subject to revocation by the parties;

(2) is signed by each party to the agreement; and

(3) is signed by the party's attorney, if any, who is present at the time the agreement is signed.

(b) [(c)] If a mediated settlement agreement meets the requirements of this section, a party is entitled to judgment on the mediated settlement agreement notwithstanding Rule 11, Texas Rules of Civil Procedure, or another rule or law.

(c) [(d)] Notwithstanding Subsections (a) and (b) [and (c)], a court may decline to enter a judgment on a mediated settlement agreement if the court finds that the agreement is not in the ward's or proposed ward's best interests.

SECTION 5. Chapter 155, Government Code, is amended by adding Subchapter G to read as follows:

SUBCHAPTER G. GUARDIANSHIP MEDIATION TRAINING

Sec. 155.301. TRAINING. (a) The office by rule shall establish a training course with at least 24 hours of training for persons facilitating mediations under Title 3, Estates Code, that may be provided by a mediation training provider approved by the office. A mediation training provider shall adhere to the established curriculum in providing the training course.

(b) This section does not require a ~~mediator~~ facilitating a mediation under Title 3, Estates Code, to attend or be certified under a training course established under Subsection (a).

SECTION 6. The changes in law made by this Act apply to a guardianship created before, on, or after the effective date of this Act.

SECTION 7. The Office of Court Administration of the Texas Judicial System is required to implement a provision of this Act only if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, the Office of Court Administration of the Texas Judicial System may, but is not required to, implement a provision of this Act using other appropriations available for that purpose.

SECTION 8. This Act takes effect September 1, 2021.

87(R) HB 3367 – COMPANION (SB 1588) CONSIDERED IN LIEU OF HB 3367

Relating to the powers and duties of property owners' associations; authorizing a fee.

(f) The notice and hearing provisions of Section 209.006 and this section do not apply if the association files a suit seeking a temporary restraining order or temporary injunctive relief or files a suit that includes foreclosure as a cause of action. If a suit is filed relating to a matter to which those sections apply, a party to the suit may file a motion to compel **mediation**. The notice and hearing provisions of Section 209.006 and this section do not apply to a temporary suspension of a person's right to use common areas if the temporary suspension is the result of a violation that occurred in a common area and involved a significant and immediate risk of harm to others in the subdivision. The temporary suspension is effective until the board makes a final determination on the suspension action after following the procedures prescribed by this section.

87(R) SB 1588 – SIGNED BY GOVERNOR – EFFECTIVE 09/01/21

Relating to the powers and duties of property owners' associations; authorizing a fee.

(f) The notice and hearing provisions of Section 209.006 and this section do not apply if the association files a suit seeking a temporary restraining order or temporary injunctive relief or files a suit that includes foreclosure as a cause of action. If a suit is filed relating to a matter to which those sections apply, a party to the suit may file a motion to compel **mediation**. The notice and hearing provisions of Section 209.006 and this section do not apply to a temporary suspension of a person's right to use common areas if the temporary suspension is the result of a violation that occurred in a common area and involved a significant and immediate risk of harm to others in the subdivision. The temporary suspension is effective until the board makes a final determination on the suspension action after following the procedures prescribed by this section.

87(R) HB 3660 - Bill reported out of House committee on Juvenile Justice & Family Issues, NOT AGAIN PLACED ON INTENT CALENDAR

Relating to youth diversion programs for children accused of certain fine-only offenses and related criminal justice matters; authorizing and imposing fees and fines.

Art. 45.305. DIVERSION STRATEGIES. (a) Diversion strategies include:

