

CERTIFICATION OF ENROLLMENT

SENATE BILL 5147

52nd Legislature
1991 Regular Session

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

President of the Senate

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

**Speaker of the
House of Representatives**

Approved

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.

Secretary

FILED

**Secretary of State
State of Washington**

SENATE BILL 5147

AS RECOMMENDED BY THE CONFERENCE COMMITTEE

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.