

CERTIFICATION OF ENROLLMENT

**SENATE BILL 5147**

Chapter 321, Laws of 1991

52nd Legislature  
1991 Regular Session

MEDIATION--PRIVILEGED INFORMATION

EFFECTIVE DATE: 5/21/91

Passed by the Senate April 27, 1991  
Yeas 40 Nays 0

JOEL PRITCHARD  
**President of the Senate**

Passed by the House April 27, 1991  
Yeas 95 Nays 0

JOE KING  
**Speaker of the  
House of Representatives**

Approved May 21, 1991

BOOTH GARDNER  
**Governor of the State of Washington**

CERTIFICATE

I, Gordon Golob, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5147** as passed by the Senate and the House of Representatives on the dates hereon set forth.

GORDON A. GOLOB  
**Secretary**

FILED

May 21, 1991 - 10:35 a.m.

**Secretary of State  
State of Washington**



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**SENATE BILL 5147**

AS RECOMMENDED BY THE CONFERENCE COMMITTEE

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Passed Legislature - 1991 Regular Session

**State of Washington                      52nd Legislature                      1991 Regular Session**

**By** Senators Nelson, A. Smith and Newhouse.

Read first time January 22, 1991. Referred to Committee on Law & Justice.

1            AN ACT Relating to mediator privilege, confidentiality, and  
2    admissibility of evidence arising from mediation; adding new sections  
3    to chapter 5.60 RCW; and declaring an emergency.

4    BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5            NEW SECTION.    **Sec. 1.** A new section is added to chapter 5.60 RCW  
6    to read as follows:

7            (1) If there is a court order to mediate or a written agreement  
8    between the parties to mediate, then any communication made or  
9    materials submitted in, or in connection with, the mediation  
10   proceeding, whether made or submitted to or by the mediator, a  
11   mediation organization, a party, or any person present, are privileged  
12   and confidential and are not subject to disclosure in any judicial or  
13   administrative proceeding except:

14            (a) When all parties to the mediation agree, in writing, to  
15   disclosure;

1 (b) When the written materials or tangible evidence are otherwise  
2 subject to discovery, and were not prepared specifically for use in and  
3 actually used in the mediation proceeding;

4 (c) When a written agreement to mediate permits disclosure;

5 (d) When disclosure is mandated by statute;

6 (e) When the written materials consist of a written settlement  
7 agreement or other agreement signed by the parties resulting from a  
8 mediation proceeding;

9 (f) When those communications or written materials pertain solely  
10 to administrative matters incidental to the mediation proceeding,  
11 including the agreement to mediate; or

12 (g) In a subsequent action between the mediator and a party to the  
13 mediation arising out of the mediation.

14 (2) When there is a court order or written agreement to mediate as  
15 described in subsection (1) of this section, the mediator or a  
16 representative of a mediation organization shall not testify in any  
17 judicial or administrative proceeding unless:

18 (a) All parties to the mediation and the mediator agree in writing;

19 or

20 (b) In an action described in subsection (1)(g) of this section.

21 NEW SECTION. **Sec. 2.** Notwithstanding the provisions of  
22 section 1 of this act, when any party participates in mediation  
23 conducted by a state or federal agency under the provisions of a  
24 collective bargaining law or similar statute, the agency's rules govern  
25 questions of privilege and confidentiality.

26 NEW SECTION. **Sec. 3.** If any provision of this act or its  
27 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other  
2 persons or circumstances is not affected.

3 NEW SECTION. **Sec. 4.** This act is necessary for the immediate  
4 preservation of the public peace, health, or safety, or support of the  
5 state government and its existing public institutions, and shall take  
6 effect immediately.

Passed the Senate April 27, 1991.

Passed the House April 27, 1991.

Approved by the Governor May 21, 1991.

Filed in Office of Secretary of State May 21, 1991.