

By Senator Berman

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A bill to be entitled

An act relating to voluntary trial resolution; amending s. 44.104, F.S.; defining the term "presiding judge"; authorizing parties to civil cases, family law cases, or probate cases to, by written agreement or stipulation, agree to the appointment of a voluntary trial resolution judge, subject to certain exceptions; providing that an individual selected by the parties to serve as a voluntary trial resolution judge must meet a specified requirement to be eligible for appointment; authorizing the parties to file such written agreement or stipulation with the clerk of the court any time after the action is filed and to file a joint motion requesting such appointment; requiring that the joint motion be accompanied by a certain form; requiring the parties to promptly serve a copy of the joint motion and form on the presiding judge; requiring the presiding judge to enter a specified order within a certain timeframe; requiring an appointed voluntary trial resolution judge to take and subscribe to a specified oath; providing an exception; requiring a voluntary trial resolution judge to adjudicate a case until a specified finality occurs in the case; requiring that the case be returned to the presiding judge under certain circumstances; requiring immediate disclosure by a voluntary trial resolution judge to the parties of circumstances requiring disqualification; authorizing the parties to waive disqualification by filing a written waiver with the

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clerk of the court within a specified timeframe;
providing construction and applicability; providing
for compensation of a voluntary trial resolution judge
according to certain terms and conditions; requiring
that a contract for the services of a voluntary trial
resolution judge provide for payment of such
compensation; authorizing the presiding judge to
enforce the terms of a written agreement or
stipulation and retain jurisdiction in certain
circumstances; requiring the presiding judge to retain
jurisdiction for a specified purpose; requiring the
clerk of the court to treat cases referred to
voluntary trial resolution in a specified manner;
requiring the chief judge or his or her designee to
make available public facilities and personnel in
proceedings assigned to a voluntary trial judge in a
specified manner; requiring the chief judge and the
clerk to coordinate the provision of jurors with a
voluntary trial resolution judge for certain
proceedings; authorizing the parties to agree to use
certain facilities for specified matters; specifying
that the parties are responsible for certain costs;
providing the scope of judicial functions of a
voluntary trial resolution judge; providing an
exception; requiring the presiding judge to maintain
jurisdiction to perform specified judicial functions;
requiring a voluntary trial resolution judge to
conduct proceedings under specified rules of court;
providing that the Florida Evidence code applies to

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proceedings governed by the act; requiring that voluntary trial resolution proceedings be noticed and open to the public; providing for judicial review; providing that a specified doctrine applies in such review; providing applicability; amending s. 44.107, F.S.; conforming provisions to changes made by the act; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 44.104, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 44.104, F.S., for present text.)
44.104 Voluntary trial resolution.—

(1) As used in this section, the term “presiding judge” means the judge assigned to the case.

(2) (a) The parties to a civil case, a family law case, or a probate case may by written agreement or stipulation agree to the appointment of an individual to serve as a voluntary trial resolution judge to adjudicate all of the remaining issues in the case, subject to the exceptions set forth in subsection (12).

(b) To be eligible to be appointed to serve as a voluntary trial resolution judge, the individual selected by the parties must be a member of The Florida Bar in good standing for longer than 5 years.

(c) Any time after an action is filed, the parties may file a written agreement or stipulation to appoint a voluntary trial

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88 resolution judge with the clerk of the court in which the action
89 is pending and may file a joint motion requesting appointment of
90 a voluntary trial resolution judge, selecting the individual
91 whom the parties wish to have appointed. The joint motion must
92 be accompanied by a form signed by the selected voluntary trial
93 resolution judge consenting to the appointment. The parties
94 shall promptly serve a copy of the joint motion and form on the
95 presiding judge.

96 (d) Within 10 days after the submission of the request for
97 appointment of a voluntary trial resolution judge, the presiding
98 judge shall enter an order appointing the voluntary trial
99 resolution judge selected by the parties. The order designating
100 the voluntary trial resolution judge must be signed by the
101 presiding judge, refer to the parties' written agreement or
102 stipulation, and provide that the voluntary trial resolution
103 judge be compensated by the parties in accordance with the terms
104 of the parties' agreement or stipulation.

105 (e) A voluntary trial resolution judge appointed under this
106 subsection shall take and subscribe to an oath of office,
107 swearing or affirming that he or she has read and will conform
108 with Canons 1, 2A, and 3, and any other provisions of the
109 Florida Code of Judicial Conduct which might reasonably be
110 applicable depending on the nature of the judicial function
111 performed, except for provisions relating to disqualification
112 and recusal which are provided for in subsection (3).

113 (f) Upon appointment by the presiding judge, a voluntary
114 trial resolution judge shall adjudicate the case until the case
115 is finally determined by adjudication, including posttrial
116 motions and requests for attorney fees, dismissal, or other

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117 final disposition, unless disqualification or recusal is
118 required pursuant to subsection (3).

