

Reprinted 4/3/85

House File 128

Judiciary and Law Enforcement; Peterson, Chair; Clark and Siegrist.

*Amended (2/24/85) by
H. Res. 314 (4/27/85)*

HOUSE FILE 128

BY ROSENBERG, GRONINGA,
HALVORSON of Webster, CLARK,
HAMMOND, JAY and LONERGAN

Passed House, Date 4-2-85 (4-25-85) Passed Senate, Date 4-17-85

Vote: Ayes 14 Nays 20 Vote: Ayes 26 Nays 21

Approved May 16, 1985

A BILL FOR

1 An Act creating a program for the establishment and support
 2 of dispute resolution centers to provide informal
 3 procedures for the resolution of minor disputes,
 4 authorizing the imposition of an additional fee upon
 5 the filing of civil actions in counties served by such
 6 centers, and making an appropriation.

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

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HF 128

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

14 Sec. 2. NEW SECTION. 679.1 DEFINITIONS.

15 As used in this chapter:

16 1. "Center" or "dispute resolution center" means a locally
17 organized program which makes informal dispute resolution
18 procedures available at the county level.

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

22 3. "Dispute resolution process" or "informal dispute
23 resolution process" means a process by which the parties in-
24 volved in a minor dispute voluntarily agree to enter into
25 informal discussion and negotiation with the assistance of a
26 mediator in order to resolve their dispute.

27 4. "Executive director" means the executive director of
28 the prosecuting attorneys training coordinator council.

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

32 Sec. 3. NEW SECTION. 679.2 DISPUTE RESOLUTION PROGRAM--
33 ADMINISTRATION.

34 1. There is established in the office of prosecuting at-
35 torneys training coordinator of the department of justice a

1 program for the establishment and support of locally organized
2 dispute resolution centers which make informal dispute resolu-
3 tion procedures available at the county level. The executive
4 director of the prosecuting attorneys training coordinator
5 council shall administer the program under the direction of
6 the council.

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

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

21 A governmental subdivision or nonprofit organization may
22 establish a dispute resolution center to make informal dispute
23 resolution procedures available at the county level.

24 A center, or entity proposing a center, may apply to the
25 executive director for approval to participate in the dispute
26 resolution program. The application shall set forth a plan
27 for operation of the center, including such information as the
28 center's objectives, counties to be served, administrative
29 organization, budget, recordkeeping, criteria for accepting
30 cases, fee schedule, availability of mediators, and procedures
31 for receiving and screening requests, scheduling and
32 conducting sessions with the mediator, and terminating the
33 dispute resolution process through agreement or otherwise.
34 The executive director shall prescribe the form of application
35 and specify the information to be included and shall set the

1 deadline for filing. A center must submit an application for
2 each year in which it desires to participate in the program.

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

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

9 1. In each county served by an approved dispute resolution
10 center there shall be charged and collected a dispute resolu-
11 tion center fee of one dollar upon the filing and docketing of
12 every civil action as provided in section 602.8105, to be used
13 for the operation of the dispute resolution center serving
14 that county. However, the executive director, upon request by
15 a center, may provide for reduction or abolishment of the fee
16 for the county or counties served by that center. The supreme
17 court and the executive director shall adopt appropriate rules
18 for the imposition, collection and handling of these dispute
19 resolution center fees.

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

26 3. The administrator of each center may accept and dis-
27 burse grants and gifts from federal and other public and pri-
28 vate sources for the operation of the center. Centers are
29 encouraged to make use of local resources whenever possible,
30 including the use of volunteers and available space in public
31 facilities.

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

35 Sec. 6. NEW SECTION. 679.5 REFERRALS TO DISPUTE RESOLU-

1 TION CENTERS.

2 1. The following types of cases may be accepted for dis-
3 pute resolution at a dispute resolution center, subject to
4 such limitations as the executive director prescribes by rule:

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

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

10 c. Juvenile offenses.

11 d. Criminal complaints.

12 2. A center may accept cases referred by a court, pro-
13 secuting attorney, law enforcement officer, social service
14 agency or any other interested person or agency, or at the
15 request of the parties involved in the dispute. A case may be
16 referred prior to the commencement of formal judicial pro-
17 ceedings or at any stage of such proceedings. The center
18 shall provide follow-up information on the disposition of a
19 case if the case was referred by a court and the court re-
20 quests the information.

