

CHAPTER 134
DISPUTE RESOLUTION CENTERS
H.F. 128

AN ACT creating a program for the establishment and support of dispute resolution centers to provide informal procedures for the resolution of minor disputes.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. The general assembly finds that informal dispute resolution procedures using impartial mediators should be available throughout the state for the resolution of minor disputes as an alternative to formal judicial proceedings; that informal dispute resolution procedures can be effective in a wide variety of circumstances, including the resolution of civil claims and disputes, certain family law disputes, juvenile offenses and criminal complaints; that informal dispute resolution procedures can be less costly, more flexible and more satisfying to the parties than formal proceedings in an adversarial setting; and that voluntary diversion of many minor disputes to dispute resolution centers will help to relieve congestion in the courts.

Sec. 2. NEW SECTION. 679.1 DEFINITIONS.

As used in this chapter:

1. "Approved center" or "approved dispute resolution center" means a center that has applied for and received approval from the executive director under section 679.3.

2. "Center" or "dispute resolution center" means a program which is organized by one or more governmental subdivisions or nonprofit organizations and which makes informal dispute resolution procedures available.

3. "Council" means the prosecuting attorneys training coordinator council in the department of justice, established by chapter 13A.

4. "Dispute resolution process" or "informal dispute resolution process" means a process by which the parties involved in a minor dispute voluntarily agree to enter into informal discussion and negotiation with the assistance of a mediator or member of the center's staff in order to resolve their dispute.

5. "Executive director" means the executive director of the prosecuting attorneys training coordinator council.

6. "Mediator" means a person who assists parties involved in a minor dispute to reach a mutually acceptable resolution of their dispute.

Sec. 3. NEW SECTION. 679.2 DISPUTE RESOLUTION PROGRAM — ADMINISTRATION.

1. There is established in the office of prosecuting attorneys training coordinator of the department of justice a program for the establishment and support of locally organized dispute resolution centers which make informal dispute resolution procedures available. The executive director of the prosecuting attorneys training coordinator council shall administer the program under the direction of the council.

2. The executive director, subject to approval by the council, may appoint an advisory committee to advise the executive director and the council on the administration of the dispute resolution program. If an advisory committee is appointed it shall consist of not more than seven members and shall include at least three representatives of existing dispute resolution centers. The committee shall meet at the call of the executive director. Members shall serve without compensation but are entitled to actual expenses incurred in the performance of their duties. Payment shall be made from funds appropriated to the council for the administration of the dispute resolution program.

Sec. 4. NEW SECTION. 679.3 ESTABLISHMENT AND APPROVAL OF DISPUTE RESOLUTION CENTERS.

A center, or entity proposing a center, may apply to the executive director for approval to participate in the dispute resolution program. The application shall set forth a plan for operation of the center, including such information as the center's objectives, areas or populations to be served, administrative organization, budget, recordkeeping, criteria for accepting cases, availability of mediators, and procedures for receiving and screening requests, scheduling and conducting sessions with the mediator, and terminating the dispute resolution process through agreement or otherwise. The executive director shall prescribe the form of application and specify the information to be included and shall set the deadline for filing. A center must submit an application for each year in which it desires to participate in the program.

The executive director shall review the applications and shall approve for participation in the program all applicants which meet the requirements of this chapter and rules adopted pursuant to this chapter.

Sec. 5. NEW SECTION. 679.4 FUNDING OF DISPUTE RESOLUTION CENTERS.

1. The executive director, subject to approval by the council, shall distribute state grants to approved dispute resolution centers from funds appropriated for that purpose. The amount distributed may vary among the centers based on need. The state grant shall not exceed fifty percent of the estimated annual cost of a center.

2. The administrator of each center may accept and disburse the state grants and grants and gifts from federal and other public and private sources for the operation of the center. Centers are encouraged to make use of local resources whenever possible, including the use of volunteers and available space in public facilities.

3. The executive director may accept and disburse grants and gifts from federal and other public and private sources for the dispute resolution program.

Sec. 6. NEW SECTION. 679.5 REFERRALS TO DISPUTE RESOLUTION CENTERS.

1. The following types of cases may be accepted for dispute resolution at an approved dispute resolution center, subject to such limitations as the council prescribes by rule:

- a. Civil claims and disputes, including but not limited to neighborhood disputes, landlord-tenant disputes, debtor-creditor disputes and consumer complaints.
- b. Disputes concerning child custody and visitation rights.
- c. Juvenile offenses.
- d. Criminal complaints.

2. A center may accept cases referred by a court, prosecuting attorney, law enforcement officer, social service agency or any other interested person or agency, or at the request of the parties involved in the dispute. A case may be referred prior to the commencement of formal judicial proceedings or at any stage of such proceedings. The center shall provide follow-up information on the disposition of a case if the case was referred by a court and the court requests the information.

Sec. 7. NEW SECTION. 679.6 PRELIMINARY INFORMATION.

Before the dispute resolution process begins, the approved dispute resolution center shall provide the parties with a written statement setting forth the procedures to be followed. The statement shall be in the form prescribed in the rules adopted by the council under this chapter.