- (1) requiring a child to participate in a program, including:
 - (A) a court-approved teen court program operated by a service provider;
 - (B) a school-related program;
 - (C) an educational program, including an alcohol awareness program, a tobacco awareness program, or a drug education program;
 - (D) a rehabilitation program; or
 - (E) a self-improvement program, including a program relating to self-esteem, leadership, self-responsibility, empathy, parenting, parental responsibility, manners, violence avoidance, anger management, life skills, wellness, or **dispute resolution**;
- (2) referring the child to a service provider for services, including:
 - (A) at-risk youth services under Subchapter D, Chapter 264, Family Code;
 - (B) juvenile case manager services under Article 45.056;
 - (C) work and job skills training, including job interviewing and work preparation;
 - (D) academic monitoring or tutoring, including preparation for a high school equivalency examination administered under Section 7.111, Education Code;
 - (E) community-based services;
 - (F) mental health screening and clinical assessment;
 - (G) counseling, including private or in-school counseling; or
 - (H) mentoring services;
- (3) requiring a child to:
 - (A) participate in mediation or other **dispute resolution** processes;
 - (B) submit to alcohol or drug testing; or
 - (C) substantially comply with a course of treatment prescribed by a physician or other licensed medical or mental health professional; and
- (4) requiring a child, by court order, to:
 - (A) pay restitution not to exceed \$100 for an offense against property under Title 7, Penal Code;
 - (B) perform not more than 20 hours of community service; or

(C) perform any other reasonable action determined by the court.

(b) A diversion strategy may be imposed under:

(1) a disposition or diversion by law enforcement under Article 45.310 or 45.311;

(2) an intermediate diversion from court under Article 45.313;

(3) a diversion by a justice or judge under Article 45.314; or

(4) a system of graduated sanctions for certain school offenses under Section 37.144, Education Code.

87(R) HB 3860 – Companion SB 1540, REFERRED TO STATE AFFAIRS

Relating to the prohibition of certain discrimination; authorizing civil penalties.

Sec. 113.103. ALTERNATIVE DISPUTE RESOLUTION; OFFICE. (a)

The use of alternative means of dispute resolution, including settlement negotiations, conciliation, facilitation, ~~mediation~~, fact-finding, minitrials, and arbitration, is encouraged to resolve disputes arising under this chapter. The settlement of a disputed claim under this chapter that results from the use of traditional or alternative means of dispute resolution is binding on the parties to the claim.

(b) The commission shall establish an office of alternative dispute resolution. At any time after a complaint is received under Section 113.101, at the request of a party or at the direction of the commission, the matter may be referred to the office of alternative dispute resolution.

87(R) SB 1540 – REFERRED TO STATE AFFAIRS

Relating to the prohibition of certain discrimination; authorizing civil penalties.

87(R) HB 3958 – REFERRED TO STATE AFFAIRS

Relating to state acknowledgment of Native American tribes.

(2) settle disputes between members or subgroups by ~~mediation~~ or other means on a regular basis;

87(R) HB 4064 – Referred to Public Education, LEFT PENDING IN COMMITTEE

Relating to policies and procedures for addressing bullying and harassment in public schools.

- (f) Each school district may establish a district-wide policy to assist in the prevention and **mediation** of bullying and harassment incidents between students that:

87(R) HB 4115 – Companion SB 999 – Referred to Insurance, LEFT PENDING IN COMMITTEE

Relating to consumer protections against certain medical and healthcare billing by out-of-network ground ambulance service providers.

87(R) SB 999 - Bill passed the Senate, COMMITTEE REPORT SENT TO CALENDARS

Relating to consumer protections against certain medical and healthcare billing by out-of-network ground ambulance service providers.

SECTION 14. Section 1467.051(a), Insurance Code, is amended to read as follows:

(a) An out-of-network provider or a health benefit plan issuer or administrator may request **mediation** of a settlement of an out-of-network health benefit claim through a portal on the department's Internet website if:

(1) there is an amount billed by the provider and unpaid by the issuer or administrator after copayments, deductibles, and coinsurance for which an enrollee may not be billed; and

(2) the health benefit claim is for:

(A) emergency care;

(B) an out-of-network laboratory service; [or]

(C) an out-of-network diagnostic imaging

service; or

(D) an out-of-network ground ambulance service.

87(R) HB 4438 – Referred to Urban Affairs

Relating to the appeal to a hearing examiner of a promotional bypass or disciplinary action taken against a police officer in certain municipalities.

