

1 ~~parties in identifying issues, fostering joint problem~~
2 ~~solving, and exploring settlement alternatives.~~ "Mediation"
3 includes:

4 (a) "Appellate court mediation," which means mediation
5 that occurs during the pendency of an appeal of a civil case.

6 (b) "Circuit court mediation," which means mediation
7 of civil cases, other than unified family court matters, in
8 circuit court. ~~If a party is represented by counsel, the~~
9 ~~counsel of record must appear unless stipulated to by the~~
10 ~~parties or otherwise ordered by the court.~~

11 (c) "County court mediation," which means mediation of
12 civil cases within the jurisdiction of county courts,
13 including small claims. ~~Negotiations in county court mediation~~
14 ~~are primarily conducted by the parties. Counsel for each party~~
15 ~~may participate. However, presence of counsel is not required.~~

16 (d) "Unified family court mediation," which means
17 mediation of any of the following circuit matters or any
18 combination thereof:

- 19 1. Dissolution of marriage.
- 20 2. Division and distribution of property arising out
21 of a dissolution of marriage.
- 22 3. Annulment.
- 23 4. Support unconnected with dissolution of marriage.
- 24 5. Paternity.
- 25 6. Child support.
- 26 7. The Uniform Reciprocal Enforcement of Support Act
27 and the Uniform Interstate Family Support Act.
- 28 8. Custodial care of and access to children.
- 29 9. Adoption.
- 30 10. Name changes.

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1 11. Declaratory judgment actions related to
2 premarital, marital, or postmarital agreements.

3 12. Civil domestic, repeat, sexual, or dating violence
4 injunctions.

5 13. Child dependency.

6 14. Termination of parental rights.

7 15. Juvenile delinquency.

8 16. Emancipation of a minor.

9 17. Children in need of services.

10 18. Families in need of services.

11 19. Truancy.

12 20. Modification and enforcement of orders entered in
13 matters listed in this paragraph.

14 ~~(d) "Family mediation" which means mediation of family~~
15 ~~matters, including married and unmarried persons, before and~~
16 ~~after judgments involving dissolution of marriage; property~~
17 ~~division; shared or sole parental responsibility; or child~~
18 ~~support, custody, and visitation involving emotional or~~
19 ~~financial considerations not usually present in other circuit~~
20 ~~civil cases. Negotiations in family mediation are primarily~~
21 ~~conducted by the parties. Counsel for each party may attend~~
22 ~~the mediation conference and privately communicate with their~~
23 ~~clients. However, presence of counsel is not required, and, in~~
24 ~~the discretion of the mediator, and with the agreement of the~~
25 ~~parties, mediation may proceed in the absence of counsel~~
26 ~~unless otherwise ordered by the court.~~

27 ~~(e) "Dependency or in need of services mediation,"~~
28 ~~which means mediation of dependency, child in need of~~
29 ~~services, or family in need of services matters. Negotiations~~
30 ~~in dependency or in need of services mediation are primarily~~
31 ~~conducted by the parties. Counsel for each party may attend~~

1 ~~the mediation conference and privately communicate with their~~
2 ~~clients. However, presence of counsel is not required and, in~~
3 ~~the discretion of the mediator and with the agreement of the~~
4 ~~parties, mediation may proceed in the absence of counsel~~
5 ~~unless otherwise ordered by the court.~~

6 Section 2. Section 44.1015, Florida Statutes, is
7 created to read:

8 44.1015 Conduct of mediation.--

9 (1) The role of the mediator includes, but is not
10 limited to, assisting the parties in identifying issues,
11 fostering joint problem solving, and exploring settlement
12 alternatives.

13 (2) Legal counsel may be involved in mediation as
14 follows:

15 (a) In circuit court mediation, if a party is
16 represented by counsel, the counsel of record must appear
17 unless stipulated to by the parties or otherwise ordered by
18 the court.

19 (b) In unified family court mediation, negotiations
20 are primarily conducted by the parties. Counsel for each party
21 may attend the mediation conference and privately communicate
22 with his or her clients. However, in the discretion of the
23 mediator, and with the agreement of the parties, mediation may
24 proceed in the absence of counsel unless otherwise ordered by
25 the court.

26 (c) In county court mediation, negotiations are
27 primarily conducted by the parties. Counsel for each party may
28 participate. However, presence of counsel is not required in
29 actions under the Florida Small Claims Rules.

