

1 SB348  
2 212119-1  
3 By Senator Barfoot  
4 RFD: Judiciary  
5 First Read: 18-MAR-21

SYNOPSIS: Under existing law, mediation is mandatory under certain conditions in certain civil actions. Under existing law, mediators are not required to be certified.

This bill would require mediation to be provided by a mediator registered with the Alabama Center for Dispute Resolution.

A BILL  
TO BE ENTITLED  
AN ACT

To amend 6-6-20, Code of Alabama 1975, relating to mandatory mediation, to require mediation be provided by a mediator registered with the Alabama Center for Dispute Resolution.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 6-6-20, Code of Alabama 1975, is amended to read as follows:

"§6-6-20.

1           "(a) For purposes of this section, "mediation" means  
2 a process in which a neutral third party assists the parties  
3 to a civil action in reaching their own settlement, but does  
4 not have the authority to force the parties to accept a  
5 binding decision.

6           "(b) Mediation is mandatory for all parties in the  
7 following instances:

8           "(1) At any time where all parties agree.

9           "(2) Upon motion by any party. The party asking for  
10 mediation shall pay the costs of mediation, except attorney  
11 fees, unless otherwise agreed.

12           "(3) In the event no party requests mediation, the  
13 trial court may, on its own motion, order mediation. The trial  
14 court may allocate the costs of mediation, except attorney  
15 fees, among the parties.

16           "(c) If any party fails to mediate as required by  
17 this section, the court may apply such sanctions as it deems  
18 appropriate pursuant to Rule 37 of the Alabama Rules of Civil  
19 Procedure.

20           "(d) A court shall not order parties into mediation  
21 for resolution of the issues in a petition for an order for  
22 protection pursuant to The Protection from Abuse Act, Sections  
23 30-5-1 through 30-5-10 or in any other petition for an order  
24 for protection where domestic violence is alleged.

25           "(e) In a proceeding concerning the custody or  
26 visitation of a child, if an order for protection is in effect

1 or if the court finds that domestic violence has occurred, the  
2 court shall not order mediation.

3 "(f) A mediator who receives a referral or order  
4 from a court to conduct mediation shall screen for the  
5 occurrence of domestic or family violence between the parties.  
6 Where evidence of domestic violence exists mediation shall  
7 occur only if:

8 "(1) Mediation is requested by the victim of the  
9 alleged domestic or family violence;

10 "(2) Mediation is provided by a ~~certified~~ mediator  
11 registered on the roster with the Alabama Center for Dispute  
12 Resolution who is trained in domestic and family violence in a  
13 specialized manner that protects the safety of the victim; and

14 "(3) The victim is permitted to have in attendance  
15 at mediation a supporting person of his or her choice,  
16 including, but not limited to, an attorney or advocate.

17 "(g) Where a claim of immunity is offered as a  
18 defense, the court shall dispose of the immunity issue before  
19 any mediation is conducted.

20 "(h) A court shall not order parties into mediation  
21 in any action involving child support, adult protective  
22 services, or child protective services wherein the Department  
23 of Human Resources is a party to said action."

24 Section 2. This act shall become effective  
25 immediately following its passage and approval by the  
26 Governor, or its otherwise becoming law.