

By Senator Campbell

33-1016-99

1 A bill to be entitled
2 An act relating to dispute resolution; creating
3 s. 44.1051, F.S.; permitting the written
4 agreement by two or more parties in a civil
5 dispute to submit the controversy to binding
6 voluntary trial resolution in lieu of
7 litigation when no constitutional issue is
8 involved; providing duties of the clerk of the
9 court and guidelines relating to application
10 for voluntary trial resolution; providing for
11 fees; providing for tolling of statutory
12 limitations period; providing for court
13 appointment of a member of The Florida Bar to
14 act as trial resolution judge; providing
15 qualifications and authority of trial
16 resolution judge; providing for subpoenas and
17 court orders compelling attendance and
18 production of certain evidence; providing for
19 hearing and appeal; providing for applicability
20 of the Florida Evidence Code; providing for
21 issuance and enforcement through contempt
22 powers of court orders carrying out the trial
23 resolution judge's decision; providing for
24 nonapplicability of voluntary trial resolution
25 to certain disputes involving child custody,
26 visitation, or support or rights of third
27 parties not participating in voluntary trial
28 resolution; prescribing a procedure to expedite
29 civil actions when the parties agree to do so;
30 providing an effective date.
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1 Be It Enacted by the Legislature of the State of Florida:

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3 Section 1. Section 44.1051, Florida Statutes, is
4 created to read:

5 44.1051 Voluntary trial resolution.--

6 (1) Two or more parties who are involved in a civil
7 dispute may agree in writing to submit the controversy to
8 voluntary trial resolution in lieu of litigation of the issues
9 involved, before or after a lawsuit has been filed, provided
10 no constitutional issue is involved.

11 (2) If the parties have entered into an agreement that
12 provides for a method for appointment of a member of The
13 Florida Bar in good standing for more than 5 years to act as
14 trial resolution judge, the court shall proceed with the
15 appointment as prescribed.

16 (3) The trial resolution judge shall be compensated by
17 the parties according to their agreement.

18 (4) Within 10 days of the submission of the request
19 for binding voluntary trial resolution, the court shall
20 provide for the appointment of the trial resolution judge.
21 Once appointed, the trial resolution judge shall notify the
22 parties of the time and place for the hearing.

23 (5) Application for voluntary trial resolution shall
24 be filed and fees paid to the clerk of the court as if for
25 complaints initiating civil actions. The clerk of the court
26 shall handle and account for these matters in all respects as
27 if they were civil actions except that the clerk of the court
28 shall keep separate the records of the applications for
29 voluntary binding trial resolution from all other civil
30 actions.

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1 (6) Filing of the application for binding voluntary
2 trial resolution will toll the running of the applicable
3 statutes of limitation.

4 (7) The appointed trial resolution judge shall have
5 such power to administer oaths or affirmation and to conduct
6 the proceedings as the rules of court provide. At the request
7 of any party, the trial resolution judge shall issue subpoenas
8 for the attendance of witnesses and for the production of
9 books, records, documents, and other evidence and may apply to
10 the court for orders compelling attendance and production.
11 Subpoenas shall be served and shall be enforceable in the
12 manner provided by law.

13 (8) The hearing shall be conducted by the trial
14 resolution judge, who may determine any question and render a
15 final decision.

16 (9) The Florida Evidence Code shall apply to all
17 proceedings under this section.

18 (10) An appeal may be taken to the appropriate
19 appellate court. The harmless error doctrine shall apply in
20 all appeals. No further review shall be permitted unless a
21 constitutional issue is raised.

22 (11) If no appeal is taken within the time provided by
23 rules adopted by the Supreme Court, the decision shall be
24 referred to the presiding court judge in the case or, if one
25 has not been assigned, to the chief judge of the circuit for
26 assignment to a circuit judge, who shall enter such orders and
27 judgments as are required to carry out the terms of decision,
28 which orders shall be enforceable by the contempt powers of
29 the court and for which judgments executions shall issue on
30 request of a party.

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1 (12) This section shall not apply to any dispute
2 involving child custody, visitation, or child support or to
3 any dispute that involves the rights of a third party not a
4 party to the voluntary trial resolution.

5 Section 2. Expedited trials.--Upon the joint
6 stipulation of the parties to any civil case, the court may
7 conduct an expedited trial as provided in this section. When
8 two or more plaintiffs or defendants have a unity of interest,
9 such as a husband and wife, they shall be considered one party
10 for the purpose of this section. Unless otherwise ordered by
11 the court or agreed to by the parties with approval of the
12 court, an expedited trial shall be conducted as follows:

13 (1) All discovery in the trial shall be completed
14 within 60 days.

15 (2) All interrogatories and requests for production
16 must be served within 10 days and all responses must be served
17 within 20 days after receipt.

18 (3) The court shall determine the number of
19 depositions required.

20 (4) The case may be tried to a jury.

21 (5) The case must be tried within 30 days after the
22 60-day discovery cut-off.

23 (6) The trial must be limited to 1 day.

24 (7) The jury selection must be limited to 1 hour.

25 (8) The plaintiff will have 3 hours to present its
26 case, including its opening, all of its testimony and
27 evidence, and its closing.

28 (9) The defendant will have 3 hours to present its
29 case, including its opening, all of its testimony and
30 evidence, and its closing.

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1 (10) The jury will be given "plain language" jury
2 instructions at the beginning of the trial as well as a "plain
3 language" jury verdict form. The jury instructions and verdict
4 form must be agreed to by the parties.

5 (11) The parties will be permitted to introduce a
6 written report of any expert and the expert's curriculum vitae
7 instead of calling the expert to testify live at trial.

8 (12) At trial the parties may use excerpts from
9 depositions, including video depositions, regardless of where
10 the deponent lives or whether the deponent is available to
11 testify.

12 (13) The Florida Evidence Code and the Florida Rules
13 of Civil Procedure will apply.

14 (14) There will be no continuances of the trial absent
15 extraordinary circumstances.

16 Section 3. This act shall take effect October 1, 1999.

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LEGISLATIVE SUMMARY

Permits written agreement by two or more parties in a civil dispute to submit the controversy to binding voluntary trial resolution in lieu of litigation when no constitutional issue is involved. Provides duties of the clerk of the court and guidelines relating to application for voluntary trial resolution, and provides for application fees. Provides for tolling of statutory limitations period. Provides for court appointment of a member of The Florida Bar to act as trial resolution judge. Prescribes qualifications and authority of trial resolution judge. Provides for subpoenas and court orders compelling attendance and production of certain evidence. Provides for hearing and appeal. Provides for applicability of the Florida Evidence Code. Provides for issuance and enforcement through contempt powers of court orders carrying out the trial resolution judge's decision. Provides for nonapplicability of voluntary trial resolution to certain disputes involving child custody, visitation, or support or rights of third parties not participating in voluntary trial resolution. Provides for conducting expedited trials, when all parties agree, in which the times for conducting discovery, jury selection, and case presentation are strictly limited, in which written reports and video depositions may be introduced, and for which "plain language" jury instructions and verdict forms will be used.