21 Sec. 7. NEW SECTION. 679.6 PRELIMINARY INFORMATION.

22 Before the dispute resolution process begins, the dispute
23 resolution center shall provide the parties with a written
24 statement setting forth the procedures to be followed. The
25 statement shall be in the form prescribed by the executive
26 director and shall include the following information:

27 1. A general description of the nature of the dispute.

28 2. The rights and obligations of the parties.

29 3. The role of the mediator in the dispute resolution pro-
30 cess.

31 4. The confidentiality of the proceedings.

32 5. That if the parties agree to a resolution of the dis-
33 pute, the agreement will be reduced to writing, signed by the
34 parties, and will be subject to enforcement by a court unless
35 its terms provide otherwise.

1 6. That if the parties are unable to agree, the mediator
2 will officially terminate the process without prejudice to
3 either party.

4 The dispute resolution process shall not commence until the
5 parties consent in writing to the terms set forth in the
6 statement.

7 Sec. 8. NEW SECTION. 679.7 FEES.

8 A dispute resolution center may require each party to pay a
9 small fee to help defray the administrative costs of the
10 dispute resolution process. Fees shall be based on a sliding
11 scale according to ability to pay. A person shall not be
12 denied the services of a dispute resolution center solely
13 because of inability to pay the fee.

14 Sec. 9. NEW SECTION. 679.8 MEDIATORS.

15 An impartial mediator shall be assigned to each case ac-
16 cepted by a dispute resolution center. A person is not
17 eligible to serve as a mediator until the person has completed
18 at least twenty-five hours of training in conflict resolution
19 techniques approved by the executive director. The executive
20 director may by rule establish classifications of disputes and
21 provide that a person is not eligible to serve as a mediator
22 in a particular class of dispute unless the person possesses
23 additional credentials or completes additional specialized
24 training, or both.

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

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

35 Sec. 10. NEW SECTION. 679.9 AGREEMENT.

1 If the parties involved in the dispute reach agreement, the
2 agreement must be reduced to writing and signed by the
3 parties. The agreement shall set forth the settlement of the
4 issues and the future responsibilities of each party. The
5 agreement is subject to enforcement by a court and admissible
6 as evidence in any judicial or administrative proceeding
7 unless its terms provide otherwise.

8 Sec. 11. NEW SECTION. 679.10 RULES.

9 The executive director shall adopt rules to carry out the
10 purposes of this chapter. In addition to matters expressly
11 required elsewhere in this chapter, the rules may include the
12 following:

13 1. Requirements relating to the administration of a dis-
14 pute resolution center, including budgeting, recordkeeping,
15 reporting, evaluation and administrative organization.

16 2. Requirements for advisory committees to assist dispute
17 resolution centers.

18 3. Procedures to be followed in the dispute resolution
19 process.

20 4. Forms to assist dispute resolution centers in carrying
21 out their duties.

22 Sec. 12. NEW SECTION. 679.11 REPORT.

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

26 Sec. 13. NEW SECTION. 679.12 CONFIDENTIALITY.

27 Except as otherwise expressly provided in this chapter, all
28 memoranda, work products and case files of a mediator are
29 confidential and not subject to disclosure in any judicial or
30 administrative proceeding. Any communication relating to the
31 subject matter of the written agreement, made during the
32 dispute resolution process by any participant, mediator or
33 other person present during that process, is a confidential
34 communication. A mediator is not subject to judicial or
35 administrative process requiring the disclosure of matter made

1 confidential by this section.

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

3 No mediator, employee or agent of a mediator may be held
4 liable for civil damages for any statement or decision made in
5 the process of dispute resolution unless the mediator,
6 employee or agent acted in bad faith, with malicious purpose
7 or in a manner exhibiting willful and wanton disregard of
8 human rights, safety or property.

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

11 During the period of the dispute resolution process, any
12 applicable statute of limitations is tolled as to the
13 participants. The tolling shall commence on the date the
14 parties consent in writing to participate in the dispute
15 resolution process and shall end on the date of the written
16 agreement resolving the dispute or, if there is no agreement,
17 on the date the dispute resolution process is officially
18 terminated by the mediator.

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

21 NEW SUBSECTION. Memoranda, work products and case files of
22 a mediator of an approved dispute resolution center as pro-
23 vided in chapter 679.

