

1-1 By: Talton (Senate Sponsor - Gallegos) H.B. No. 1189
1-2 (In the Senate - Received from the House April 8, 2003;
1-3 April 9, 2003, read first time and referred to Committee on
1-4 Intergovernmental Relations; May 16, 2003, reported favorably by
1-5 the following vote: Yeas 4, Nays 0; May 16, 2003, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to alternative dispute resolution procedures in certain
1-9 police departments.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Subchapter G, Chapter 143, Local Government
1-12 Code, is amended by adding Section 143.135 to read as follows:

1-13 Sec. 143.135. MEDIATION. (a) In this section, "mediation"
1-14 has the meaning assigned by Section 154.023, Civil Practice and
1-15 Remedies Code.

1-16 (b) The head of the police department may develop and
1-17 implement an alternative dispute resolution program to refer
1-18 certain disputes regarding police officers to mediation.

1-19 (c) If a dispute is referred to mediation under this
1-20 section, the time limitations and deadlines under Sections
1-21 143.1015, 143.1016, 143.117, 143.118, 143.119, 143.120, and
1-22 143.127-143.134 are tolled until the earliest of:

1-23 (1) the date the parties reach a settlement and
1-24 execute a written agreement disposing of the dispute;

1-25 (2) the date the mediator refers the dispute to
1-26 another appeals or grievance procedure under this subchapter; or

1-27 (3) the 60th day after the date the dispute was
1-28 referred to mediation.

1-29 (d) The conduct and demeanor of the mediator and the parties
1-30 to the dispute during the course of the mediation are confidential.
1-31 A letter, memorandum, document, note, or other oral or written
1-32 communication that is relevant to the dispute and made between the
1-33 mediator and the parties to the dispute or between the parties to
1-34 the dispute during the course of the mediation procedure:

1-35 (1) is confidential and may not be disclosed unless
1-36 all of the parties to the mediation agree to the disclosure in
1-37 writing; and

1-38 (2) is admissible and discoverable in a separate
1-39 proceeding only if the letter, memorandum, document, note, or other
1-40 communication is admissible and discoverable independent of the
1-41 mediation.

1-42 (e) A mediator may not be required to testify in a
1-43 proceeding concerning information relating to or arising out of the
1-44 mediation.

1-45 (f) Subsection (d) does not apply to a final written
1-46 agreement to which the police department or municipality is a
1-47 signatory that is reached as a result of a mediation procedure
1-48 conducted under this section. Information in the final written
1-49 agreement is subject to required disclosure, is excepted from
1-50 required disclosure, or is confidential in accordance with Chapter
1-51 552, Government Code, and other law.

1-52 (g) If this section conflicts with other legal requirements
1-53 for disclosure of communications or materials, the issue of
1-54 confidentiality may be presented to a district court for a judicial
1-55 district in which the majority of the territory of the municipality
1-56 is located to determine, in camera, whether the facts,
1-57 circumstances, and context of the communications or materials
1-58 sought to be disclosed warrant a protective order of the court or
1-59 whether the communications or materials are subject to disclosure.

1-60 (h) Except to the extent of any conflict with this section,
1-61 Chapter 154, Civil Practice and Remedies Code, and police
1-62 department rules apply to a mediation conducted under this section.

1-63 (i) Except to the extent of any conflict with this section,
1-64 Section 2009.054, Government Code, applies to the communications,

2-1 records, conduct, and demeanor of the mediator and the parties.
2-2 (j) Section 143.1014 does not apply to a meeting or hearing
2-3 conducted under this section.
2-4 SECTION 2. This Act takes effect September 1, 2003.

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