Sec. 8. NEW SECTION. 679.7 FEES.

Except as otherwise provided in this section, an approved dispute resolution center shall require each party to pay a fee to help defray the administrative costs of the dispute resolution process. The council shall establish a sliding scale of fees to be charged, based upon ability to pay. A person shall not be denied the services of a dispute resolution center solely because of inability to pay the fee.

Sec. 9. NEW SECTION. 679.8 MEDIATORS.

An impartial mediator shall be assigned to each case scheduled for a mediation session. A person is not eligible to serve as a mediator in an approved center until the person has completed at least twenty-five hours of training in conflict resolution techniques approved by the executive director. The council may by rule establish classifications of disputes and provide that a person is not eligible to serve as a mediator in a particular class of dispute unless the person possesses additional credentials or completes additional specialized training, or both.

A center may provide for the compensation of mediators or utilize the services of volunteer mediators, or both.

The mediator shall assist the parties to reach a mutually acceptable resolution of their dispute through discussion and negotiation. The mediator shall officially terminate the dispute resolution process if the parties are unable to agree. The termination shall be without prejudice to either party in any other proceeding. The mediator and the center have no authority to make or impose any adjudication, sanction or penalty upon the parties.

Sec. 10. NEW SECTION. 679.9 AGREEMENT.

If the parties involved in the dispute reach agreement, the agreement may be reduced to writing and signed by the parties. The agreement shall set forth the settlement of the issues and the future responsibilities of each party.

Sec. 11. NEW SECTION. 679.10 RULES.

The council shall adopt rules to carry out the purposes of this chapter. In addition to matters expressly required elsewhere in this chapter, the rules may include the following:

1. Requirements relating to the administration of a dispute resolution center, including budgeting, recordkeeping, reporting, evaluation and administrative organization.
2. Requirements for advisory committees to assist dispute resolution centers.
3. Procedures to be followed in the dispute resolution process.
4. Forms to assist dispute resolution centers in carrying out their duties.

Sec. 12. NEW SECTION. 679.11 REPORT.

The executive director shall report annually to the general assembly and the governor concerning the operation of the dispute resolution program.

Sec. 13. NEW SECTION. 679.12 CONFIDENTIALITY.

All verbal or written information relating to the subject matter of an agreement and transmitted between any party to a dispute and a mediator or the staff of an approved center or any other person present during any stage of a dispute resolution process conducted by an approved center, whether reflected in notes, memoranda, or other work products in the case files, are confidential communications except as otherwise expressly provided in this chapter. Mediators and center staff members shall not be examined in any judicial or administrative proceeding regarding confidential communications and are not subject to judicial or administrative process requiring the disclosure of confidential communications.

However, when a governmental subdivision is a party to a dispute which has been scheduled for a mediation session, the facts and circumstances surrounding the dispute and any other information provided by the governmental subdivision are not confidential.

This section does not prohibit the release of information to the referring agency or authority regarding the disposition of a case which arose from a criminal complaint and was referred by a court or prosecuting attorney. Nor does this section apply where a mediator or center staff member has reason to believe that a party to a dispute has given perjured evidence.

Sec. 14. NEW SECTION. 679.13 LIMITATION ON LIABILITY.

No mediator, employee or agent of a center, or member of a center's board may be held liable for civil damages for any statement or decision made in the process of dispute resolution unless the mediator, employee, agent or member acted in bad faith, with malicious purpose or in a manner exhibiting willful and wanton disregard of human rights, safety or property.

Sec. 15. NEW SECTION. 679.14 TOLLING OF STATUTE OF LIMITATIONS.

During the period of the dispute resolution process, any applicable statute of limitations is tolled as to the participants. The tolling shall commence on the date the center accepts the case and shall end on the date the parties are notified in writing that the case has been closed by the center. Notices of the closing of cases shall be provided in accordance with appropriate rules adopted under this chapter.

Sec. 16. Section 22.7, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. Memoranda, work products and case files of a mediator and all other confidential communications in the possession of an approved dispute resolution center, as provided in chapter 679. Information in these confidential communications is subject to disclosure only as provided in section 679.12, notwithstanding this chapter.

Approved May 16, 1985

CHAPTER 135
ELECTION OF HOSPITAL TRUSTEES
H.F. 255

AN ACT relating to the election of hospital trustees.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 347.25, unnumbered paragraph 1, Code 1985, is amended to read as follows:

The election of hospital trustees whose offices are established by this chapter or chapter 145A or 347A shall take place at the general election on ballots which shall not reflect a nominee's political affiliation. Nomination shall be made by petition in accordance with chapter 45. The petition form shall be furnished by the county commissioner of elections, signed by fifty eligible electors of the county ~~equal in number to one percent of the vote cast for president of the United States or governor, as the case may be, by both political parties in the last previous general election,~~ and shall be filed with the county commissioner of elections at least fifty-five days prior to the date of said the general election. A plurality ~~shall be~~ is sufficient to elect hospital trustees, ~~it being the intent that there be no primary election.~~