CIVIL PRACTICE AND REMEDIES CODE

TITLE 7. ALTERNATE METHODS OF DISPUTE RESOLUTION

CHAPTER 154. ALTERNATIVE DISPUTE RESOLUTION PROCEDURES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 154.001. DEFINITIONS. In this chapter:

(1) "Court" includes an appellate court, district court, constitutional county court, statutory county court, family law court, probate court, municipal court, or justice of the peace court.

(2) "Dispute resolution organization" means a private profit or nonprofit corporation, political subdivision, or public corporation, or a combination of these, that offers alternative dispute resolution services to the public.

Added by Acts 1987, 70th Leg., ch. 1121, Sec. 1, eff. June 20, 1987.

Sec. 154.002. POLICY. It is the policy of this state to encourage the peaceable resolution of disputes, with special consideration given to disputes involving the parent-child relationship, including the mediation of issues involving conservatorship, possession, and support of children, and the early settlement of pending litigation through voluntary settlement procedures.

Added by Acts 1987, 70th Leg., ch. 1121, Sec. 1, eff. June 20, 1987.

Sec. 154.003. RESPONSIBILITY OF COURTS AND COURT ADMINISTRATORS. It is the responsibility of all trial and appellate courts and their court administrators to carry out the policy under Section 154.002.

Added by Acts 1987, 70th Leg., ch. 1121, Sec. 1, eff. June 20, 1987.

SUBCHAPTER B. ALTERNATIVE DISPUTE RESOLUTION PROCEDURES

Sec. 154.021. REFERRAL OF PENDING DISPUTES FOR ALTERNATIVE DISPUTE RESOLUTION PROCEDURE. (a) A court may, on its own motion or the motion of a party, refer a pending dispute for resolution by

an alternative dispute resolution procedure including:

(1) an alternative dispute resolution system established under Chapter 26, Acts of the 68th Legislature, Regular Session, 1983 (Article 2372aa, Vernon's Texas Civil Statutes);

(2) a dispute resolution organization; or

(3) a nonjudicial and informally conducted forum for the voluntary settlement of citizens' disputes through the intervention of an impartial third party, including those alternative dispute resolution procedures described under this subchapter.

(b) The court shall confer with the parties in the determination of the most appropriate alternative dispute resolution procedure.

(c) Except as provided by agreement of the parties, a court may not order mediation in an action that is subject to the Federal Arbitration Act (9 U.S.C. Sections 1-16).

Added by Acts 1987, 70th Leg., ch. 1121, Sec. 1, eff. June 20, 1987.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 621 (H.B. 1083), Sec. 1, eff. June 19, 2009.

Sec. 154.022. NOTIFICATION AND OBJECTION. (a) If a court determines that a pending dispute is appropriate for referral under Section 154.021, the court shall notify the parties of its determination.

(b) Any party may, within 10 days after receiving the notice under Subsection (a), file a written objection to the referral.

(c) If the court finds that there is a reasonable basis for an objection filed under Subsection (b), the court may not refer the dispute under Section 154.021.

Added by Acts 1987, 70th Leg., ch. 1121, Sec. 1, eff. June 20, 1987.

Sec. 154.023. MEDIATION. (a) Mediation is a forum in which an impartial person, the mediator, facilitates communication between parties to promote reconciliation, settlement, or understanding among them.

(b) A mediator may not impose his own judgment on the issues

for that of the parties.

(c) Mediation includes victim-offender mediation by the Texas Department of Criminal Justice described in Article 56A.602, Code of Criminal Procedure.

Added by Acts 1987, 70th Leg., ch. 1121, Sec. 1, eff. June 20, 1987.

Amended by Acts 2001, 77th Leg., ch. 1034, Sec. 12, eff. Sept. 1, 2001.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 469 (H.B. 4173), Sec. 2.03, eff. January 1, 2021.

Sec. 154.024. MINI-TRIAL. (a) A mini-trial is conducted under an agreement of the parties.

