
ENGROSSED HOUSE BILL 1927

State of Washington

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By Representatives Lantz, Schual-Berke, Clibborn, Campbell, Moeller, Cody, Morrell, Rockefeller, Kirby, Lovick, Kenney, Linville, Veloria, Conway, G. Simpson, Sommers and Haigh

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1 AN ACT Relating to the mandatory mediation and mandatory
2 arbitration of health care claims; amending RCW 7.70.100; and
3 reenacting and amending RCW 7.06.020.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 7.70.100 and 1993 c 492 s 419 are each amended to read
6 as follows:

7 (1) No action based upon a health care provider's professional
8 negligence may be commenced unless the defendant has been given at
9 least ninety days' notice of the intention to commence the action. If
10 the notice is served within ninety days of the expiration of the
11 applicable statute of limitations, the time for the commencement of the
12 action must be extended ninety days from the service of the notice.

13 (2) The provisions of subsection (1) of this section are not
14 applicable with respect to any defendant whose name is unknown to the
15 plaintiff at the time of filing the complaint and who is identified
16 therein by a fictitious name.

17 (3) After the filing of the ninety-day presuit notice, and before
18 a superior court trial, all causes of action, whether based in tort,
19 contract, or otherwise, for damages arising from injury occurring as a

1 result of health care provided after July 1, 1993, shall be subject to
2 mandatory mediation or mandatory arbitration under RCW 7.06.020 prior
3 to trial.

4 ~~((+2))~~ (4) The supreme court shall by rule adopt procedures to
5 implement mandatory mediation of actions under this chapter. The rules
6 shall require mandatory mediation without exception unless subsection
7 (6) of this section applies. The rules on mandatory mediation shall
8 address, at a minimum:

9 (a) Procedures for the appointment of, and qualifications of,
10 mediators. A mediator shall have experience or expertise related to
11 actions arising from injury occurring as a result of health care, and
12 be a member of the state bar association who has been admitted to the
13 bar for a minimum of five years or who is a retired judge. The parties
14 may stipulate to a nonlawyer mediator. The court may prescribe
15 additional qualifications of mediators;

16 (b) Appropriate limits on the amount or manner of compensation of
17 mediators;

18 (c) The number of days following the filing of a claim under this
19 chapter within which a mediator must be selected;

20 (d) The method by which a mediator is selected. The rule shall
21 provide for designation of a mediator by the superior court if the
22 parties are unable to agree upon a mediator;

23 (e) The number of days following the selection of a mediator within
24 which a mediation conference must be held;

25 (f) A means by which mediation of an action under this chapter may
26 be waived by a mediator who has determined that the claim is not
27 appropriate for mediation; and

28 (g) Any other matters deemed necessary by the court.

29 ~~((+3))~~ (5) Mediators shall not impose discovery schedules upon the
30 parties.

31 (6) The mandatory mediation requirement of subsection (4) of this
32 section does not apply to an action subject to mandatory arbitration
33 under chapter 7.06 RCW or to an action in which the parties have agreed
34 to arbitration under chapter 7.04 RCW.

35 (7) The supreme court shall by rule also adopt procedures for the
36 parties to certify to the court the manner of mediation or arbitration
37 used by the parties to comply with this section.

1 **Sec. 2.** RCW 7.06.020 and 1987 c 212 s 101 and 1987 c 202 s 127 are
2 each reenacted and amended to read as follows:

3 (1) All civil actions, except for appeals from municipal or
4 district courts, which are at issue in the superior court in counties
5 which have authorized arbitration, where the sole relief sought is a
6 money judgment, and where no party asserts a claim in excess of fifteen
7 thousand dollars, or if approved by the superior court of a county by
8 two-thirds or greater vote of the judges thereof, up to thirty-five
9 thousand dollars, exclusive of interest and costs, are subject to
10 mandatory arbitration.

11 (2) All civil actions based on chapter 7.70 RCW, except for appeals
12 from municipal or district courts, which are at issue in the superior
13 court in counties that have authorized arbitration, where the sole
14 relief sought is a money judgment up to two hundred fifty thousand
15 dollars, exclusive of interest and costs, are subject to mandatory
16 arbitration.

17 (3) If approved by majority vote of the superior court judges of a
18 county which has authorized arbitration, all civil actions which are at
19 issue in the superior court in which the sole relief sought is the
20 establishment, termination or modification of maintenance or child
21 support payments are subject to mandatory arbitration. The
22 arbitrability of any such action shall not be affected by the amount or
23 number of payments involved.

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