

FINAL BILL REPORT

SSB 5560

C 463 L 19
Synopsis as Enacted

Brief Description: Concerning mediation of disputes between elected officials.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Padden and Pedersen).

Senate Committee on Law & Justice
House Committee on Civil Rights & Judiciary

Background: The Washington State courts favor alternative dispute resolution (ADR) as an effective method to resolve disputes. The two most commonly used ADR processes are mediation and arbitration. The Washington courts describe mediation as a form of ADR that may help solve conflicts more quickly and at a lower cost than litigation.

Mediation is a confidential, non-binding process using a neutral third-party to assist the parties to reach a mutually beneficial resolution of their disagreement. The resolution may include an agreement not available via the court system. If the parties do not reach full agreement from mediating their dispute, mediation may still help to clarify and narrow the disputed issues.

Mediation uses a problem-solving approach. The mediator does not impose their will or judgment on the parties, but helps them decide for themselves whether to settle, and on what terms. The mediator is a catalyst, helping parties reach agreement by identifying issues, exploring possible bases for agreement, and weighing the consequences of not settling.

Mediation may be successful in both one-on-one disputes and in large, multi-group conflicts. It can be effective in all types of civil matters, and may occur before or after filing a lawsuit. Although attorneys may be present during the mediation process, they are not essential to the process.

In some instances, court rules or statutes require ADR as part of the judicial process. Washington adopted the Uniform Mediation Act in 2005 governing mediations pursuant to a referral or an agreement to mediate made on or after January 1, 2006.

Examples of mediation required or authorized under Washington laws include:

- requiring mediation of health care claims, subject to exceptions;

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- allowing mediation and court hearing to be set concurrently in dissolution and legal separation matters;
- permitting parties to resolve trust and estate disputes through mediation, arbitration, and agreement or by judicial process; and
- authorizing Washington's environmental hearings boards to mediate appeals to the boards upon a party's request and with agreement of all parties to the appeal.

Local court jurisdictions often require mediating family law and small claims cases before seeking a judge's decision. Dispute resolution centers (DRC) are located in most Washington counties to help parties resolve disagreements instead of going to court. Typical DRC cases include disputes between property owners and tenants, consumers and merchants, citizens and government agencies, employees and employers, and disagreements between family members.

Summary: The following county officials must participate in mediation before commencing a lawsuit in a dispute between them while acting in their official capacities:

- any elected or appointed county officer as listed in the Revised Code of Washington;
- equivalent positions in charter counties, whether elected or appointed; and
- superior, district, and municipal court judges located within the county.

The party bringing the claim must request mediation and send a notice to all parties. The mediation must occur within 90 days unless the parties all agree otherwise. The statute of limitations is tolled during the mediation period. The parties choose the mediator and the date for the mediation. The parties share the mediation costs equally. The terms of the mediation must be set out in a mediation agreement.

If the parties cannot agree, the court may appoint a mediator, allocate the mediation costs between the parties, and set the mediation date. If one of the parties is a superior court judge, or all the parties serve in the same county, any court action must be in an adjacent county. If any party refuses to mediate, fails to mediate in good faith, or if mediation does not resolve the claim, the claimant may initiate a lawsuit 90 days after the notice.

Votes on Final Passage:

Senate	48	0	
House	98	0	(House amended)
Senate	48	0	(Senate concurred)

Effective: July 28, 2019