(b) Each party and counsel for the party present the position of the party, either before selected representatives for each party or before an impartial third party, to define the issues and develop a basis for realistic settlement negotiations.

(c) The impartial third party may issue an advisory opinion regarding the merits of the case.

(d) The advisory opinion is not binding on the parties unless the parties agree that it is binding and enter into a written settlement agreement.

Added by Acts 1987, 70th Leg., ch. 1121, Sec. 1, eff. June 20, 1987.

Sec. 154.025. MODERATED SETTLEMENT CONFERENCE. (a) A moderated settlement conference is a forum for case evaluation and realistic settlement negotiations.

(b) Each party and counsel for the party present the position of the party before a panel of impartial third parties.

(c) The panel may issue an advisory opinion regarding the liability or damages of the parties or both.

(d) The advisory opinion is not binding on the parties.

Added by Acts 1987, 70th Leg., ch. 1121, Sec. 1, eff. June 20, 1987.

Sec. 154.026. SUMMARY JURY TRIAL. (a) A summary jury trial is a forum for early case evaluation and development of realistic settlement negotiations.

(b) Each party and counsel for the party present the position of the party before a panel of jurors.

(c) The number of jurors on the panel is six unless the parties agree otherwise.

(d) The panel may issue an advisory opinion regarding the liability or damages of the parties or both.

(e) The advisory opinion is not binding on the parties.

Added by Acts 1987, 70th Leg., ch. 1121, Sec. 1, eff. June 20, 1987.

Sec. 154.027. ARBITRATION. (a) Nonbinding arbitration is a forum in which each party and counsel for the party present the position of the party before an impartial third party, who renders a specific award.

(b) If the parties stipulate in advance, the award is binding and is enforceable in the same manner as any contract obligation. If the parties do not stipulate in advance that the award is binding, the award is not binding and serves only as a basis for the parties' further settlement negotiations.

Added by Acts 1987, 70th Leg., ch. 1121, Sec. 1, eff. June 20, 1987.

Sec. 154.028. MEDIATION FOLLOWING APPLICATION FOR EXPEDITED FORECLOSURE. (a) A citation for expedited foreclosure may be served in the manner provided by Rule 106 or 736, Texas Rules of Civil Procedure. Following the filing of a response to an application for an expedited foreclosure proceeding under Rule 736.5, Texas Rules of Civil Procedure, a court may, in the court's discretion, conduct a hearing to determine whether to order mediation. A court may not order mediation without conducting a hearing. The petitioner or respondent may request a hearing to determine whether mediation is necessary or whether an application is defective.

(b) A hearing under Subsection (a) may not be conducted before the expiration of the respondent's deadline to file a response.

(c) Subject to Subsection (d), a hearing under Subsection (a) may be conducted by telephone.

(d) Not later than the 10th day before the date of a hearing

under Subsection (a), the court shall send notice of the hearing to the parties concerning whether the hearing will be conducted by telephone and, if applicable, instructions for contacting the court and attending the hearing by telephone.

(e) At a hearing under Subsection (a), the court must consider any objections to the referral of the case to mediation.

(f) If the court orders the case to mediation, the mediation must be conducted before the expiration of any deadline imposed by Rule 736, Texas Rules of Civil Procedure.

(g) If the parties to a case that has been ordered to mediation are unable to agree on the appointment of a mediator, the court may appoint a mediator. If a mediator is appointed by the court, the court shall provide all parties with the name of the chosen mediator at the mediation hearing if the parties are unable to agree to a mediator at that hearing.

(h) A mediator's fee shall be divided equally between the parties.

(i) The parties may agree to waive the mediation process.

(j) The court may not conduct a hearing under this section if the applicant has served the citation in compliance with Rule 106, Texas Rules of Civil Procedure, and a response to the application has not been filed before the deadline provided by Rule 736, Texas Rules of Civil Procedure.

