

Act No. 286
Public Acts of 1993
Approved by the Governor
December 23, 1993
Filed with the Secretary of State
December 28, 1993

**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1993**

Introduced by Reps. Bandstra, Whyman, Hill, McManus, Bodem, Jersevic, Lowe, London, Jaye, Goschka, Kukuk and Dalman

ENROLLED HOUSE BILL No. 4208

AN ACT to amend the title and sections 2, 3, 5, 6, 7, 9, and 10 of Act No. 260 of the Public Acts of 1988, entitled "An act to create the community dispute resolution center program; to create the community dispute resolution fund; to establish criteria for funding and participation in the program; to provide for the administration of the program; and to require the reporting of certain statistical data," being sections 691.1552, 691.1553, 691.1555, 691.1556, 691.1557, 691.1559, and 691.1560 of the Michigan Compiled Laws; to add sections 6a, 6b, and 7a; and to repeal certain parts of the act on specific dates.

The People of the State of Michigan enact:

Section 1. The title and sections 2, 3, 5, 6, 7, 9, and 10 of Act No. 260 of the Public Acts of 1988, being sections 691.1552, 691.1553, 691.1555, 691.1556, 691.1557, 691.1559, and 691.1560 of the Michigan Compiled Laws, are amended and sections 6a, 6b, and 7a are added to read as follows:

TITLE

An act to create the community dispute resolution program; to create the community dispute resolution fund; to establish criteria for funding and participation in the program; to provide for the administration of the program; to authorize pilot projects; to require the reporting of certain statistical data; and to repeal certain parts of this act on specific dates.

Sec. 2. As used in this act:

- (a) "Administrative expenses" means expenses incurred by the state court administrator in implementing this act.
- (b) "Available grant funds" means that portion of the community dispute resolution fund available for awards to grant recipients, after administrative expenses have been met.
- (c) "Center" means a community-based dispute resolution center.
- (d) "Fund" means the community dispute resolution fund.
- (e) "Grant recipient" means a nonprofit or governmental organization that receives funds to operate a center pursuant to this act.
- (f) "Mediator" means an impartial, neutral person who assists parties in voluntarily reaching their own settlement of issues in a dispute and who has no authoritative decision-making power.
- (g) "Program" means the community dispute resolution program created by this act.

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

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

(2) The department of treasury shall credit to the fund any funds appropriated by the legislature and any federal or private funds received by the state for the purpose of implementing this act. Money in the fund at the end of the fiscal year shall remain in the fund, and shall not revert to the general fund.

(3) Interest generated by revenues in the community dispute resolution fund shall be credited to the community dispute resolution fund by the department of treasury and shall be used exclusively for purposes of this act.

Sec. 6. (1) Participation in the dispute resolution process shall be voluntary and the form or technique utilized shall be by mutual agreement of the parties.

(2) Subject to subsection (1), a court may refer the parties to a civil action to a center funded under this act. The court shall not require that the parties to the civil action reach a settlement of the civil action through any dispute resolution process utilized at the center.

Sec. 6a. If the parties involved in a dispute resolution process reach a settlement and execute a written agreement, the agreement is enforceable in the same manner as any other written contract.

Sec. 6b. (1) Notwithstanding section 6, the state court administrator may conduct 1 or more pilot projects authorizing a court, pursuant to a referral plan filed with the state court administrative office, to require the parties to a civil action to attend a center for an introduction to the dispute resolution processes offered by the center. The court shall not require that the parties to the civil action reach a settlement of the civil action through any dispute resolution process utilized at the center.

(2) This section is repealed effective January 1, 1996.

Sec. 7. (1) The work product and case files of a mediator or center and communications relating to the subject matter of the dispute made during the dispute resolution process by a party, mediator, or other person are confidential and not subject to disclosure in a judicial or administrative proceeding except for either of the following:

(a) Work product, case files, or communications for which all parties to the dispute resolution process agree in writing to waive confidentiality.

(b) Work product, case files, or communications which are used in a subsequent action between the mediator and a party to the dispute resolution process for damages arising out of the dispute resolution process.

(2) Subsection (1) does not apply to statements, memoranda, materials, and other tangible evidence, otherwise subject to discovery, that were not prepared specifically for use in the dispute resolution process.

Sec. 7a. A mediator of a community dispute resolution center shall not be held liable for civil damages for any act or omission in the scope of his or her employment or function as a mediator, unless he or she acted in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of the rights, safety, or property of another.

Sec. 9. To be eligible for funding, a grant recipient shall do all of the following:

(a) Comply with the provisions of this act, and any requirements or guidelines established by the state court administrator to effectuate the purposes of this act.

(b) Provide neutral mediators who have received not less than 40 hours of training in conflict resolution techniques and principles of the legal system in a course of study approved by the state court administrator or a program of internship as may be required by the state court administrator.

(c) Provide dispute resolution services without cost to indigents.

(d) Reject any dispute which involves alleged acts which are or could be the subject of a violent felony or drug-related felony criminal prosecution.

(e) When appropriate, refer participants to other agencies or organizations for assistance.

(f) Provide for community participation and respond to local community needs. In determining whether this requirement has been satisfied, the state court administrator shall consider the extent to which the applicant has the following:

(i) Active board members and mediators drawn from the community and client constituencies.

(ii) Programs and services that target local dispute resolution needs.

- (iii) Local financial and in-kind support.
- (iv) A diversified base of referral sources.

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

- (a) The budget for the proposed center including the proposed compensation and qualifications of the employees.
- (b) A description of the proposed geographical area of service and an estimate of the number of participants to be served.
- (c) A description of current dispute resolution services, if any, available within the proposed geographical area.
- (d) A narrative of the applicant's proposed program that includes the support of civic groups, social services agencies, local courts, and criminal justice agencies to accept and make referrals; the present availability of resources; and the applicant's administrative capacity.
- (e) A description of the fee structure, if any, that will be applied to participants seeking dispute resolution.
- (f) Such additional information as is determined to be needed by the state court administrator.

(2) If 1 or more applicants meet the eligibility requirements of section 9 and guidelines established under section 9, the state court administrator shall award a grant or grants totaling an amount at least equal to the pro rata share of available grants funds generated by court filing fees imposed in that county in the year preceding the year for which the applications are made. Nothing in this subsection requires a grant award that exceeds the proposed center's approved budget.

(3) The amount awarded to a grant recipient shall not exceed 65% of the proposed center's approved budget or the amount required by subsection (2), whichever is higher.

This act is ordered to take immediate effect.

Co-Clerk of the House of Representatives.

Secretary of the Senate.

Approved _____

Governor.