24 Sec. 17. Section 602.8105, subsection 1, paragraph a, Code
25 1985, is amended to read as follows:

26 a. For filing a petition, appeal, or writ of error and
27 docketing them, thirty-five dollars. Four dollars of the fee
28 shall be deposited in the court revenue distribution account
29 established under section 602.8108, and thirty-one dollars of
30 the fee shall be paid into the state treasury. Of the amount
31 paid to the state treasury, one dollar shall be deposited in
32 the judicial retirement fund established in section 602.9104
33 to be used to pay retirement benefits of the judicial
34 retirement system, and the remainder shall be deposited in the
35 general fund of the state. In counties having a population of

1 one hundred thousand or over, an additional five dollars shall
2 be charged and collected, to be known as the journal
3 publication fee and used for the purposes provided for in
4 section 618.13. In each county served by an approved dispute
5 resolution center pursuant to chapter 679, an additional fee
6 of not more than one dollar, to be known as the dispute
7 resolution center fee, may be charged and collected as
8 provided in section 679.4, subsection 1, and rules adopted
9 pursuant to that subsection, for the support of that dispute
10 resolution center.

11 Sec. 18. There is appropriated from the state general fund
12 the sum of one hundred thirty thousand (130,000) dollars to
13 the office of prosecuting attorneys training coordinator of
14 the department of justice for the fiscal year 1985-1986 for
15 the purpose of providing state grants to approved dispute
16 resolution centers pursuant to section 679.4. An amount not
17 to exceed ten percent of the appropriation may be expended for
18 administrative costs.

19 EXPLANATION

20 This bill adds a new chapter of the Code creating a program
21 for the establishment and support of dispute resolution cen-
22 ters to provide informal dispute resolution procedures at the
23 county level. The program would be administered by the office
24 of prosecuting attorneys training coordinator, which is cur-
25 rently responsible for administering a state appropriation for
26 grants to dispute resolution centers.

27 A trained, impartial mediator would be available to assist
28 the parties involved in a minor dispute to reach a mutually
29 acceptable resolution of their dispute through discussion and
30 negotiation, as an alternative to formal judicial proceedings.
31 The resulting written agreement would be subject to
32 enforcement by a court unless its terms provide otherwise.

33 Cases could be referred to dispute resolution centers by
34 courts, prosecuting attorneys, law enforcement officers,
35 social services agencies and other interested persons and

1 agencies. Many types of minor civil and criminal disputes
2 could be handled through dispute resolution procedures.

3 A dispute resolution center could be established by a
4 governmental subdivision or nonprofit organization and could
5 apply for approval to participate in the state's dispute
6 resolution program, which includes state grants and authority
7 for the imposition of an additional fee upon the filing of
8 civil actions in counties served by the center.

9 The bill contains provisions for the confidentiality of
10 dispute resolution proceedings, limitations on the liability
11 of mediators, and tolling of the statute of limitations during
12 the dispute resolution process. It authorizes the appointment
13 of an advisory committee for the dispute resolution program.
14 It contains an appropriation of \$130,000.

15 The bill creates a new chapter 679 and makes internal
16 references to sections within that chapter.

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HOUSE FILE 128

H-3362

1 Amend House File 128 as follows:

2 1. Page 1, by striking lines 16 through 29 and
3 inserting the following:

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

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

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

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

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

26 6. "Mediator" means a person who assists parties
27 involved".

28 2. Page 2, line 3, by striking the words "at the
29 county level".

30 3. Page 2, by striking lines 21 through 23.

31 4. Page 2, line 28, by striking the word
32 "counties" and inserting the words "areas or
33 populations".

34 5. Page 2, line 30, by striking the words "fee
35 schedule,".

36 6. Page 3, by striking lines 9 through 19.

37 7. Page 3, line 27, by inserting after the word
38 "burse" the words "the state grants and".

39 8. Page 4, line 4, by striking the words
40 "executive director" and inserting the word "council".

41 9. Page 4, by striking line 25 through page 5,
42 line 6 and inserting the following: "statement shall
43 be in the form prescribed in the rules adopted by the
44 council under this chapter."

45 10. Page 5, by striking line 8 and inserting the
46 following: "Except as otherwise provided in this
47 section, a dispute resolution center shall require
48 each party to pay a".

49 11. Page 5, by striking lines 10 and 11 and
50 inserting the following: "dispute resolution process."

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Page Two

1 The council shall establish a sliding scale of fees to
2 be charged, based upon ability to pay. A person shall
3 not be".

4 12. Page 5, lines 15 and 16, by striking the
5 words "accepted by a dispute resolution center" and
6 inserting the words "scheduled for a mediation
7 session".

