

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 1021

Short Title: Dispute Resolution Commission.

(Public)

Sponsors: Senators Kinnaird; and Ballance.

Referred to: Judiciary.

April 21, 1997

A BILL TO BE ENTITLED

AN ACT TO REVISE AND EXPAND THE AUTHORITY OF THE DISPUTE
RESOLUTION COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-38.2 is repealed.

Section 2. Article 5 of Chapter 7A of the General Statutes is amended by
adding five new sections to read:

"§ 7A-38.2A. Dispute Resolution Commission – purpose.

The General Assembly finds:

- (1) That arbitration and mediation procedures have been effectively used by trial courts;
- (2) That other alternative dispute resolution (ADR) procedures may also be effective;
- (3) That ADR programs and procedures redound to the public good, enhancing the courts' potential for expeditiously and economically resolving issues in litigation;
- (4) That information concerning the use and effectiveness of all ADR programs and procedures across the State should be compiled for the benefit of the General Assembly, the courts, and the public; and

- 1 (5) That an agency should be established to monitor all ADR programs and
2 procedures, and the legislation governing them, through which the
3 Supreme Court can exercise delegated and constitutional authority
4 vested in the General Court of Justice.

5 **"§ 7A-38.2B. Dispute Resolution Commission – creation and membership.**

6 The Dispute Resolution Commission is established as an independent commission
7 within the Judicial Branch. The Commission shall consist of nine members, as follows:

- 8 (1) Two judges and two certified providers of ADR, appointed by the Chief
9 Justice of the Supreme Court;
10 (2) Two practicing attorneys who are not certified as ADR providers,
11 appointed by the President of the North Carolina State Bar; and
12 (3) Three citizens knowledgeable about ADR, one to be appointed by the
13 Governor, one by the General Assembly upon the recommendation of
14 the Speaker of the House of Representatives in accordance with G.S.
15 120-121, and one by the General Assembly upon the recommendation
16 of the President Pro Tempore of the Senate in accordance with G.S.
17 120-121.

18 Members shall serve four-year terms and may serve no more than two consecutive
19 terms. The Chief Justice shall designate the chair from the members who are judges.
20 The chair shall serve a two-year term as chair and is eligible for reappointment.

21 The Chief Justice may appoint no more than two additional members who have
22 expertise or experience in ADR for terms of four years, upon certification to the General
23 Assembly that unforeseen, additional, or unique issues or duties require the services of
24 those persons as members and that the cost of the appointments is within the
25 Commission's budget.

26 **"§ 7A-38.2C. Dispute Resolution Commission – authority.**

27 The Commission may, subject to approval by the Supreme Court:

- 28 (1) Monitor and regulate ADR procedures and programs authorized by
29 statute or by rule of court;
30 (2) Propose for adoption by the Supreme Court:
31 a. Criteria for the qualification and certification for arbitrators,
32 mediators, and other neutrals, for the qualification of training
33 programs, and for the eligibility of personnel to participate in
34 those programs; and
35 b. Standards, rules, and policies as may be appropriate to achieve
36 the purposes of the programs, and sanctions for their violation,
37 including the deprivation of any right or privilege to participate
38 in any program or procedure; and
39 (3) Exercise the authority necessary and appropriate to implement the rules
40 and standards adopted by the Supreme Court.

41 **"§ 7A-38.2D. Dispute Resolution Commission – administration.**

42 The administration and management functions of the Commission, such as budgeting,
43 office staffing, fiscal accounting, and similar management functions, shall be conducted

1 in compliance with established requirements and practices governing State boards and
2 commissions in consultation with and under the supervision of the Director of the
3 Administrative Office of the Courts. The Supreme Court has final authority to determine
4 the respective powers and duties of the Commission and the Administrative Office of the
5 Courts with respect to issues not made specific by statute. The Commission, with the
6 approval of the Supreme Court, shall establish a standard schedule of fees to be charged
7 and collected on behalf of the Administrative Office of the Courts for the certifications
8 and recertifications of arbitrators, mediators, other neutrals, and training programs
9 designed to qualify persons for certification. These fees shall be used by the
10 Administrative Office of the Courts to maintain the operations of the Commission, its
11 office, and staff.

12 **"§ 7A-38.2E. Dispute Resolution Commission – research and planning.**

13 The Administrative Office of the Courts and the Dispute Resolution Commission
14 shall, in concert and independently, continually evaluate the effectiveness and value of
15 ADR programs and procedures in use by the courts, and from time to time they may
16 individually or jointly recommend to the Supreme Court those changes in existing
17 programs and the creation of additional programs as are in the public interest and in
18 harmony with the evolving civil justice system in this State."

19 Section 3. G.S. 7A-37.1(b) reads as rewritten:

20 "(b) The Supreme Court of North Carolina may adopt rules governing this procedure
21 court-ordered, nonbinding arbitration and may supervise its implementation and operation
22 through the Administrative Office of the Courts. assign those duties and delegate that
23 authority to the Administrative Office of the Courts and the Dispute Resolution
24 Commission as necessary and appropriate in the exercise of the Supreme Court's
25 supervisory authority over the implementation of this court procedure. These rules shall
26 ensure that no party is deprived of the right to jury trial and that any party dissatisfied
27 with an arbitration award may have trial de novo."

28 Section 4. G.S. 7A-495 is repealed.

29 Section 5. Article 39A of Chapter 7A of the General Statutes is amended by
30 adding a new section to read:

31 **"§ 7A-495.1. Implementation and administration.**

32 The Supreme Court may delegate to the Dispute Resolution Commission the authority
33 and responsibility for establishing a custody mediation advisory committee of its
34 members and those additional persons as the Commission finds to be necessary or
35 expedient and to determine its functions and authority."

36 Section 6. This act is effective upon ratification. The members of the Dispute
37 Resolution Commission established under former G.S. 7A-38.2 shall serve out their terms
38 as provided in that section, and their successors shall be appointed under G.S. 7A-38.2B
39 as enacted in Section 2 of this act.