



# HOUSE BILL No. 4208

February 10, 1993, Introduced by Reps. Bandstra, Whyman, Hill, McManus, Bodem, Jersevic, Lowe, London, Jaye, Goschka, Kukuk and Dalman and referred to the Committee on Judiciary.

A bill to amend sections 2, 3, 5, 7, 9, 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, 691.1559, and 691.1560 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 2, 3, 5, 7, 9, and 10 of Act No. 260 of  
2 the Public Acts of 1988, being sections 691.1552, 691.1553,  
3 691.1555, 691.1557, 691.1559, and 691.1560 of the Michigan  
4 Compiled Laws, are amended 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.

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

7 (e) "Grant recipient" means a nonprofit or governmental  
8 organization that receives funds to operate a center pursuant to  
9 this act.

10 (f) "Mediator" means an impartial, neutral person  
11 ~~responsible for reaching a resolution in each case~~ WHO ASSISTS  
12 PARTIES IN VOLUNTARILY REACHING THEIR OWN SETTLEMENT OF ISSUES IN  
13 A DISPUTE AND WHO HAS NO AUTHORITATIVE DECISION-MAKING POWER.

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

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

20 Sec. 5. (1) The department of treasury shall credit to the  
21 fund the revenues received pursuant to sections 2528, 2529, 5756,  
22 8371, and 8420 of the revised judicature act of 1961, Act No. 236  
23 of the Public Acts of 1961, being sections 600.2528, 600.2529,  
24 600.5756, 600.8371, and 600.8420 of the Michigan Compiled Laws.

25 (2) The department of treasury shall credit to the fund any  
26 funds appropriated by the legislature and any federal or private

1 funds received by the state for the purpose of implementing ~~the~~  
2 ~~provisions of~~ this act.

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

7 Sec. 7. ~~The~~ TO THE EXTENT THEY WERE MADE OR PREPARED SPE-  
8 CIFICALLY FOR USE IN AND ACTUALLY USED IN A MEDIATION, THE work  
9 product, ~~and~~ case files of a mediator or center, AND COMMUNICA-  
10 TIONS RELATING TO THE SUBJECT MATTER OF THE DISPUTE MADE DURING  
11 THE DISPUTE RESOLUTION PROCESS TO A PARTY OR MEDIATOR are confi-  
12 dential and not subject to disclosure in a judicial or adminis-  
13 trative proceeding EXCEPT FOR EITHER OF THE FOLLOWING: —

14 ~~Communications relating to the subject matter of the resolution~~  
15 ~~made during the resolution process by a party, mediator, or other~~  
16 ~~person shall be a confidential communication.~~

17 (A) WORK PRODUCT, CASE FILES, OR COMMUNICATIONS AS TO WHICH  
18 ALL PARTIES AGREE IN WRITING TO WAIVE CONFIDENTIALITY.

19 (B) WORK PRODUCT, CASE FILES, OR COMMUNICATIONS WHICH ARE  
20 USED IN A SUBSEQUENT ACTION BETWEEN THE MEDIATOR AND A PARTY FOR  
21 DAMAGES ARISING OUT OF THE MEDIATION.

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

24 (a) Comply with the provisions of this act, and any require-  
25 ments or guidelines established by the state court administrator  
26 to effectuate the purposes of this act.

1 (b) Provide neutral mediators who have received not less  
2 than ~~25~~ 40 hours of training in conflict resolution techniques  
3 AND PRINCIPLES OF THE LEGAL SYSTEM in a course of study approved  
4 by the state court administrator or a program of internship as  
5 may be required by the state court administrator.

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

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

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

13 (F) PROVIDE FOR COMMUNITY PARTICIPATION AND RESPOND TO LOCAL  
14 COMMUNITY NEEDS. IN DETERMINING WHETHER THIS REQUIREMENT HAS  
15 BEEN SATISFIED, THE STATE COURT ADMINISTRATOR SHALL CONSIDER THE  
16 EXTENT TO WHICH THE APPLICANT HAS THE FOLLOWING:

17 (i) ACTIVE BOARD MEMBERS AND MEDIATORS DRAWN FROM THE COMMU-  
18 NITY AND CLIENT CONSTITUENCIES.

19 (ii) PROGRAMS AND SERVICES THAT TARGET LOCAL DISPUTE RESOLU-  
20 TION NEEDS.

21 (iii) LOCAL FINANCIAL AND IN-KIND SUPPORT.

22 (iv) A DIVERSIFIED BASE OF REFERRAL SOURCES.

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

1 (a) The budget for the proposed center including the  
2 proposed compensation and qualifications of the employees.

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

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

7 (d) A narrative of the applicant's proposed program ~~which~~  
8 THAT includes the support of civic groups, social services agen-  
9 cies, local courts, and criminal justice agencies to accept and  
10 make referrals; the present availability of resources; and the  
11 applicant's administrative capacity.

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

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

16 (2) If ~~an applicant meets~~ 1 OR MORE APPLICANTS MEET the  
17 eligibility requirements of section 9 and guidelines established  
18 under section 9, ~~and there are no other eligible applicants from~~  
19 ~~the same county,~~ the state court administrator shall award ~~the~~  
20 ~~applicant a grant at least equal to the pro rata share of avail-~~  
21 ~~able grant funds generated by court filing fees imposed in that~~  
22 ~~county in the year preceding the year for which the application~~  
23 ~~is made. If there is more than 1 eligible applicant from a~~  
24 ~~county, the state court administrator shall award~~ a grant or  
25 grants totaling an amount at least equal to the pro rata share of  
26 available grants funds generated by court filing fees imposed in  
27 that county in the year preceding the year for which the

1 applications are made. Nothing in this subsection ~~shall~~  
2 ~~require~~ REQUIRES a grant award that exceeds the proposed  
3 center's approved budget.

4 (3) The amount awarded to a grant recipient shall not exceed  
5 ~~50%~~ 65% of the proposed center's approved budget or the amount  
6 required by subsection (2), whichever is higher.