119 (g) If a voluntary trial resolution judge appointed under
120 this subsection cannot serve in that capacity for any reason,
121 absent further agreement or stipulation by the parties to
122 appoint another individual to serve as voluntary trial
123 resolution judge, the case must be returned to the presiding
124 judge.

125 (3) Where circumstances exist that require disqualification
126 of a judge under Canon 3E of the Florida Code of Judicial
127 Conduct, a voluntary trial resolution judge must immediately
128 disclose, on the record, to the parties the grounds for
129 disqualification. The parties may waive the disqualification by
130 filing a written waiver with the clerk of the court within 10
131 days after such disclosure. This subsection does not limit the
132 authority of a voluntary trial resolution judge to enter an
133 order of recusal. Sections 38.02 and 38.10 and Florida Rules of
134 General Practice and Judicial Administration 2.330 apply to any
135 motion to disqualify a voluntary trial resolution judge. In the
136 event of recusal, or if a motion to disqualify a voluntary trial
137 resolution judge is granted, the case must be returned to the
138 presiding judge.

139 (4) A voluntary trial resolution judge shall be compensated
140 by the parties in such amount, and subject to such terms and
141 conditions, as provided by the parties in a written agreement or
142 stipulation. A contract for the services of a voluntary trial
143 resolution judge must provide for payment of compensation by the
144 parties to the voluntary trial judge. The presiding judge may
145 enforce the terms of a written agreement or stipulation against

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the parties, and shall retain jurisdiction to enforce such agreement or stipulation after entry of any judgment therefrom.

(5) The clerk of the court shall treat cases referred to voluntary trial resolution the same as any other comparable action, except that the clerk of court shall keep separate the records of the applications for voluntary trial resolution from all other comparable actions. The chief judge or his or her designee shall, upon request of the parties, make available public facilities and personnel in proceedings assigned to a voluntary trial judge to the same extent as for other comparable matters not assigned to a voluntary trial judge. For proceedings requiring a jury to be empaneled, the chief judge and the clerk of the court shall coordinate the provision of jurors with the voluntary trial resolution judge. For all other proceedings, the parties may agree to use facilities other than circuit or county court facilities. The parties are responsible for any compensation to personnel and any costs in relation to the case, including, but not limited to, the costs associated with the use of such facilities and any materials that are not provided by the court.

(6) A voluntary trial resolution judge shall perform all judicial functions from the time of appointment by the presiding judge until the case is finally determined by adjudication, including posttrial motions and requests for attorney fees, dismissal, or other final disposition, except for the disposition of a request that a party be held in contempt and the entry of an order with respect to any nonparty to the case. The presiding judge shall maintain jurisdiction to exercise contempt power and to enforce a subpoena issued to any nonparty

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175 to the case. The presiding judge shall have exclusive
176 jurisdiction over enforcement of any judgment and any
177 supplementary proceedings filed in the same action.

178 (7) A voluntary trial resolution judge shall conduct
179 proceedings under this section pursuant to the Florida Rules of
180 Civil Procedure, the Family Law Rules of Procedure, or the
181 Probate Rules, as applicable.

182 (8) The Florida Evidence Code applies to all proceedings
183 under this section.

184 (9) Voluntary trial resolution proceedings shall be noticed
185 and open to the public to the same extent as if such proceedings
186 were before the presiding judge.

187 (10) A party may seek review of a nonfinal order or a final
188 judgment rendered by a voluntary trial resolution judge in the
189 same manner as a nonfinal order or a final judgment rendered by
190 the presiding judge. The harmless error doctrine applies in any
191 such review. A party may not seek to have an order or ruling of
192 a voluntary trial judge reviewed, modified, or overturned by the
193 presiding judge during the voluntary trial resolution judge's
194 appointment.

195 (11) Except as provided in subsection (12), voluntary trial
196 resolution is available in all civil, family, and probate cases.

197 (12) This section does not apply to any dispute involving
198 the constitutionality of a statute; child custody, visitation,
199 or child support; or to any dispute involving the rights of a
200 third party who is not a party to the voluntary trial resolution
201 proceedings when the third party would be an indispensable party
202 if the dispute were resolved in court or when the third party
203 notifies the voluntary trial resolution judge that the third

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party would be a proper party if the dispute were resolved in court, that the third party intends to intervene in the action, and that the third party does not agree to proceed under this section.

Section 2. Subsection (1) of section 44.107, Florida Statutes, is amended to read:

44.107 Immunity for arbitrators, voluntary trial resolution judges, mediators, and mediator trainees.—

(1) Arbitrators serving under s. 44.103, voluntary trial resolution judges serving under ~~or~~ s. 44.104, mediators serving under s. 44.102, and trainees fulfilling the mentorship requirements for certification by the Supreme Court as a mediator shall have judicial immunity in the same manner and to the same extent as a judge.

Section 3. This act shall take effect July 1, 2026.