30 Section 3. Subsections (2) and (4) of section 44.102,
31 Florida Statutes, are amended to read:

1 44.102 Court-ordered mediation.--
2 (2) A court, under rules adopted by the Supreme Court:
3 (a) Shall ~~Must~~, upon request of one party, refer to
4 mediation any filed civil action for monetary damages,
5 provided the requesting party is willing and able to pay the
6 costs of the mediation or the costs can be equitably divided
7 between the parties, unless:
8 1. The action is a landlord and tenant dispute that
9 does not include a claim for personal injury.
10 2. The action is filed for the purpose of collecting a
11 debt.
12 3. The action is a claim of medical malpractice.
13 4. The action is governed by the Florida Small Claims
14 Rules.
15 5. The court determines that the action is proper for
16 referral to nonbinding arbitration under this chapter.
17 6. The parties have agreed to binding arbitration.
18 7. The parties have agreed to an expedited trial
19 pursuant to s. 45.075.
20 8. The parties have agreed to voluntary trial
21 resolution pursuant to s. 44.104.
22 (b) Shall, in circuits in which a mediation program
23 has been established, refer to mediation all or part of
24 disputed custody, visitation, or other parental responsibility
25 issues.
26 (c)~~(b)~~ May refer to mediation all or ~~any~~ part of any a
27 filed case ~~civil action~~ for which mediation is not required
28 under this section.
29 (d) Shall not refer to mediation, regardless of any
30 other law requiring mediation:
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1 1. Any case regarding issuance of domestic, repeat,
2 dating, or sexual violence injunctions, except to the extent
3 authorized by rules adopted by the Supreme Court; or

4 2. Any case in which the court finds, upon motion or
5 request of a party, there has been a history of violence,
6 including, but not limited to, domestic violence, that would
7 compromise the mediation process or endanger any person's
8 safety.

9 ~~(c) In circuits in which a family mediation program~~
10 ~~has been established and upon a court finding of a dispute,~~
11 ~~shall refer to mediation all or part of custody, visitation,~~
12 ~~or other parental responsibility issues as defined in s.~~
13 ~~61.13. Upon motion or request of a party, a court shall not~~
14 ~~refer any case to mediation if it finds there has been a~~
15 ~~history of domestic violence that would compromise the~~
16 ~~mediation process.~~

17 ~~(d) In circuits in which a dependency or in need of~~
18 ~~services mediation program has been established, may refer to~~
19 ~~mediation all or any portion of a matter relating to~~
20 ~~dependency or to a child in need of services or a family in~~
21 ~~need of services.~~

22 (4) The Supreme Court ~~chief judge of each judicial~~
23 ~~circuit~~ shall maintain a list for each circuit of mediators
24 whom it has ~~who have been certified by the Supreme Court~~ and
25 who have registered for appointment in that circuit.

26 (a) Whenever possible, qualified individuals who have
27 volunteered their time to serve as mediators shall be
28 appointed. If a mediation program is funded pursuant to s.
29 44.108, volunteer mediators shall be entitled to reimbursement
30 pursuant to s. 112.061 for all actual expenses necessitated by
31 service as a mediator.

1 (b) Nonvolunteer mediators shall be compensated
2 according to rules adopted by the Supreme Court. If a
3 mediation program is funded pursuant to s. 44.108, a mediator
4 may be compensated by the state, the county, or ~~by~~ the
5 parties.

6 Section 4. Subsection (2) of section 44.108, Florida
7 Statutes, is amended to read:

8 44.108 Funding of mediation and arbitration.--

9 (2) When court-ordered mediation services are provided
10 by a circuit court's mediation program, the following fees,
11 unless otherwise established in the General Appropriations
12 Act, shall be collected by the clerk of court:

13 (a) Eighty dollars per party ~~person~~ per scheduled
14 session in unified family court mediation when the parties'
15 combined income is greater than \$50,000, but less than
16 \$100,000 per year;

17 (b) Forty dollars per party ~~person~~ per scheduled
18 session in unified family court mediation when the parties'
19 combined income is less than \$50,000; or

20 (c) Forty dollars per party ~~person~~ per scheduled
21 session in county court cases.

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23 No mediation fees shall be assessed under this subsection in
24 residential eviction cases, against a party found to be
25 indigent, or for any small claims action. No mediation fees
26 shall be assessed under this subsection in unified family
27 court cases that are limited to one or more of the following
28 issues: child dependency, children in need of services,
29 families in need of services, juvenile delinquency, or issues
30 arising out of judicial findings in relation to injunctions
31 for protection against domestic violence. Fees collected by

1 | the clerk of court pursuant to this section shall be remitted
2 | to the Department of Revenue for deposit into the state
3 | courts' Mediation and Arbitration Trust Fund to fund
4 | court-ordered mediation. The clerk of court may deduct \$1 per
5 | fee assessment for processing this fee. The clerk of the court
6 | shall submit to the chief judge of the circuit, no later than
7 | 30 days after the end of each quarter, a report specifying the
8 | amount of funds collected under this section during each
9 | quarter of the fiscal year.

10 | Section 5. Subsection (1) of section 61.183, Florida
11 | Statutes, is amended to read:

12 | 61.183 Mediation of certain contested issues.--

13 | (1) In any proceeding in which the issues of parental
14 | responsibility, primary residence, visitation, or support of a
15 | child are contested, the court shall ~~may~~ refer the parties to
16 | mediation in accordance with s. 44.102 ~~rules promulgated by~~
17 | ~~the Supreme Court~~. In Title IV-D cases, any costs, including
18 | filing fees, recording fees, mediation costs, service of
19 | process fees, and other expenses incurred by the clerk of the
20 | circuit court, shall be assessed only against the
21 | nonprevailing obligor after the court makes a determination of
22 | the nonprevailing obligor's ability to pay such costs and
23 | fees.

24 | Section 6. This act shall take effect July 1, 2006.
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