- (d) If the appealing fire fighter [or police officer] chooses to appeal to a hearing examiner, the fire fighter [or police officer] and the department head, or their designees, shall first attempt to agree on the selection of an impartial hearing examiner. If the parties do not agree on the selection of a hearing examiner on or within 10 days after the date the appeal is filed, the director shall immediately request a list of seven qualified neutral arbitrators from the American Arbitration Association or the Federal **Mediation** and Conciliation Service, or their successors in function. The fire fighter [or police officer] and the department head, or their designees, may agree on one of the seven neutral arbitrators on the list. If they do not agree within five working days after the date they received the list, each party or the party's designee shall alternate striking a name from the list and the name remaining is the hearing examiner. The parties or their designees shall agree on a date for the hearing.

87(R) HJR 26 – Referred to State Affairs

Proposing a constitutional amendment to authorize the operation of casino gaming in certain state coastal areas to provide additional money for residual windstorm insurance coverage and catastrophic flooding assistance in those areas and to authorize the Kickapoo Traditional Tribe of Texas to conduct casino gaming by executing a gaming compact with this state; providing for occupational licensing; authorizing fees; limiting certain taxes and fees.

PART XII. DISPUTE RESOLUTION

A dispute under this compact, including a dispute over compliance with or the interpretation of the terms of this compact, must be resolved amicably and voluntarily when possible. In pursuit of this goal, the following procedures may be invoked:

A. A party asserting noncompliance or seeking an interpretation of this compact first shall serve written notice on the other party. The notice must identify the provision alleged to have been violated or in dispute and must specify in detail the factual basis for the claim. Representatives of the Tribe and State shall meet in an effort to resolve the dispute not later than the 30th day after the date notice is received unless the parties agree to extend the time.

B. A party asserting noncompliance or seeking an interpretation of this compact is considered to have certified that to the best of the party's knowledge, information, and belief,

formed after reasonable inquiry, the claim of noncompliance or the request for interpretation of this compact is warranted and made in good faith and not for any improper purpose, such as to harass or to cause unnecessary delay or expense to resolve the dispute.

C. If the parties are unable to resolve a dispute through the process specified in Part XII.A of this compact, either party can call for **Mediation** under the Commercial Arbitration Rules and **Mediation** Procedures of the American Arbitration Association (AAA) or any such successor procedures, provided that the **Mediation** does not last more than 15 calendar days unless the parties agree to an extension to this time limit. **Mediation** is only available for resolving disputes over matters arising under this compact.

D. If the parties are unable to resolve a dispute through the process under Parts XII.A and XII.C of this compact, notwithstanding any other provision of law, the State or Tribe may bring an action in federal district court ("federal court") regarding any dispute arising under this compact in a district in which the federal court has venue. If the federal court declines to exercise jurisdiction, or federal precedent exists that rules that the federal court does not have jurisdiction over the dispute, the State or the Tribe may bring the action in state court. The State and the Tribe are entitled to all rights of appeal permitted by law in the court system in which the action is brought.

E. For purposes of an action based solely on a dispute between the State and the Tribe that arises under this compact and the enforcement of any judgment resulting from the action, the State and the Tribe expressly waive the right to assert sovereign immunity from suit and from enforcement of any judgment, and consent to be sued in all levels of federal or state court, provided that:

1. the dispute is limited solely to issues arising under this compact;

2. the action does not include a claim for monetary damages, other than payment of any money required by the terms of this compact, and injunctive relief or specific performance enforcing a provision of this compact requiring the payment of money to the State may be sought; and

3. nothing in this compact may be construed to constitute a waiver of the sovereign immunity of the State or the Tribe with respect to a third party that is made a party or intervenes as a party in an action.

F. In the event that intervention, joinder, or other participation by a third party in any action between the State and the Tribe would result in the waiver of the State's or the Tribe's sovereign immunity to the third party's claim, the waiver of the State or the Tribe under this compact may be revoked.

G. The State may pursue any **Mediation** or judicial remedy against the Tribe if the State failed to exhaust Tribal administrative remedies.

87(R) HJR 112 - Companion SJR 41 – Referred to State Affairs

Proposing a constitutional amendment to authorize the Kickapoo Traditional Tribe of Texas to conduct gaming by executing a gaming agreement with this state; providing for licensing of persons under the agreement; limiting certain taxes and fees.

87(R) SB 495 - Bill passed the Senate, COMMITTEE REPORT SENT TO CALENDARS

Relating to certain rights of crime victims.

