

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 791

Short Title: Settlement Conferences/Civil Actions.

(Public)

Sponsors: Senators Sands; and Daniel.

Referred to: Judiciary II.

April 24, 1991

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH A PILOT PROGRAM OF MEDIATED SETTLEMENT
3 CONFERENCES IN SUPERIOR COURT ACTIONS.

4 The General Assembly of North Carolina enacts:

5 Section 1. Chapter 7A of the General Statutes is amended by adding the
6 following new section to read:

7 "**§ 7A-38. Court ordered, mediated settlement conferences in superior court civil**
8 **actions.**

9 (a) Purpose. This section is enacted in order to provide for a pilot program in
10 judicial districts selected by the Chief Justice of the Supreme Court in which parties to
11 superior court civil litigation may be required to attend a pretrial settlement conference
12 conducted by a mediator. The purpose of such a pilot program is to determine whether
13 a system of mediated settlement conferences may make the operation of the superior
14 courts more efficient, less costly, and more satisfying to the litigants.

15 (b) Definitions as used in this section:

16 (1) 'Mediated settlement conference' means a court ordered conference
17 between or among the parties to a civil action and their representatives
18 conducted by a mediator prior to trial.

19 (2) 'Mediation' means an informal process conducted by a mediator with
20 the objective of helping parties voluntarily reach a mutually acceptable
21 settlement of their dispute.

22 (3) 'Mediator' means a neutral person who acts to encourage and facilitate
23 a resolution of a pending civil action. A mediator does not render a
24 judgment as to the merit of the action.

1 (c) Selection of districts. This procedure may be implemented in a judicial
2 district or any part of a judicial district if the Chief Justice of the Supreme Court and the
3 Senior Resident Superior Court Judge of that district determine that use of this program
4 may assist in achieving objectives stated in subsection (a) of this section. The Chief
5 Justice may terminate any such pilot program after consultation with the Senior
6 Resident Superior Court Judge.

7 (d) Costs of mediated settlement conference. Costs of the mediated settlement
8 conference shall be paid: one share by the plaintiffs, one share by the defendants, and
9 one share by any third party defendant, unless otherwise ordered by the court or agreed
10 to by the parties. The rules established by the Supreme Court under subsection (d) of
11 this section shall set out a method whereby the parties which are found by the court to
12 be unable to pay the costs of the mediated settlement conference are afforded an
13 opportunity to participate without cost.

14 (e) Inadmissability of negotiations. All conduct or communications made during
15 a mediated settlement conference are presumed to be made in compromise negotiations
16 and shall be governed by Rule 408 of the North Carolina Rules of Evidence.

17 (f) Evaluation. The pilot program authorized by this section shall be evaluated
18 for a reasonable period of time under the direction of the Administrative Office of the
19 Courts. The director of that office shall report the results of his evaluation to the
20 General Assembly.

21 (g) Authority to solicit private funds. The Administrative Office of the Courts
22 may solicit funds from private sources to establish, conduct, and evaluate this pilot
23 program.

24 (h) Right to jury trial. Nothing in this section or the rules promulgated by the
25 Supreme Court implementing this section shall restrict the right to jury trial."

26 Sec. 2. This act shall be implemented within funds available to the Judicial
27 Department.

28 Sec. 3. This act becomes effective October 1, 1991, and applies to mediated
29 settlement conferences established on and after the Supreme Court's rules are adopted
30 governing this establishment.