

1 SB348
2 212119-2
3 By Senator Barfoot
4 RFD: Judiciary
5 First Read: 18-MAR-21

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

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11 To amend 6-6-20, Code of Alabama 1975, relating to
12 mandatory mediation, to require mediation be provided by a
13 mediator registered with the Alabama Center for Dispute
14 Resolution or with certain legislative experience.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. Section 6-6-20, Code of Alabama 1975, is
17 amended to read as follows:

18 "§6-6-20.

19 "(a) For purposes of this section, "mediation" means
20 a process in which a neutral third party assists the parties
21 to a civil action in reaching their own settlement, but does
22 not have the authority to force the parties to accept a
23 binding decision.

24 "(b) Mediation is mandatory for all parties in the
25 following instances:

26 "(1) At any time where all parties agree.

1 "(2) Upon motion by any party. The party asking for
2 mediation shall pay the costs of mediation, except attorney
3 fees, unless otherwise agreed.

4 "(3) In the event no party requests mediation, the
5 trial court may, on its own motion, order mediation. The trial
6 court may allocate the costs of mediation, except attorney
7 fees, among the parties.

8 "(c) If any party fails to mediate as required by
9 this section, the court may apply such sanctions as it deems
10 appropriate pursuant to Rule 37 of the Alabama Rules of Civil
11 Procedure.

12 "(d) A court shall not order parties into mediation
13 for resolution of the issues in a petition for an order for
14 protection pursuant to The Protection from Abuse Act, Sections
15 30-5-1 through 30-5-10 or in any other petition for an order
16 for protection where domestic violence is alleged.

17 "(e) In a proceeding concerning the custody or
18 visitation of a child, if an order for protection is in effect
19 or if the court finds that domestic violence has occurred, the
20 court shall not order mediation.

21 "(f) A mediator who receives a referral or order
22 from a court to conduct mediation shall screen for the
23 occurrence of domestic or family violence between the parties.
24 Where evidence of domestic violence exists mediation shall
25 occur only if:

26 "(1) Mediation is requested by the victim of the
27 alleged domestic or family violence;

1 "(2) Mediation is provided by a ~~certified~~ mediator
2 registered on the roster with the Alabama Center for Dispute
3 Resolution, or who has at least 16 years of experience as a
4 state legislator, and who is trained in domestic and family
5 violence in a specialized manner that protects the safety of
6 the victim; and

7 "(3) The victim is permitted to have in attendance
8 at mediation a supporting person of his or her choice,
9 including, but not limited to, an attorney or advocate.

10 "(g) Where a claim of immunity is offered as a
11 defense, the court shall dispose of the immunity issue before
12 any mediation is conducted.

13 "(h) A court shall not order parties into mediation
14 in any action involving child support, adult protective
15 services, or child protective services wherein the Department
16 of Human Resources is a party to said action."

17 Section 2. This act shall become effective
18 immediately following its passage and approval by the
19 Governor, or its otherwise becoming law.

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Senate

Read for the first time and referred to the Senate
committee on Judiciary..... 18-MAR-21

Read for the second time and placed on the calen-
dar 1 amendment..... 07-APR-21

Read for the third time and passed as amended 20-APR-21

Yeas 22
Nays 5

Patrick Harris,
Secretary.