

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 597
Committee Substitute Favorable 4/29/15

Short Title: Mediated Settlement Agreements.

(Public)

Sponsors:

Referred to:

April 9, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE PROVISIONS REQUIRING MEDIATED SETTLEMENT
3 AGREEMENTS TO BE SIGNED BY THE PARTIES AGAINST WHOM
4 ENFORCEMENT IS SOUGHT.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 7A-38.1(l) reads as rewritten:

7 "(l) Inadmissibility of negotiations. – Evidence of statements made and conduct
8 occurring in a mediated settlement conference or other settlement proceeding conducted under
9 this section, whether attributable to a party, the mediator, other neutral, or a neutral observer
10 present at the settlement proceeding, shall not be subject to discovery and shall be inadmissible
11 in any proceeding in the action or other civil actions on the same claim, except:

- 12 (1) In proceedings for sanctions under this section;
13 (2) In proceedings to enforce or rescind a settlement of the action;
14 (3) In disciplinary proceedings before the State Bar or any agency established to
15 enforce standards of conduct for mediators or other neutrals; or
16 (4) In proceedings to enforce laws concerning juvenile or elder abuse.

17 As used in this section, the term "neutral observer" includes persons seeking mediator
18 certification, persons studying dispute resolution processes, and persons acting as interpreters.

19 No settlement agreement to resolve any or all issues reached at the proceeding conducted
20 under this subsection or during its recesses shall be enforceable unless it has been reduced to
21 writing and signed by the ~~parties~~ parties against whom enforcement is sought. No evidence
22 otherwise discoverable shall be inadmissible merely because it is presented or discussed in a
23 mediated settlement conference or other settlement proceeding.

24 No mediator, other neutral, or neutral observer present at a settlement proceeding shall be
25 compelled to testify or produce evidence concerning statements made and conduct occurring in
26 anticipation of, during, or as a follow-up to a mediated settlement conference or other
27 settlement proceeding pursuant to this section in any civil proceeding for any purpose,
28 including proceedings to enforce or rescind a settlement of the action, except to attest to the
29 signing of any agreements, and except proceedings for sanctions under this section, disciplinary
30 hearings before the State Bar or any agency established to enforce standards of conduct for
31 mediators or other neutrals, and proceedings to enforce laws concerning juvenile or elder
32 abuse."

33 **SECTION 2.** G.S. 7A-38.3B(i) reads as rewritten:

34 "(i) Agreements. – In matters before the clerk in which agreements are reached in a
35 mediation conducted pursuant to this section, or during one of its recesses, those agreements
36 shall be treated as follows:



- 1 (1) Where as a matter of law, a matter may be resolved by agreement of the
2 parties, a settlement is enforceable only if it has been reduced to writing and
3 signed by the ~~parties~~parties against whom enforcement is sought.
4 (2) In all other matters before the clerk, including guardianship and estate
5 matters, all agreements shall be delivered to the clerk for consideration in
6 deciding the matter."

7 **SECTION 3.** G.S. 7A-38.3D(l) reads as rewritten:

8 "(l) Written Agreements. – Any agreement reached in mediation shall be reduced to
9 writing and signed by the ~~parties~~parties against whom enforcement is sought. A non-attorney
10 mediator may assist parties in reducing the agreement to writing."

11 **SECTION 4.** G.S. 7A-38.4A(j) reads as rewritten:

12 "(j) Evidence of statements made and conduct occurring in a mediated settlement
13 conference or other settlement proceeding conducted under this section, whether attributable to
14 a party, the mediator, other neutral, or a neutral observer present at the settlement proceeding,
15 shall not be subject to discovery and shall be inadmissible in any proceeding in the action or
16 other civil actions on the same claim, except:

- 17 (1) In proceedings for sanctions under this section;
18 (2) In proceedings to enforce or rescind a settlement of the action;
19 (3) In disciplinary proceedings before the State Bar or any agency established to
20 enforce standards of conduct for mediators or other neutrals; or
21 (4) In proceedings to enforce laws concerning juvenile or elder abuse.

22 As used in this subsection, the term "neutral observer" includes persons seeking mediator
23 certification, persons studying dispute resolution processes, and persons acting as interpreters.

24 No settlement agreement to resolve any or all issues reached at the proceeding conducted
25 under this section or during its recesses shall be enforceable unless it has been reduced to
26 writing and signed by the parties against whom enforcement is sought and in all other respects
27 complies with the requirements of Chapter 50 of the General Statutes. No evidence otherwise
28 discoverable shall be inadmissible merely because it is presented or discussed in a settlement
29 proceeding.

30 No mediator, other neutral, or neutral observer present at a settlement proceeding under this
31 section, shall be compelled to testify or produce evidence concerning statements made and
32 conduct occurring in anticipation of, during, or as a follow-up to a mediated settlement
33 conference or other settlement proceeding pursuant to this section in any civil proceeding for
34 any purpose, including proceedings to enforce or rescind a settlement of the action, except to
35 attest to the signing of any agreements, and except proceedings for sanctions under this section,
36 disciplinary hearings before the State Bar or any agency established to enforce standards of
37 conduct for mediators or other neutrals, and proceedings to enforce laws concerning juvenile or
38 elder abuse."

39 **SECTION 5.** G.S. 8-110(a) reads as rewritten:

40 "(a) Evidence of statements made and conduct occurring during mediation at a
41 community mediation center authorized by G.S. 7A-38.5 shall not be subject to discovery and
42 shall be inadmissible in any proceeding in the action or other actions on the same claim, except
43 in proceedings to enforce a settlement of the action. No such settlement shall be binding unless
44 it has been reduced to writing and signed by the ~~parties~~parties against whom enforcement is
45 sought. No evidence otherwise discoverable shall be inadmissible merely because it is
46 presented or discussed during mediation."

47 **SECTION 6.** This act becomes effective July 1, 2015, and applies to agreements
48 entered into on or after that date.