8 13. Page 5, lines 19 and 20, by striking the
9 words "executive director" and inserting the words
10 "council".

11 14. Page 6, line 2, by striking the word "must"
12 and inserting the word "may".

13 15. Page 6, by striking lines 4 through 7 and
14 inserting the following: "issues and the future
15 responsibilities of each party."

16 16. Page 6, line 9, by striking the words
17 "executive director" and inserting the word "council".

18 17. Page 6, by striking line 27 through page 7,
19 line 1 and inserting the following:

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

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

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

47 18. Page 7, line 3, by striking the words "of a
48 mediator" and inserting the words "of a center, or
49 member of a center's board".

50 19. Page 7, line 6, by striking the words

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Page Three

1 "employee or agent" and inserting the words "employee,
2 agent or member".

3 20. Page 7, by striking lines 14 through 18 and
4 inserting the following: "center accepts the case and
5 shall end on the date the parties are notified in
6 writing that the case has been closed by the center.
7 Notices of the closing of cases shall be provided in
8 accordance with appropriate rules adopted under this
9 chapter."

10 21. Page 7, by striking lines 22 and 23 and
11 inserting the following: "a mediator and all other
12 confidential communications in the possession of an
13 approved dispute resolution center, as provided in
14 chapter 679. Information in these confidential
15 communications is subject to disclosure only as
16 provided in section 679.12, notwithstanding this
17 chapter."

18 22. Page 7, by striking lines 24 through page 8,
19 line 18.

20 23. Title page, by striking lines 3 through 6 and
21 inserting the following: "procedures for the
22 resolution of minor disputes."

23 24. By numbering and renumbering as necessary.

BY COMMITTEE ON JUDICIARY
AND LAW ENFORCEMENT

H-3362 FILED MARCH 15, 1985

Adopted 4/2/85 (f 125-2)

HOUSE FILE 128

(As Amended and Passed by
The House April 2, 1985)

BY ROSENBERG, GRONINGA,
HALVORSON of Webster, CLARK,
HAMMOND, JAY and LONERGAN

Re Passed House, Date 4-26-85 (p. 1949) Passed Senate, Date 4-17-85 (p. 1423)

Vote: Ayes 75 Nays 19 Vote: Ayes 26 Nays 21

Approved May 16, 1985

Motion to Reconsider (p. 1447) w/d 4/23/85

A BILL FOR

1 An Act creating a program for the establishment and support
2 of dispute resolution centers to provide informal
3 procedures for the resolution of minor disputes.

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

S-3676

HOUSE FILE 128

- 1 Amend House File 128 as amended, passed, and
- 2 reprinted by the House as follows:
- 3 1. Page 3, line 28, by striking the word "a" and
- 4 inserting the words "an approved".
- 5 2. Page 4, line 12, by inserting after the words
- 6 "begins, the" the word "approved".
- 7 3. Page 4, line 18, by striking the word "a" and
- 8 inserting the words "an approved".
- 9 4. Page 4, line 19, by striking the word "small".
- 10 5. Page 4, line 28, by inserting after the word
- 11 "mediator" the words "in an approved center".

S-3676 Filed April 9, 1985

By COMMITTEE ON JUDICIARY

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

14 Sec. 2. NEW SECTION. 679.1 DEFINITIONS.

15 As used in this chapter:

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

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

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

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

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

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35 in a minor dispute to reach a mutually acceptable resolution

1 of their dispute.

2 Sec. 3. NEW SECTION. 679.2 DISPUTE RESOLUTION PROGRAM--
3 ADMINISTRATION.

4 1. There is established in the office of prosecuting
5 attorneys training coordinator of the department of justice a
6 program for the establishment and support of locally organized
7 dispute resolution centers which make informal dispute

* 8 resolution procedures available. The executive director of
9 the prosecuting attorneys training coordinator council shall
10 administer the program under the direction of the council.

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

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

* 25 A center, or entity proposing a center, may apply to the
26 executive director for approval to participate in the dispute
27 resolution program. The application shall set forth a plan
28 for operation of the center, including such information as the
29 center's objectives, areas or populations to be served,
30 administrative organization, budget, recordkeeping, criteria
* 31 for accepting cases, availability of mediators, and procedures
32 for receiving and screening requests, scheduling and
33 conducting sessions with the mediator, and terminating the
34 dispute resolution process through agreement or otherwise.
35 The executive director shall prescribe the form of application

1 and specify the information to be included and shall set the
2 deadline for filing. A center must submit an application for
3 each year in which it desires to participate in the program.