(11) the right to request victim-offender **mediation** coordinated by the victim services division of the department;

87(R) HB 3660 – Companion SB 512, Identical - Bill reported out of House committee on Juvenile Justice & Family Issues, NOT AGAIN PLACED ON INTENT CALENDAR

Relating to youth diversion programs for children accused of certain fine-only offenses and related criminal justice matters; authorizing and imposing fees and fines.

(A) participate in **mediation** or other dispute resolution processes;

87(R) SB 1573 – Referred to Criminal Justice

Relating to the reporting of sexual assault and other sex offenses and to the collection, analysis, tracking, and preservation of evidence of those offenses.

(11) the right to request victim-offender **mediation** coordinated by the victim services division of the department;

87(R) SB 1805- Referred to Local Government

Relating to municipal civil service for fire fighters and police officers.

(d) If the appealing fire fighter ~~for police officer~~ chooses to appeal to a hearing examiner, the fire fighter [or police officer] and the department head, or their designees, shall first attempt to agree on the selection of an impartial hearing examiner. If the parties do not agree on the selection of a hearing examiner on or within 10 business days after the date the appeal is filed, the director shall immediately request a list of seven qualified neutral arbitrators from the American Arbitration Association or the Federal ~~Mediation~~ and Conciliation Service, or their successors in function. The fire fighter ~~for police officer~~ and the department head, or their designees, may agree on one of the seven neutral arbitrators on the list. If they do not agree within five business ~~working~~ days after the date they received the list, each party or the party's designee shall alternate striking a name from the list and the name remaining is the hearing examiner. The parties or their designees shall agree on a date for the hearing.

87(R) SB 2014 – Referred to Business and Commerce

Relating to a health care entity's disclosure to patients and prospective patients of charges for certain health care services, goods, or procedures; authorizing administrative penalties.

Sec. 185.010. OUT-OF-NETWORK DISPUTE RESOLUTION.

Notwithstanding any other law, a health care professional who is in compliance with this chapter at the time that a health care service, good, or procedure is provided is exempt from the ~~mediation~~ process, findings, penalties, and all related provisions, including the informal settlement teleconference under Chapter 1467, Insurance Code, if:

(1) the dispute concerns the provision of a health care service, good, or procedure listed in the health care professional's charge list; and

(2) the amount billed for that service, good, or procedure is less than or equal to the amount stated in the charge list.

87(R) HB 4561 – Referred to Energy Resources

Relating to the powers and duties of the Railroad Commission of Texas; providing an administrative penalty.

(2) failed to provide information requested by a **mediator** in the proceeding.

87(R) HB 1980 - Bill reported out of House committee on International Relations & Economic Development, PLACED ON GENERAL STATE CALENDAR

Relating to prohibiting certain nondisclosure or confidentiality provisions in employment agreements.

(2) prohibits an employee from disclosing to any person, including during any related investigation, prosecution, legal proceeding, or **dispute resolution**, facts surrounding any sexual assault or sexual harassment committed by an employee of the employer or at the employee's place of employment, including the identity of the alleged offender.

87(R) HB 3771 – Referred to Corrections

Relating to certain personnel policies of the Texas Department of Criminal Justice and to certain related duties of the Texas Board of Criminal Justice.

(2) obtain the services of an impartial third party through:

- (A) an agreement with the Center for Public Policy **Dispute Resolution** at The University of Texas School of Law;
- (B) an alternative **dispute resolution** system established under Chapter 152, Civil Practice and Remedies Code;
- (C) another governmental body or a federal agency; or
- (D) an agreement with the State Office of Administrative Hearings.

87(R) SB 1395 – Companion HB 3771, Referred to Criminal Justice, LEFT PENDING IN COMMITTEE

Relating to certain personnel policies of the Texas Department of Criminal Justice and to certain related duties of the Texas Board of Criminal Justice.

- (2) obtain the services of an impartial third party through:
- (A) an agreement with the Center for Public Policy ~~Dispute Resolution~~ at The University of Texas School of Law;
 - (B) an alternative ~~dispute resolution~~ system established under Chapter 152, Civil Practice and Remedies Code;
 - (C) another governmental body or a federal agency; or
 - (D) an agreement with the State Office of Administrative Hearings.

