

House State Court

FILED MAR 17 1989

SENATE FILE 501
BY COMMITTEE ON STATE GOVERNMENT

(SUCCESSOR TO SSB 296)

Passed Senate, Date 3-31-89 (p. 1100) Passed House, Date _____
Vote: Ayes 29 Nays 2 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act revising certain provisions relating to dispute
2 resolution, transferring authority over specified dispute
3 resolution activities to the Iowa peace institute, and
4 generally relating to dispute resolution.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 501

1 Section 1. Section 679.1, Code 1989, is amended to read as
2 follows:

3 679.1 DEFINITIONS.

4 As used in this chapter:

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

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

12 3. "Council" means the ~~prosecuting-attorneys-training Iowa~~
13 peace institute dispute resolution coordination council in the
14 department-of-justice, established by chapter-13A section
15 679.2.

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

22 5. "Executive director" means the executive director of
23 the ~~prosecuting-attorneys-training-coordination Iowa peace~~
24 institute dispute resolution coordination council.

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

28 Sec. 2. Section 679.2, Code 1989, is amended by striking
29 the section and inserting in lieu thereof the following:

30 679.2 DISPUTE RESOLUTION COORDINATION COUNCIL AND PROGRAM.

31 1. The office of dispute resolution coordination is
32 established as an entity in the Iowa peace institute.

33 2. The chief administrative officer of the office is the
34 executive director who shall be a regular employee of the Iowa
35 peace institute and appointed by the governing board. The

1 executive director shall hold office at the pleasure of the
2 governing board. The executive director, subject to the
3 direction and supervision of the governing board, shall
4 perform the functions and duties of the office and may employ
5 other persons necessary to implement this chapter.

6 3. a. The dispute resolution coordination council shall
7 consist of five officers of the Iowa peace institute and two
8 additional members, one member appointed by the supreme court,
9 and one member appointed by the attorney general.

10 b. A vacancy shall be filled in the same manner as the
11 original appointment. A member appointed to fill a vacancy
12 created other than by expiration of a term on the council
13 shall be appointed for the unexpired term of the member whom
14 the new member is to succeed in the same manner as the
15 original appointment. Any member may be reappointed for an
16 additional term.

17 c. The terms of the Iowa peace institute members shall
18 coincide with their terms as officers of the Iowa peace
19 institute and the terms of the two additional members shall be
20 three years and shall begin July 1, 1989, but the initial
21 terms of these two additional members shall be staggered so
22 that the members shall serve terms of two and three years
23 respectively.

24 d. The council shall elect from among its members a
25 chairperson and vice chairperson who shall serve for one-year
26 terms and who may be reelected. Membership on the council
27 shall not constitute holding a public office, and members of
28 the council shall not be required to take and file oaths of
29 office before serving on the council. A member of the council
30 shall not be disqualified from holding any public office or
31 employment by reason of membership on the council, nor shall a
32 member forfeit the office or employment, by reason of
33 appointment under this chapter, notwithstanding the provisions
34 of any law, ordinance, or city charter.

35 e. The council shall meet at least four times each year

1 and shall hold meetings when called by the chairperson, or in
2 the absence of the chairperson, by the vice chairperson or
3 when called by the chairperson upon the written request of
4 three members of the council. The council shall establish its
5 own procedures and requirements with respect to quorum, place,
6 and conduct of its meetings and other matters.

7 f. The council shall make an annual report to the attorney
8 general, the governor, the supreme court, and the general
9 assembly regarding the efforts of the office to implement the
10 purposes of this chapter.

11 g. The members of the council shall serve without
12 compensation but shall be entitled to their actual expenses in
13 attending meetings and in the performance of their duties.

14 h. The council may, subject to the review and approval of
15 the governing board of the Iowa peace institute:

16 (1) Enter into agreements with other public or private
17 agencies or organizations to implement this chapter.

18 (2) Cooperate with and assist other public or private
19 agencies or organizations to implement this chapter.

20 (3) Make recommendations to the general assembly on
21 matters pertaining to the responsibilities of the office under
22 this chapter.

23 4. The council shall do all of the following:

24 a. Consult with the supreme court, the Iowa state bar
25 association, and existing programs in dispute resolution in
26 order to define matters appropriate for mediation.