(k) If a respondent fails to attend a mediation hearing after notice in accordance with Subsection (d), the court:

(1) may not order mediation; and

(2) shall grant or deny the petitioner's motion for default order under Rule 736.7, Texas Rules of Civil Procedure.

(l) If a respondent attends a hearing and mediation is ordered, any mediation must take place not later than the 29th day after the date the petitioner filed a motion for default order.

(m) Notwithstanding Section 22.004, Government Code, the supreme court may not amend or adopt rules in conflict with this section.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1044 (H.B. 2978), Sec. 2, eff. June 14, 2013.

SUBCHAPTER C. IMPARTIAL THIRD PARTIES

Sec. 154.051. APPOINTMENT OF IMPARTIAL THIRD PARTIES. (a) If a court refers a pending dispute for resolution by an alternative dispute resolution procedure under Section 154.021, the court may appoint an impartial third party to facilitate the procedure.

(b) The court may appoint a third party who is agreed on by the parties if the person qualifies for appointment under this subchapter.

(c) The court may appoint more than one third party under this section.

Added by Acts 1987, 70th Leg., ch. 1121, Sec. 1, eff. June 20, 1987.

Sec. 154.052. QUALIFICATIONS OF IMPARTIAL THIRD PARTY. (a) Except as provided by Subsections (b) and (c), to qualify for an appointment as an impartial third party under this subchapter a person must have completed a minimum of 40 classroom hours of training in dispute resolution techniques in a course conducted by an alternative dispute resolution system or other dispute resolution organization approved by the court making the appointment.

(b) To qualify for an appointment as an impartial third party under this subchapter in a dispute relating to the parent-child relationship, a person must complete the training required by Subsection (a) and an additional 24 hours of training in the fields of family dynamics, child development, and family law, including a minimum of four hours of family violence dynamics training developed in consultation with a statewide family violence advocacy organization.

(c) In appropriate circumstances, a court may in its discretion appoint a person as an impartial third party who does not qualify under Subsection (a) or (b) if the court bases its appointment on legal or other professional training or experience in particular dispute resolution processes.

Added by Acts 1987, 70th Leg., ch. 1121, Sec. 1, eff. June 20, 1987.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 195 (S.B. 539), Sec. 1, eff.

September 1, 2017.

Sec. 154.053. STANDARDS AND DUTIES OF IMPARTIAL THIRD PARTIES. (a) A person appointed to facilitate an alternative dispute resolution procedure under this subchapter shall encourage and assist the parties in reaching a settlement of their dispute but may not compel or coerce the parties to enter into a settlement agreement.

(b) Unless expressly authorized by the disclosing party, the impartial third party may not disclose to either party information given in confidence by the other and shall at all times maintain confidentiality with respect to communications relating to the subject matter of the dispute.

(c) Unless the parties agree otherwise, all matters, including the conduct and demeanor of the parties and their counsel during the settlement process, are confidential and may never be disclosed to anyone, including the appointing court.

(d) Each participant, including the impartial third party, to an alternative dispute resolution procedure is subject to the requirements of Subchapter B, Chapter 261, Family Code, and Subchapter C, Chapter 48, Human Resources Code.

Added by Acts 1987, 70th Leg., ch. 1121, Sec. 1, eff. June 20, 1987.
Amended by Acts 1999, 76th Leg., ch. 1150, Sec. 29, eff. Sept. 1, 1999.

Sec. 154.054. COMPENSATION OF IMPARTIAL THIRD PARTIES. (a) The court may set a reasonable fee for the services of an impartial third party appointed under this subchapter.

(b) Unless the parties agree to a method of payment, the court shall tax the fee for the services of an impartial third party as other costs of suit.

Added by Acts 1987, 70th Leg., ch. 1121, Sec. 1, eff. June 20, 1987.