87(R) SB 567 – SIGNED BY GOVERNOR – EFFECTIVE 09/01/21

Relating to the powers and duties of a domestic relations office.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 203.004(a), Family Code, is amended to read as follows:

Sec. 203.004. POWERS AND DUTIES. (a) A domestic relations office may:

- (1) collect and disburse child support payments that are ordered by a court to be paid through a domestic relations registry;
- (2) maintain records of payments and disbursements made under Subdivision (1);
- (3) file a suit under this title, including a suit to:
 - (A) establish paternity; and
 - (B) enforce, clarify or modify a court order for child support or for possession of and access to a child; ~~and~~
 - ~~(C) modify or clarify an existing child support order;~~
- (4) provide an informal forum in which alternative dispute resolution is used to resolve disputes under this code;
- (5) prepare a court-ordered child custody evaluation or adoption evaluation under Chapter 107;
- (6) represent a child as an amicus attorney, an attorney ad litem, or a guardian ad litem in a suit in which:
 - (A) termination of the parent-child relationship is sought; or
 - (B) conservatorship of or access to a child is contested;
- (7) serve as a friend of the court;

- (8) provide predivorce counseling ordered by a court;
 - (9) provide community supervision services under Chapter 157;
 - (10) provide information to assist a party in understanding, complying with, or enforcing the party's duties and obligations under this Code Subdivision (3);
 - (11) provide, directly or through a contract, visitation services, including supervision of court-ordered visitation, visitation exchange, or other similar services;
 - (12) issue an administrative writ of withholding under Subchapter F, Chapter 158; and
 - (13) provide parenting coordination services under Chapter 153.
- SECTION 2. This Act takes effect September 1, 2021.

87(R) SB 41 – SIGNED BY GOVERNOR – EFFECTIVE 09/01/21

Companion HB 4417 - Bill reported out of Senate committee on Jurisprudence,
REFERRED TO JUDICIARY AND CIVIL JURISPRUDENCE

Relating to the consolidation and allocation of state civil court costs; increasing certain civil court costs; authorizing fees.

SUBCHAPTER C. LOCAL CIVIL FEES

Sec. 135.101. LOCAL CONSOLIDATED CIVIL FEE FOR DISTRICT COURT, STATUTORY COUNTY COURT, OR COUNTY COURT. (a) A person shall pay a local consolidated filing fee of \$208 on filing of a civil action in a district court, statutory county court, or county court in addition to all other fee and court costs.

(b) The treasurer shall allocate the fees received under this section to the following accounts and funds so that each receives to the extent practicable, utilizing historical data as applicable, the same amount of money the account or fund would have received if the fees for the accounts and funds had been collected and reported separately, except that the account or fund may not receive less than the following percentages:

- (1) the appellate judicial system fund 2.4039 percent;
- (2) the court facility fee fund 7.2115 percent;
- (3) the clerk of the court account 24.0385 percent;
- (4) the county records management and preservation account 14.4231 percent;
- (5) the court reporter service fund 12.0192 percent;
- (6) the county law library fund 16.8269 percent;
- (7) the courthouse security fund 9.6154 percent;
- (8) the language access fund 1.4423 percent;
- (9) the county jury fund 4.8077 percent; and
- (10) the county dispute resolution fund 7.2115 percent.

(c) If a county has not established an **alternative dispute resolution** system under Chapter 152, Civil Practice and Remedies Code, the money allocated under Subsection (b) (10) shall be allocated to the statewide electronic filing system fund.

Sec. 135.102. LOCAL CONSOLIDATED CIVIL FEE FOR JUSTICE

COURT. (a) A person shall pay a local consolidated filing fee of \$33 on filing of a civil action in a justice court in addition to all other fee and court costs.

(b) The treasurer shall allocate the fees received under this section to the following accounts and funds so that each receives to the extent practicable, utilizing historical data as applicable, the same amount of money the account or fund would have received if the fees for the accounts and funds had been collected and reported separately, except that the account or fund may not receive less than the following percentages:

(1) the justice court support fund 75.7576 percent;

(2) the county dispute resolution fund 15.1515 percent; and

(3) the language access fund 9.0909 percent.