27 b. Conduct a survey of existing dispute resolution
28 programs in the state to determine their number, the number of
29 mediators involved, the type of training the mediators have
30 received, the kinds of disputes which are being mediated, and
31 the percentage of disputes which result in agreements through
32 the dispute resolution process.

33 c. Evaluate the effectiveness of the current dispute
34 resolution programs.

35 d. Make recommendations to the general assembly concerning

1 credentialing standards and training requirements for
2 mediators and other pertinent matters.

3 5. There is established in the Iowa peace institute, under
4 the council, a program for the establishment and support of
5 organized dispute resolution centers which make dispute
6 resolution procedures available. The executive director of
7 the council shall administer the program under the direction
8 of the council.

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

21 Sec. 3. Section 679.4, Code 1989, is amended to read as
22 follows:

23 679.4 FUNDING OF DISPUTE RESOLUTION CENTERS.

24 1. The executive director, subject to approval by the
25 council, shall distribute state grants to approved dispute
26 resolution centers from funds appropriated for that purpose.
27 The amount distributed may vary among the centers based on
28 need. The state grant shall not exceed fifty percent of the
29 estimated annual cost of a center, unless otherwise specified
30 in the state budget.

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

1 available space in public facilities.

2 3. The executive director may accept and disburse grants
3 and gifts from federal and other public and private sources
4 for the dispute resolution program. However, other funds from
5 federal, private, or public sources are not required to be
6 allocated through the Iowa peace institute.

7 Sec. 4. Section 679.6, Code 1989, is amended to read as
8 follows:

9 679.6 REFERRALS TO DISPUTE RESOLUTION CENTERS.

10 1. ~~The following types of cases~~ Disputes may be accepted
11 for dispute resolution at an approved dispute resolution
12 center, subject to such limitations as the council prescribes
13 by rule. These disputes include but are not limited to:

14 a. Public policy disputes involving the state or one or
15 more political subdivisions in the areas of the environment,
16 education, transportation, and other areas.

17 b. Civil claims and disputes, including ~~but not limited~~
18 to neighborhood disputes, landlord-tenant disputes, debtor-
19 creditor disputes, and consumer complaints.

20 c. Disputes concerning child custody and visitation
21 rights.

22 d. Juvenile offenses and criminal complaints.

23 ~~d.---Criminal complaints.~~

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

33 Sec. 5. Section 679.7, Code 1989, is amended to read as
34 follows:

35 679.7 FEES.

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

8 Sec. 6. Section 679.8, unnumbered paragraph 1, Code 1989,
9 is amended to read as follows:

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

20 Sec. 7. Section 679.8, unnumbered paragraph 3, Code 1989,
21 is amended to read as follows:

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

30 Sec. 8. Section 679.12, Code 1989, is amended to read as
31 follows:

32 679.12 CONFIDENTIALITY.

33 All verbal or written information relating to the subject
34 matter of an ~~agreement~~ dispute and transmitted between any
35 party to a dispute and a mediator or the staff of an approved

1 center or any other person present during any stage of a
2 dispute resolution process conducted by an approved center,
3 whether reflected in notes, memoranda, or other work products
4 in the case files, are confidential communications except as
5 otherwise expressly provided in this chapter. Mediators and
6 center staff members shall not be examined in any judicial or
7 administrative proceeding regarding confidential
8 communications and are not subject to judicial or
9 administrative process requiring the disclosure of
10 confidential communications.

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

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

23 Sec. 9. Section 679.14, Code 1989, is amended to read as
24 follows:

25 679.14 TOLLING OF STATUTE OF LIMITATIONS.

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

34 EXPLANATION

35 The bill revises the law relating to dispute resolution.

1 Jurisdiction over the dispute resolution program is
2 transferred from the prosecuting attorneys training
3 coordination council to the Iowa peace institute. A dispute
4 resolution coordination council is established as a unit of
5 the Iowa peace institute, with an executive director as its
6 chief administrative officer. Revisions are made in the
7 current dispute resolution law to broaden its applicability
8 and protect the confidentiality of cases handled by the
9 dispute resolution program.

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SENATE FILE 501
FISCAL NOTE

REQ. BY SENATOR CARR

A fiscal note for **SENATE FILE 501** is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 501 transfers the Dispute Resolution Program from the Prosecuting Attorneys training coordination council to the Iowa Peace Institute. A dispute resolution coordination council is established as a unit of the Iowa Peace Institute with an executive director as its chief administrative officer.

