

HOUSE BILL No. 5736

April 2, 1992, Introduced by Reps. Bandstra, Perry Bullard, Gubow, Goss, Strand, Fitzgerald, Jondahl, Dalman and Jamian and referred to the Committee on Judiciary.

A bill to amend sections 2, 3, 5, 7, and 10 of Act No. 260 of the Public Acts of 1988, entitled "Community dispute resolution act," being sections 691.1552, 691.1553, 691.1555, 691.1557, and 691.1560 of the Michigan Compiled Laws; to add sections 6a and 7a; and to repeal certain parts of the act.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 2, 3, 5, 7, and 10 of Act No. 260 of
2 the Public Acts of 1988, being sections 691.1552, 691.1553,
3 691.1555, 691.1557, and 691.1560 of the Michigan Compiled Laws,
4 are amended and sections 6a and 7a are added to read as follows:

5 Sec. 2. As used in this act:

6 (a) "Administrative expenses" means expenses incurred by the
7 state court administrator in implementing this act.

1 (b) "Available grant funds" means that portion of the
2 community dispute resolution fund available for awards to grant
3 recipients, after administrative expenses have been met.

4 (c) "Center" means a ~~community~~ COMMUNITY-BASED dispute
5 resolution center THAT DEMONSTRATES COMMUNITY PARTICIPATION AND
6 SUPPORT AND RESPONSIVENESS TO THE LOCAL COMMUNITY IN SEVERAL
7 WAYS, INCLUDING, BUT NOT LIMITED TO, ACTIVE BOARD MEMBERS AND
8 MEDIATORS DRAWN FROM AND REPRESENTATIVE OF COMMUNITY AND CLIENT
9 CONSTITUENCIES; PROGRAMS AND SERVICES THAT TARGET LOCAL DISPUTE
10 RESOLUTION NEEDS; LOCAL FINANCIAL AND IN-KIND SUPPORT; AND A
11 DIVERSIFIED BASE OF REFERRAL SOURCES.

12 (d) "Fund" means the community dispute resolution fund.

13 (e) "Grant recipient" means a nonprofit or governmental
14 organization that receives funds to operate a center pursuant to
15 this act.

16 (f) "Mediator" means ~~an~~ A TRAINED, impartial, neutral
17 person ~~responsible for reaching a resolution in each case~~ WHO
18 ASSISTS PARTIES IN VOLUNTARILY REACHING THEIR OWN MUTUALLY
19 ACCEPTABLE SETTLEMENT OF ISSUES IN A DISPUTE AND WHO HAS NO
20 AUTHORITATIVE DECISION-MAKING POWER.

21 (g) "Program" means the community dispute resolution program
22 created by this act.

23 Sec. 3. The community dispute resolution ~~center~~ program
24 is created to provide conciliation, mediation, or other forms
25 ~~and techniques~~ of ~~voluntary~~ dispute resolution to persons as
26 an alternative to ~~the judicial process~~ LITIGATION.

1 Sec. 5. (1) The department of treasury shall credit to the
2 fund the revenues received pursuant to sections 2528, 2529, 5756,
3 8371, and 8420 of the revised judicature act of 1961, Act No. 236
4 of the Public Acts of 1961, being sections 600.2528, 600.2529,
5 600.5756, 600.8371, and 600.8420 of the Michigan Compiled Laws.

6 (2) The department of treasury shall credit to the fund any
7 funds appropriated by the legislature and any federal or private
8 funds received by the state for the purpose of implementing ~~the~~
9 ~~provisions of~~ this act.

10 (3) INTEREST GENERATED BY REVENUES IN THE COMMUNITY DISPUTE
11 RESOLUTION FUND SHALL BE CREDITED TO THE COMMUNITY DISPUTE RESO-
12 LUTION FUND BY THE DEPARTMENT OF TREASURY AND SHALL BE USED
13 EXCLUSIVELY FOR PURPOSES OF THIS ACT.

14 SEC. 6A. IF THE PARTIES REACH A SETTLEMENT AND EXECUTE A
15 WRITTEN AGREEMENT DISPOSING OF THE DISPUTE, THE AGREEMENT IS
16 ENFORCEABLE IN THE SAME MANNER AS ANY OTHER WRITTEN CONTRACT.

