



HOUSE BILL 303: Dispute Resolution Amendments

2015-2016 General Assembly

Committee: House Finance	Date: April 14, 2015
Introduced by: Reps. Horn, Daughtry, Davis, Stevens	Prepared by: Greg Roney
Analysis of: Second Edition	Committee Counsel

SUMMARY: *House Bill 303 would*

- *Punish falsely representing that an individual is a certified mediator or eligible to be certified or falsely representing that a mediation training program is certified or eligible to be certified as a Class 2 misdemeanor.*
- *Authorize the Dispute Resolution Commission to issue cease and desist letters to individuals who falsely represent themselves as a certified mediator or eligible to be certified and to impose a civil penalty not to exceed \$500 per day of the violation.*
- *Revise the manner in which mediator certification fees are maintained in the Judicial Department.*
- *Make other technical and conforming changes to the law.*

[As introduced, this bill was identical to S709, as introduced by Sen. Hartsell, which is currently in Rules and Operations of the Senate.]

CURRENT LAW: G.S. 7A-38.2 requires persons wishing to serve as mediators in the following actions to meet standards established by the Supreme Court:

- G.S. 7A-38.1 (most superior court actions)
- G.S. 7A-38.3 (farm nuisance disputes)
- G.S. 7A-38.3B (matters within the jurisdiction of the clerk of superior court)
- G.S. 7A-38.3D (matters within the jurisdiction of the district criminal courts)
- G.S. 7A-38.3E (public records disputes)
- G.S. 7A-38.4A (district court actions involving equitable distribution, alimony, or support)

The Dispute Resolution Commission ("Commission") is established within the Judicial Department to administer certification and training of mediators and to discipline violation of applicable laws and rules. Mediator certification and renewal fees are used by the Administrative Office of the Courts to establish and maintain the operation of the Commission and its staff, at the direction of the Commission.

BILL ANALYSIS: Sections 1-4 amend four statutory sections to replace the phrase "any agency established to enforce standards of conduct for mediators or other neutrals" with "the Dispute Resolution Commission," and replace the phrase "disciplinary proceedings" with "disciplinary hearings."

Section 5 requires mediator certification or renewal fees to be maintained in a Dispute Resolution Fund established within the Judicial Department. The fund's monies must be used by the Commission at its discretion to support its operation. Section 5 also replaces the phrase "executive director" with "executive secretary."

Section 6 authorizes the Commission to issue cease and desist letters to persons falsely representing themselves to be Commission-certified or eligible for certification as mediators; makes it a Class 2 misdemeanor to falsely represent to the public that one is a Commission-certified mediator or is eligible for such certification or falsely to represent to the public that a mediation training program is

O. Walker Reagan
Director



Research Division
(919) 733-2578

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Commission-certified or is eligible for certification; subjects violators to a civil penalty of up to \$500 for each day of violation; and authorizes the Commission to seek injunctions against violations of the law governing mediators.

EFFECTIVE DATE: Section 6 of the act becomes effective December 1, 2015, and applies to offenses committed on or after that date. The remainder of the act becomes effective July 1, 2015, and applies to mediations commenced on or after that date.

Bill Patterson with the Research Division substantially contributed to this summary.