

BILL ANALYSIS

Senate Research Center
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S.B. 948
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Mediation is a form of dispute resolution where a third party mediator assists disputing parties to negotiate a settlement. This form of alternative dispute resolution is used to resolve disagreements in different areas, including commercial, legal, diplomatic, workplace, community, and family matters. Mediation is often a less costly alternative to pursuing legal action in a court of law.

Interested parties contend that while mediation is a useful, cheaper alternative to pursuing legal remedies in a court of law, mediators are not required to disclose that their services are separate and different from the justice system. In some cases, such as sharia courts, persons acting as mediators may falsely represent that the mediation and settlement have the force of law. The intent of S.B. 948 is to ensure that the powers and authority of mediators are fairly disclosed, and that participants understand that mediation services differ from pursuing justice in a court of law.

S.B. 948 requires the mediator to inform all parties that the mediation is not occurring within a court of law; that the mediator has no authority to render a legal judgment; and that a person seeking a legal remedy should pursue justice in a court of law. The bill prohibits a mediator from assessing fees or admitting evidence on the basis of gender, or advertising that the mediation is being held in a court or tribunal. Further, S.B. 948 prohibits a mediator from being referred to as judge unless that person has, in fact, served as a state or federal judge.

As proposed, S.B. 948 amends current law relating to mediation as an alternative dispute resolution process.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 154.023, Civil Practice and Remedies Code, by amending Subsection (b) and adding Subsections (d), (e), (f), and (g), as follows:

(b) Prohibits a mediator from imposing the mediator's, rather than his, own judgment on the issues for that of the parties. Make a nonsubstantive change.

(d) Requires a mediator to inform all parties to the mediation that:

(1) the matter being mediated is not being heard before a state or federal court of law; and

(2) the mediator has no authority to render a legal judgment.

(e) Requires the mediator to provide notice to all parties that a person seeking a legal remedy should seek appropriate legal counsel and is authorized to seek a legal remedy from a court of law.

(f) Prohibits the mediator from:

(1) conducting any part of the proceeding in a manner based on the gender of one of the parties, including assessing fees or reviewing evidence based on the gender of a party; or

(2) advertising that a proceeding before the mediator is being conducted in a court or tribunal.

(g) Prohibits a mediator from being referred to as a judge unless the mediator has served as a judge of a state or federal court.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2015.