

RCW 26.09.015 Mediation proceedings. (1) In any proceeding under this chapter, the matter may be set for mediation of the contested issues before, or concurrent with, the setting of the matter for hearing. The purpose of the mediation proceeding shall be to reduce acrimony which may exist between the parties and to develop an agreement assuring the child's close and continuing contact with both parents after the marriage or the domestic partnership is dissolved. The mediator shall use his or her best efforts to effect a settlement of the dispute.

(2) (a) Each superior court may make available a mediator. The court shall use the most cost-effective mediation services that are readily available unless there is good cause to access alternative providers. The mediator may be a member of the professional staff of a family court or mental health services agency, or may be any other person or agency designated by the court. In order to provide mediation services, the court is not required to institute a family court.

(b) In any proceeding involving issues relating to residential time or other matters governed by a parenting plan, the matter may be set for mediation of the contested issues before, or concurrent with, the setting of the matter for hearing. Counties may, and to the extent state funding is provided therefor counties shall, provide both predecree and postdecree mediation at reduced or waived fee to the parties within one year of the filing of the dissolution petition.

(3) (a) Mediation proceedings under this chapter shall be governed in all respects by chapter 7.07 RCW, except as follows:

(i) Mediation communications in postdecree mediations mandated by a parenting plan are admissible in subsequent proceedings for the limited purpose of proving:

(A) Abuse, neglect, abandonment, exploitation, or unlawful harassment, as defined in RCW 9A.46.020(1), of a child;

(B) Abuse or unlawful harassment as defined in RCW 9A.46.020(1), of a family or household member or intimate partner, each as defined in RCW 10.99.020; or

(C) That a parent used or frustrated the dispute resolution process without good reason for purposes of RCW 26.09.184(4) (d).

(ii) If a postdecree mediation-arbitration proceeding is required pursuant to a parenting plan and the same person acts as both mediator and arbitrator, mediation communications in the mediation phase of such a proceeding may be admitted during the arbitration phase, and shall be admissible in the judicial review of such a proceeding under RCW 26.09.184(4) (e) to the extent necessary for such review to be effective.

(b) None of the exceptions under (a) (i) and (ii) of this subsection shall subject a mediator to compulsory process to testify except by court order for good cause shown, taking into consideration the need for the mediator's testimony and the interest in the mediator maintaining an appearance of impartiality. If a mediation communication is not privileged under (a) (i) of this subsection or that portion of (a) (ii) of this subsection pertaining to judicial review, only the portion of the communication necessary for the application of the exception may be admitted, and such admission of evidence shall not render any other mediation communication discoverable or admissible except as may be provided in chapter 7.07 RCW.

(4) The mediator shall assess the needs and interests of the child or children involved in the controversy and may interview the

child or children if the mediator deems such interview appropriate or necessary.

(5) Any agreement reached by the parties as a result of mediation shall be reported to the court and to counsel for the parties by the mediator on the day set for mediation or any time thereafter designated by the court. [2021 c 215 § 131; 2020 c 29 § 13; 2008 c 6 § 1044; (2008 c 6 § 1043 expired January 1, 2009). Prior: 2007 c 496 § 602; 2007 c 496 § 501; 2005 c 172 § 17; 1991 c 367 § 2; 1989 c 375 § 2; 1986 c 95 § 4.]

Effective date—2022 c 268; 2021 c 215: See note following RCW 7.105.900.

Effective date—2020 c 29: See note following RCW 7.77.060.

Effective date—2008 c 6 § 1044: "Section 1044 of this act takes effect January 1, 2009." [2008 c 6 § 1305.]

Expiration date—2008 c 6 § 1043: "Section 1043 of this act expires January 1, 2009." [2008 c 6 § 1304.]

Part headings not law—Severability—2008 c 6: See RCW 26.60.900 and 26.60.901.

Effective dates—2007 c 496 §§ 201, 202, 204, and 501: See note following RCW 26.12.260.

Part headings not law—2007 c 496: See note following RCW 26.09.002.

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

Severability—1991 c 367: "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 367 § 54.]

Effective date—1991 c 367: "This act shall take effect September 1, 1991." [1991 c 367 § 55.]

Captions not law—1991 c 367: "Captions as used in this act do not constitute any part of the law." [1991 c 367 § 57.]

Mediation testimony competency: RCW 5.60.070 and 5.60.072.