1 , §679C.105

## 679C.105 Waiver and preclusion of privilege.

1. A privilege under section 679C.104 may be waived in a record or orally during a proceeding if it is expressly waived by all mediation parties and if all of the following apply:

- a. In the case of the privilege of a mediator, the privilege is expressly waived by the mediator.
- *b*. In the case of the privilege of a nonparty participant, the privilege is expressly waived by the nonparty participant.
- 2. A person that discloses or makes a representation about a mediation communication which prejudices another person in a proceeding is precluded from asserting a privilege under section 679C.104, but only to the extent necessary for the person prejudiced to respond to the disclosure or representation.
- 3. A person that intentionally uses a mediation to plan, to attempt to commit, or to commit a crime, or to conceal an ongoing crime or ongoing criminal activity is precluded from asserting a privilege pursuant to section 679C.104.

2005 Acts, ch 68, §10 Referred to in §679C.103, §679C.104