Sec. 154.055. QUALIFIED IMMUNITY OF IMPARTIAL THIRD PARTIES. (a) A person appointed to facilitate an alternative dispute resolution procedure under this subchapter or under Chapter 152 relating to an alternative dispute resolution system

established by counties, or appointed by the parties whether before or after the institution of formal judicial proceedings, who is a volunteer and who does not act with wanton and wilful disregard of the rights, safety, or property of another, is immune from civil liability for any act or omission within the course and scope of his or her duties or functions as an impartial third party. For purposes of this section, a volunteer impartial third party is a person who does not receive compensation in excess of reimbursement for expenses incurred or a stipend intended as reimbursement for expenses incurred.

(b) This section neither applies to nor is it intended to enlarge or diminish any rights or immunities enjoyed by an arbitrator participating in a binding arbitration pursuant to any applicable statute or treaty.

Added by Acts 1993, 73rd Leg., ch. 875, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER D. MISCELLANEOUS PROVISIONS

Sec. 154.071. EFFECT OF WRITTEN SETTLEMENT AGREEMENT. (a) If the parties reach a settlement and execute a written agreement disposing of the dispute, the agreement is enforceable in the same manner as any other written contract.

(b) The court in its discretion may incorporate the terms of the agreement in the court's final decree disposing of the case.

(c) A settlement agreement does not affect an outstanding court order unless the terms of the agreement are incorporated into a subsequent decree.

Added by Acts 1987, 70th Leg., ch. 1121, Sec. 1, eff. June 20, 1987.

Sec. 154.072. STATISTICAL INFORMATION ON DISPUTES REFERRED. The Texas Supreme Court shall determine the need and method for statistical reporting of disputes referred by the courts to alternative dispute resolution procedures.

Added by Acts 1987, 70th Leg., ch. 1121, Sec. 1, eff. June 20, 1987.

Sec. 154.073. CONFIDENTIALITY OF CERTAIN RECORDS AND COMMUNICATIONS. (a) Except as provided by Subsections (c), (d),

(e), and (f), a communication relating to the subject matter of any civil or criminal dispute made by a participant in an alternative dispute resolution procedure, whether before or after the institution of formal judicial proceedings, is confidential, is not subject to disclosure, and may not be used as evidence against the participant in any judicial or administrative proceeding.

(b) Any record made at an alternative dispute resolution procedure is confidential, and the participants or the third party facilitating the procedure may not be required to testify in any proceedings relating to or arising out of the matter in dispute or be subject to process requiring disclosure of confidential information or data relating to or arising out of the matter in dispute.

(c) An oral communication or written material used in or made a part of an alternative dispute resolution procedure is admissible or discoverable if it is admissible or discoverable independent of the procedure.

(d) A final written agreement to which a governmental body, as defined by Section 552.003, Government Code, is a signatory that is reached as a result of a dispute resolution procedure conducted under this chapter is subject to or excepted from required disclosure in accordance with Chapter 552, Government Code.

(e) If this section conflicts with other legal requirements for disclosure of communications, records, or materials, the issue of confidentiality may be presented to the court having jurisdiction of the proceedings to determine, in camera, whether the facts, circumstances, and context of the communications or materials sought to be disclosed warrant a protective order of the court or whether the communications or materials are subject to disclosure.

(f) This section does not affect the duty to report abuse or neglect under Subchapter B, Chapter 261, Family Code, and abuse, exploitation, or neglect under Subchapter C, Chapter 48, Human Resources Code.

(g) This section applies to a victim-offender mediation by the Texas Department of Criminal Justice as described in Article 56A.602, Code of Criminal Procedure.

Added by Acts 1987, 70th Leg., ch. 1121, Sec. 1, eff. June 20, 1987. Amended by Acts 1999, 76th Leg., ch. 1150, Sec. 30, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1352, Sec. 6, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1034, Sec. 13, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(6), 21.002(3), eff. Sept. 1, 2001.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 469 (H.B. 4173), Sec. 2.04, eff. January 1, 2021.