4 The executive director shall review the applications and
5 shall approve for participation in the program all applicants
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11 council, shall distribute state grants to approved dispute
12 resolution centers from funds appropriated for that purpose.
13 The amount distributed may vary among the centers based on
14 need. The state grant shall not exceed fifty percent of the
15 estimated annual cost of a center.

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

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

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26 RESOLUTION CENTERS.

27 1. The following types of cases may be accepted for
3676 28 dispute resolution at a dispute resolution center, subject to
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31 neighborhood disputes, landlord-tenant disputes, debtor-
32 creditor disputes and consumer complaints.

33 b. Disputes concerning child custody and visitation
34 rights.

35 c. Juvenile offenses.

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

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3676 12 Before the dispute resolution process begins, the dispute
13 resolution center shall provide the parties with a written
14 statement setting forth the procedures to be followed. The
15 statement shall be in the form prescribed in the rules adopted
16 by the council under this chapter.

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3676 18 Except as otherwise provided in this section, a dispute
19 resolution center shall require each party to pay a small fee
20 to help defray the administrative costs of the dispute
21 resolution process. The council shall establish a sliding
22 scale of fees to be charged, based upon ability to pay. A
23 person shall not be denied the services of a dispute
24 resolution center solely because of inability to pay the fee.

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26 An impartial mediator shall be assigned to each case
27 scheduled for a mediation session. A person is not eligible
3676 28 to serve as a mediator until the person has completed at least
29 twenty-five hours of training in conflict resolution
30 techniques approved by the executive director. The council
31 may by rule establish classifications of disputes and provide
32 that a person is not eligible to serve as a mediator in a
33 particular class of dispute unless the person possesses
34 additional credentials or completes additional specialized
35 training, or both.

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

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

11 Sec. 10. NEW SECTION. 679.9 AGREEMENT.

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

16 Sec. 11. NEW SECTION. 679.10 RULES.

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

21 1. Requirements relating to the administration of a
22 dispute resolution center, including budgeting, recordkeeping,
23 reporting, evaluation and administrative organization.

24 2. Requirements for advisory committees to assist dispute
25 resolution centers.

26 3. Procedures to be followed in the dispute resolution
27 process.

28 4. Forms to assist dispute resolution centers in carrying
29 out their duties.

30 Sec. 12. NEW SECTION. 679.11 REPORT.

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

34 Sec. 13. NEW SECTION. 679.12 CONFIDENTIALITY.

35 All verbal or written information relating to the subject

1 matter of an agreement and transmitted between any party to a
2 dispute and a mediator or the staff of an approved center or
3 any other person present during any stage of a dispute
4 resolution process conducted by an approved center, whether
5 reflected in notes, memoranda, or other work products in the
6 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 Sec. 14. NEW SECTION. 679.13 LIMITATION ON LIABILITY.

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

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

35 During the period of the dispute resolution process, any

1 applicable statute of limitations is tolled as to the
2 participants. The tolling shall commence on the date the
3 center accepts the case and shall end on the date the parties
4 are notified in writing that the case has been closed by the
5 center. Notices of the closing of cases shall be provided in
6 accordance with appropriate rules adopted under this chapter.

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

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

*15

SENATE AMENDMENT TO HOUSE FILE 128

H-3981

- 1 Amend House File 128 as amended, passed, and
- 2 reprinted by the House as follows:
- 3 1. Page 3, line 28, by striking the word "a" and
- 4 inserting the words "an approved".
- 5 2. Page 4, line 12, by inserting after the words
- 6 "begins, the" the word "approved".
- 7 3. Page 4, line 18, by striking the word "a" and
- 8 inserting the words "an approved".
- 9 4. Page 4, line 19, by striking the word "small".
- 10 5. Page 4, line 28, by inserting after the word
- 11 "mediator" the words "in an approved center".

H-3981 FILED APRIL 23, 1985

RECEIVED FROM THE SENATE

House concurred 4/26/85 (p. 1949)

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HOUSE FILE 128

AN ACT

CREATING A PROGRAM FOR THE ESTABLISHMENT AND SUPPORT OF DIS-
PUTE 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.
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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.

DONALD D. AVENSON
Speaker of the House

ROBERT T. ANDERSON
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 128, Seventy-first General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved May 16, 1985

TERRY E. BRANSTAD
Governor