(c) If a county has not established an **alternative dispute resolution** system under Chapter 152, Civil Practice and Remedies Code, the money allocated under Subsection (b) (2) shall be allocated to the statewide electronic filing system fund.

SUBCHAPTER D. ALLOCATION AND USE OF CERTAIN CIVIL FEES

Sec. 135.151. MAINTENANCE OF FUNDS AND ACCOUNTS. (a) A county treasurer shall maintain in the county treasury a fund or account to which money is allocated under Section 135.101 or 135.102, to the extent that the fund or account is not required by other law. Money in an account maintained under this section may be used only for the purposes provided by this subchapter.

(b) An account or fund maintained under this section in a county treasury may be administered by or at the direction of the county commissioners court.

Sec. 135.152. COURT FACILITY FEE FUND. Money allocated under Section 135.101 to the court facility fee fund maintained in the county treasury as required by Section 135.151 may be used by a county only to fund the construction, renovation, or improvement of facilities that house the courts or to pay the principal of, interest on, and costs of issuance of bonds, including refunding bonds, issued for the construction, renovation, or improvement of the facilities.

Sec. 135.153. CLERK OF THE COURT ACCOUNT. Money allocated under Section 135.101 to the clerk of the court account maintained in the county treasury as required by Section 135.151 may be used by a county only to defray costs of services provided by a county or district clerk.

Sec. 135.154. COUNTY RECORDS MANAGEMENT AND PRESERVATION ACCOUNT. Money allocated under Section 135.101 to the county records management and preservation account maintained in the county treasury as required by Section 135.151 may be used by a county only to fund records management and preservation services performed by the court clerk.

Sec. 135.155. LANGUAGE ACCESS FUND. Money allocated under Section 135.101 or 135.102 to the language access fund maintained in the county treasury as required by Section 135.151 may be used by a county only to provide language access services for individuals appearing before the court or receiving court services.

Sec. 135.156. COUNTY JURY FUND. Money allocated under

Section 135.101 to the county jury fund maintained in the county treasury as required by Section 135.151 may be used by a county only to fund juror reimbursements and otherwise finance jury services.

Sec. 135.157. COUNTY DISPUTE RESOLUTION FUND. (a) Money allocated under Section 135.101 or 135.102 to the county dispute resolution fund maintained in the county treasury as required by Section 135.151 may only be used by a county to establish and maintain an ~~Alternative dispute resolution~~ system in accordance with Chapter 152, Civil Practice and Remedies Code.

(b) If a county has not established an ~~Alternative dispute resolution~~ system under Chapter 152, Civil Practice and Remedies Code, the money allocated under Subsection (a) shall be remitted to the comptroller and the comptroller shall allocate the money allocated to the statewide electronic filing system fund.

Sec. 135.158. JUSTICE COURT SUPPORT FUND. Money allocated under Section 135.102 to the justice court support fund maintained in the county treasury as required by Section 135.151 may be used by a county only to defray the costs of services provided by a justice court.

SECTION 4.02. Sections 152.004(a) and (c), Civil Practice and Remedies Code, are amended to read as follows:

(a) To establish and maintain an ~~Alternative dispute resolution~~ system, the commissioners court may establish a dispute resolution fund ~~[set a court cost in an amount not to exceed \$15 to be taxed, collected, and paid as other court costs in each civil case filed in a county or district court in the county, including a civil case relating to probate matters but not including:~~

~~[(1) a suit for delinquent taxes;~~

~~[(2) a condemnation proceeding under Chapter 21, Property Code; or~~

~~[(3) a proceeding under Subtitle C, Title 7, Health and Safety Code].~~

(c) ~~[The clerks of the courts in the county shall collect and pay the costs to the county treasurer or, if the county does not have a treasurer, to the county officer who performs the functions of the treasurer, who shall deposit the costs in a separate fund known as the ~~Alternative dispute resolution~~ system fund.]~~ The fund shall be administered by the commissioners court and may only be used to establish and maintain the system. The system shall be operated at one or more convenient and accessible places in the county.