This bill authorizes the executive director, subject to the approval by the Coordination Council, to distribute state grants to approved dispute resolution centers from funds appropriated for that purpose.

ASSUMPTIONS:

1. Current law is not being implemented.
2. Requires at least 1/2 time of the director and full-time support staff person for mediation.
3. Program would be housed at the Iowa Peace Institute using existing space and equipment.
4. Capital outlay for word processing equipment.
5. Program will include at least one professional development conference.

	Fiscal Year 1990			Fiscal Year 1991		
	Current Law	Proposed Law	Increase (Decrease)	Current Law	Proposed Law	Increase (Decrease)
<u>EXPENDITURES</u>						
Salaries	\$ 0	\$ 38,000	\$ 38,000	\$ 0	\$ 40,000	\$ 40,000
Support	0	15,000	15,000	0	25,000	25,000
Capital Outlay	0	10,000	10,000	0	0	0
Grants to Cntrs	0	50,000	50,000	0	100,000	100,000
Total	\$ 0	\$ 113,000	\$ 113,000	\$ 0	\$ 165,000	\$ 165,000

Source: Iowa Peace Institute

(LSB 2608sv, KNM)

FILED MARCH 21, 1989

BY DENNIS PROUTY, FISCAL DIRECTOR

LLOYD-JONES
CARR
DRAKE

SSB 296

STATE GOVERNMENT

SENATE FILE 501

BY (PROPOSED COMMITTEE ON STATE
GOVERNMENT BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act revising certain provisions relating to dispute
2 resolution, transferring authority over specified dispute
3 resolution activities to the Iowa peace institute, and
4 generally relating to dispute resolution.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 679.1, Code 1989, is amended to read as
2 follows:

3 679.1 DEFINITIONS.

4 As used in this chapter:

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

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

12 3. "Council" means the ~~prosecuting-attorneys-training Iowa~~
13 peace institute dispute resolution coordination council in the
14 ~~department-of-justice~~, established by section 679.2 of this
15 chapter ~~13A~~.

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

22 5. "Executive director" means the executive director of
23 the ~~prosecuting-attorneys-training-coordination Iowa peace~~
24 institute dispute resolution coordination council.

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

28 Sec. 2. Section 679.2, Code 1989, is amended by striking
29 the section and inserting in lieu thereof the following:

30 679.2 DISPUTE RESOLUTION COORDINATION COUNCIL AND PROGRAM.

31 1. The office of dispute resolution coordination is
32 established as an entity in the Iowa peace institute.

33 2. The chief administrative officer of the office is the
34 executive director who shall be a regular employee of the Iowa
35 peace institute and appointed by the governing board. The

1 executive director shall hold office at the pleasure of the
2 governing board. The executive director, subject to the
3 direction and supervision of the governing board, shall
4 perform the functions and duties of the office and may employ
5 other persons necessary to implement this chapter.

6 3. The dispute resolution coordination council is
7 established to consult with and advise the governing board of
8 the Iowa peace institute and the executive director on the
9 operation of the office.

10 4. a. The council shall consist of seven members as
11 follows:

12 (1) A member appointed by the attorney general.

13 (2) A member appointed by the supreme court.

14 (3) A member appointed by the governor.

15 (4) A member appointed by the speaker of the house and one
16 appointed by the senate majority leader.

17 (5) Two members appointed by the governing board of the
18 Iowa peace institute.

19 b. A vacancy shall be filled in the same manner as the
20 original appointment. A member appointed to fill a vacancy
21 created other than by expiration of a term on the council
22 shall be appointed for the unexpired term of the member whom
23 the new member is to succeed in the same manner as the
24 original appointment. Any member may be reappointed for an
25 additional term.

26 c. The terms of the members shall be three years and shall
27 begin July 1, 1989, but initial terms shall be staggered so
28 that the members shall serve terms of one, two, and three
29 years respectively.

30 d. The council shall designate from among its members a
31 chairperson and vice chairperson who shall serve for one-year
32 terms and who may be reelected. Membership on the council
33 shall not constitute holding a public office, and members of
34 the council shall not be required to take and file oaths of
35 office before serving on the council. A member of the council

1 shall not be disqualified from holding any public office or
2 employment by reason of membership on the council, nor shall
3 one member forfeit the office or employment, by reason of
4 appointment under this chapter, notwithstanding the provisions
5 of any law, ordinance, or city charter.

