

SENATE BILL REPORT

SB 5163

AS OF JANUARY 25, 1991

Brief Description: Providing for alternative dispute resolution.

SPONSORS: Senator Talmadge.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Richard Rodger (786-7461)

Hearing Dates: January 24, 1991

BACKGROUND:

Presently, there are no arbitration standards for disputes occurring between local health departments, the municipal and district courts, or public agencies.

The jurisdictional dollar limit for civil cases in the district court is \$10,000. Mandatory arbitration programs are authorized for superior court cases valued at less than \$15,000. The superior court judges may vote to increase the limit to \$35,000 and to arbitrate maintenance and child support issues. Mandatory arbitration is not authorized in the district courts.

The Commission on Washington Trial Courts, in its Preliminary Report, recommended increasing the jurisdictional limits of the district courts to \$25,000. The commission recommended the use of mandatory arbitration in the district courts and increasing the use of mandatory arbitration in the superior courts.

County surcharges on filing fees, designated for dispute resolution centers, are paid directly to the centers. It has been suggested that these fees should first pass through the Public Safety and Education Account (PSEA) for audit purposes.

Arbitrators performing the superior court arbitrations must have been admitted to the bar association for a minimum of five years or be a retired judge. The Supreme Court has adopted rules of professional conduct for attorneys and is developing rules for attorneys acting as arbitrators or mediators. There are no uniform rules of professional conduct for nonlawyer arbitrators or mediators.

The board members, employees, and volunteers of dispute resolution centers are granted immunity from civil actions for their performance of official duties. This immunity has not been extended to arbitrators and mediators who are acting pursuant to other provisions of the law. There are no

statutes which establish the confidentiality of the files and records of arbitrators and mediators.

The RCW's contain a generic arbitration statute which is available for use, whenever two or more parties wish to utilize those procedures. It has been suggested that a generic mediation statute would be beneficial to any parties seeking to mediate their disputes.

Victim-offender reconciliation programs currently provide victims with the opportunity to meet with an offender and to discuss what impact the offense had on the victim. The programs also allow the victim and the offender an opportunity to negotiate a restitution agreement for the damages incurred by the victim. There is a belief that these programs would be more fully utilized if a referral was authorized by statute.

SUMMARY:

The provisions of the arbitration statute (RCW 7.04) shall apply to arbitration agreements between public agencies. Arbitration standards are provided for disputes occurring between any governmental health departments. The standards are also provided for disputes occurring between any district and municipal court.

The district court civil jurisdictional limit is increased to \$25,000. District court judges may authorize mandatory civil arbitration by a majority vote of the judges in each county. The superior court mandatory civil arbitration level is raised to \$25,000. The superior court judges, in each judicial district, may vote to increase the arbitration level to \$38,850.

Maintenance and child support issues are subject to mandatory arbitration. Family court commissioners may refer parties to mediation through a dispute resolution center.

Persons qualified to act as arbitrators in the mandatory arbitration programs must be admitted to the bar association for seven years and have arbitration, mediation, or litigation experience; or, have seven years judicial experience.

For the purposes of determining the prevailing party, offers of settlement must remain open for a period of ten days, unless otherwise agreed.

County surcharges on filing fees, for the funding of dispute resolution centers, must pass through the PSEA for audit purposes. Each county will receive back all of the funds deposited in the PSEA under this provision.

The Department of Community Development shall adopt rules of professional conduct for non-lawyer arbitrators, mediators, and conciliators. In developing the rules the department shall consult with the Washington State Bar Association (WSBA) and nonlawyer professionals.

The WSBA, Superior Court Judges' Association and the District Court Judges' Association shall review the district court jurisdictional limits and make recommendations to the Legislature every two years, regarding the increase of the limits.

Juvenile and adult offenders may be referred to a victim-offender reconciliation program. The court must give consideration to any restitution agreement reached through a reconciliation program.

Immunity and confidentiality provisions are established for arbitrators and mediators. A comprehensive generic mediation statute is created with a delayed effective date.

Appropriation: none

Revenue: none

Fiscal Note: requested

Effective Date: Sections 30 through 37 take effect July 1, 1992; all other sections take effect on July 1, 1991.