

RCW 5.60.070 Mediation. (1) If there is a court order to mediate, a written agreement between the parties to mediate, or if mediation is mandated under RCW 7.70.100, then any communication made or materials submitted in, or in connection with, the mediation proceeding, whether made or submitted to or by the mediator, a mediation organization, a party, or any person present, are privileged and confidential and are not subject to disclosure in any judicial or administrative proceeding except:

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

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

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

(d) When disclosure is mandated by statute;

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

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

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

(2) When there is a court order, a written agreement to mediate, or when mediation is mandated under RCW 7.70.100, as described in subsection (1) of this section, the mediator or a representative of a mediation organization shall not testify in any judicial or administrative proceeding unless:

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

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

(3) Beginning on January 1, 2006, this section governs only mediations pursuant to a referral or an agreement made before January 1, 2006. Mediations pursuant to a referral or an agreement made on or after January 1, 2006, are governed by chapter 7.07 RCW. [2005 c 172 § 14; 1993 c 492 § 422; 1991 c 321 § 1.]

Short title—Effective date—2005 c 172: See RCW 7.07.900 and 7.07.904.

Findings—Intent—1993 c 492: See notes following RCW 43.20.050.

Short title—Savings—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

Severability—1991 c 321: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1991 c 321 § 3.]