6 e. The council shall meet at least four times each year
7 and shall hold meetings when called by the chairperson, or in
8 the absence of the chairperson, by the vice chairperson or
9 when called by the chairperson upon the written request of
10 three members of the council. The council shall establish its
11 own procedures and requirements with respect to quorum, place,
12 and conduct of its meetings and other matters.

13 f. The council shall make an annual report to the attorney
14 general, the governor, the supreme court, and the general
15 assembly regarding the efforts of the office to implement the
16 purposes of this chapter.

17 g. The members of the council shall serve without
18 compensation but shall be entitled to their actual expenses in
19 attending meetings and in the performance of their duties.

20 h. The council may, subject to the review and approval of
21 the governing board of the Iowa peace institute:

22 (1) Enter into agreements with other public or private
23 agencies or organizations to implement this chapter.

24 (2) Cooperate with and assist other public or private
25 agencies or organizations to implement this chapter.

26 (3) Make recommendations to the general assembly on
27 matters pertaining to the responsibilities of the office under
28 this chapter.

29 5. There is established in the Iowa peace institute, under
30 the council, a program for the establishment and support of
31 organized dispute resolution centers which make dispute
32 resolution procedures available. The executive director of
33 the council shall administer the program under the direction
34 of the council.

35 6. The executive director, subject to approval by the

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

12 Sec. 3. Section 679.4, Code 1989, is amended to read as
13 follows:

14 679.4 FUNDING OF DISPUTE RESOLUTION CENTERS.

15 1. The executive director, subject to approval by the
16 council, shall distribute state grants to approved dispute
17 resolution centers from funds appropriated for that purpose.
18 The amount distributed may vary among the centers based on
19 need. The state grant shall not exceed fifty percent of the
20 estimated annual cost of a center, unless otherwise specified
21 in the state budget.

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

28 3. The executive director may accept and disburse grants
29 and gifts from federal and other public and private sources
30 for the dispute resolution program. However, other funds
31 (federal, private, or public sources) do not have to be
32 allocated through the Iowa peace institute.

33 Sec. 4. Section 679.5, subsection 1, Code 1989, is amended
34 to read as follows:

35 1. ~~The-following-types-of-cases~~ Cases may be accepted for

1 dispute resolution at an approved dispute resolution center,
2 subject to such limitations as the council prescribes by rule.

3 These cases include but are not limited to:

4 a. Civil claims and disputes, including ~~but-not-limited-to~~
5 neighborhood disputes, landlord-tenant disputes, debtor-
6 creditor disputes and consumer complaints.

7 b. Disputes concerning child custody and visitation
8 rights.

9 c. Juvenile offenses.

10 d. Criminal complaints.

11 e. Other disputes.

12 Sec. 5. Section 679.7, Code 1989, is amended to read as
13 follows:

14 679.7 FEES.

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

22 Sec. 6. Section 679.8, unnumbered paragraph 3, Code 1989,
23 is amended to read as follows:

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

32 Sec. 7. Section 679.12, Code 1989, is amended to read as
33 follows:

34 679.12 CONFIDENTIALITY.

35 All verbal or written information relating to the subject

1 matter of ~~an agreement~~ a case and transmitted between any
2 party to a dispute and a mediator or the staff of an approved
3 center or any other person present during any stage of a
4 dispute resolution process conducted by an approved center,
5 whether reflected in notes, memoranda, or other work products
6 in the case files, are confidential communications ~~except as~~
7 ~~otherwise expressly provided in this chapter~~. Mediators and
8 center staff members shall not be examined in any judicial or
9 administrative proceeding regarding confidential
10 communications and are not subject to judicial or
11 administrative process requiring the disclosure of
12 confidential communications.

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

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

25 EXPLANATION

26 The bill revises the law relating to dispute resolution.
27 Jurisdiction over the dispute resolution program is
28 transferred from the prosecuting attorneys training
29 coordination council to the Iowa peace institute. A dispute
30 resolution coordination council is established as a unit of
31 the Iowa peace institute, with an executive director as its
32 chief administrative officer. Revisions are made in the
33 current dispute resolution law to broaden its applicability
34 and protect the confidentiality of cases handled by the
35 dispute resolution program.