17 Sec. 7. The work product, ~~and~~ case files of a mediator or
18 center, AND COMMUNICATIONS RELATING TO THE SUBJECT MATTER OF THE
19 DISPUTE MADE DURING THE DISPUTE RESOLUTION PROCESS BY A PARTY,
20 MEDIATOR, OR OTHER PERSON are confidential and not subject to
21 disclosure in a judicial or administrative proceeding EXCEPT FOR
22 THE FOLLOWING: ~~Communications relating to the subject matter~~
23 ~~of the resolution made during the resolution process by a party,~~
24 ~~mediator, or other person shall be a confidential communication.~~

25 (A) IN A CASE IN WHICH ALL PARTIES TO THE MEDIATION AGREE IN
26 WRITING TO WAIVE THE CONFIDENTIALITY.

1 (B) IN A SUBSEQUENT ACTION BETWEEN THE MEDIATOR AND A PARTY
2 TO THE MEDIATION FOR DAMAGES ARISING OUT OF THE MEDIATION.

3 (C) IN THE CASE OF STATEMENTS, MEMORANDA, MATERIALS, AND
4 OTHER TANGIBLE EVIDENCE, OTHERWISE SUBJECT TO DISCOVERY, WHICH
5 WERE NOT PREPARED SPECIFICALLY FOR USE IN AND ACTUALLY USED IN
6 THE MEDIATION.

7 SEC. 7A. AN OFFICER, COUNCIL OR BOARD MEMBER, EMPLOYEE,
8 VOLUNTEER, OR AGENT OF A COMMUNITY DISPUTE RESOLUTION CENTER
9 SHALL NOT BE HELD LIABLE FOR CIVIL DAMAGES FOR ANY ACT OR OMIS-
10 SION IN THE SCOPE OF HIS OR HER EMPLOYMENT OR FUNCTION, UNLESS HE
11 OR SHE ACTED IN BAD FAITH OR WITH MALICIOUS PURPOSE OR IN A
12 MANNER EXHIBITING WANTON AND WILLFUL DISREGARD OF THE RIGHTS,
13 SAFETY, OR PROPERTY OF ANOTHER.

14 Sec. 10. (1) Grant recipients shall be selected from appli-
15 cations submitted to the state court administrator. The grant
16 applications submitted for funding shall include all of the
17 following:

18 (a) The budget for the proposed center including the pro-
19 posed compensation and qualifications of the employees.

20 (b) A description of the proposed geographical area of serv-
21 ice and an estimate of the number of participants to be served.

22 (c) A description of current dispute resolution services, if
23 any, available within the proposed geographical area.

24 (d) A narrative of the applicant's proposed program ~~which~~
25 THAT includes the support of civic groups, social services agen-
26 cies, local courts, and criminal justice agencies to accept and

1 make referrals; the present availability of resources; and the
2 applicant's administrative capacity.

3 (e) A description of the fee structure, if any, that will be
4 applied to participants seeking dispute resolution.

5 (f) Such additional information as is determined to be
6 needed by the state court administrator.

7 (2) If an applicant meets the eligibility requirements of
8 section 9 and guidelines established under section 9 and there
9 are no other eligible applicants from the same county, the state
10 court administrator shall award the applicant a grant at least
11 equal to the pro rata share of available grant funds generated by
12 court filing fees imposed in that county in the year preceding
13 the year for which the application is made. If there is more
14 than 1 eligible applicant from a county, the state court adminis-
15 trator shall award a grant or grants totaling an amount at least
16 equal to the pro rata share of available grants funds generated
17 by court filing fees imposed in that county in the year preceding
18 the year for which the applications are made. Nothing in this
19 subsection shall require a grant award that exceeds the proposed
20 center's approved budget.

21 (3) The amount awarded to a grant recipient shall not exceed
22 ~~50%~~ 80% of the proposed center's approved budget or the amount
23 required by subsection (2), whichever is higher.

24 Section 2. Section 6 of Act No. 260 of the Public Acts of
25 1988, being section 691.1556 of the Michigan Compiled Laws, is
26 repealed.