

FINAL BILL REPORT

SB 5147

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SYNOPSIS AS ENACTED

Brief Description: Protecting alternative dispute resolution processes and mediators and arbitrators from legal action.

SPONSORS: Senators Nelson, A. Smith and Newhouse.

SENATE COMMITTEE ON LAW & JUSTICE

HOUSE COMMITTEE ON JUDICIARY

BACKGROUND:

Mediation and other alternatives to trial are significant adjuncts to our legal system. The Revised Code of Washington refers to "mediation, mediator," or "mediating" disputes at least 37 times. Mediation works best when participants believe statements made will remain confidential. There is currently no statute or rule of evidence which controls dissemination of communications or material disclosed in mediation.

SUMMARY:

When parties to a dispute have a written agreement to mediate, or a court has ordered mediation, any materials submitted or communications made in connection with the mediation are privileged and not subject to disclosure in subsequent legal proceedings. Exceptions are made when the parties agree in writing to disclosure, when the materials are otherwise subject to discovery, when disclosure is required by statute, when the materials consist of written agreements reached through mediation, or when they pertain to administrative matters incidental to the mediation proceedings.

In an action between a mediator and a party to the mediation, materials submitted on communications made in the mediation may be disclosed and the mediator may be compelled to testify. In no other circumstances may the mediator be compelled to testify when there is a court order on a written agreement to mediate unless all parties to the mediation and the mediator agree in writing.

When a mediation is conducted by a state or federal agency using collective bargaining statutes, the agency's rules govern questions of privilege and confidentiality.

VOTES ON FINAL PASSAGE:

Senate	47	0	
House	97	0	(House amended)
Senate			(Senate refused to concur)
House			(House refused to recede)

Conference Committee

House	95	0
Senate	40	0

EFFECTIVE: May 21, 1991