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JUDICIARY

WITHDRAWN

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(P. 711)

HOUSE FILE
BY CHAPMAN

2025

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

A BILL FOR

1 An Act relating to confidentiality in the mediation process.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2025

WITHDRAWN

1 Section 1. NEW SECTION. 679C.1 DEFINITIONS.

2 As used in this chapter, unless the context suggests
3 otherwise:

4 1. "Mediation" means a process in which an impartial
5 person facilitates the resolution of a dispute by promoting
6 voluntary agreement of the parties to the dispute. In a
7 mediation, the decision-making authority rests with the
8 parties. A mediation commences at the time of initial contact
9 with a mediator or mediation program and includes all contacts
10 between the mediator or a mediation program and any party
11 until such time as a resolution is reached by the parties or
12 the mediation process concludes.

13 2. "Mediation communication" means any communication or
14 behavior in connection with a mediation by or between any
15 party, mediator, mediation program, or any other person
16 present during a mediation.

17 3. "Mediation document" means any written material,
18 including copies of written material, prepared for the purpose
19 of or in the course of, or pursuant to, a mediation,
20 including, but not limited to, memoranda, notes, files,
21 records, and work product of a mediator, mediation program, or
22 party, except that a "mediation document" shall not include
23 either of the following:

24 a. An agreement by the parties which specifies that the
25 mediation documents may be disclosed or enforced.

26 b. Summary records of a mediation program necessary to
27 evaluate or monitor the performance of the program.

28 4. "Mediation program" means a plan or organization
29 through which mediators and mediations may be provided.

30 5. "Mediator" means an impartial person who facilitates
31 the resolution of a dispute between parties in the mediation
32 process.

33 6. "Party" means a mediation participant other than the
34 mediator and may be a person, public officer, corporation,
35 association, or other organization or entity, either public or

1 private.

2 Sec. 2. NEW SECTION. 679C.2 CONFIDENTIALITY.

3 If a mediation is conducted pursuant to a court order, a
4 court-connected mediation program, a written agreement between
5 the parties, or a provision of law, all mediation
6 communications and mediation documents are privileged and
7 confidential and not subject to disclosure in any judicial or
8 administrative proceeding except under any of the following
9 circumstances:

10 1. When all parties to a mediation agree, in writing, to
11 disclosure.

12 2. When a written agreement by the parties to mediate
13 permits disclosure.

14 3. When disclosure is required by statute.

15 4. When a mediation communication or mediation document
16 provides evidence of an ongoing or future criminal activity.

17 5. When a mediation communication or mediation document
18 provides evidence of child abuse as defined in section 232.68,
19 subsection 2.

20 6. When a mediation communication or mediation document is
21 relevant to the legal claims of a party against a mediator or
22 mediation program arising out of a breach of the legal
23 obligations of the mediator or mediation program.

24 7. When a mediation communication or mediation document is
25 relevant to determining the existence of an agreement that
26 resulted from the mediation or is relevant to the enforcement
27 of such an agreement.

28 Sec. 3. NEW SECTION. 679C.3 MEDIATOR PRIVILEGE.

29 If a mediation is conducted pursuant to a court order, a
30 court-connected mediation program, a written agreement between
31 the parties, or a provision of law, a mediator or a
32 representative of a mediation program shall not testify about
33 a mediation communication or mediation document in any
34 judicial or administrative proceeding except under any of the
35 following circumstances:

1 1. When all parties and the mediator agree, in writing, to
2 disclosure.

3 2. When disclosure is required by statute.

4 3. When a mediation communication or mediation document
5 provides evidence of an ongoing or future criminal activity.

6 4. When a mediation communication or mediation document
7 provides evidence of child abuse as defined in section 232.68,
8 subsection 2.

9 5. When a mediation communication or mediation document is
10 relevant to the legal claims of a party against a mediator or
11 mediation program arising out of a breach of the legal
12 obligations of the mediator or mediation program.

13 5. Provided all parties agree to disclosure, when a
14 mediation communication or mediation document is relevant to
15 determining the existence of an agreement that resulted from
16 the mediation or is relevant to the enforcement of such an
17 agreement.

18 Sec. 4. NEW SECTION. 679C.4 MEDIATOR IMMUNITY.

19 A mediator or a mediation program shall not be liable for
20 civil damages for a statement, decision, or omission made in
21 the process of mediation unless the act or omission by the
22 mediator or mediation program is made in bad faith, with
23 malicious purpose, or in a manner exhibiting willful or wanton
24 disregard of human rights, safety, or property.

25 Sec. 5. NEW SECTION. 679C.5 EXCLUSIONS.

26 Mediation conducted pursuant to sections 20.20 and 20.31
27 and mediation conducted before the industrial commissioner
28 shall not be subject to this chapter.

29 Sec. 5. Section 13.14, Code 1997, is amended to read as
30 follows:

31 13.14 FARM MEDIATION SERVICE -- CONFIDENTIALITY.

32 1. Meetings of the farm mediation service are closed
33 meetings and are not subject to chapter 21.

34 2. ~~Verbal or written information relating to the mediation~~
35 ~~process and transmitted between a party to a dispute and the~~

1 farm-mediation-service, including a mediator or the mediation
2 staff, or any other person present during any stage of the
3 mediation process conducted by the service, whether reflected
4 in notes, memoranda, or other work products in the case files,
5 is a confidential communication. -- Mediators and staff members
6 shall not be examined in any judicial or administrative
7 proceeding regarding confidential communications and are not
8 subject to judicial or administrative process requiring the
9 disclosure of confidential communications.

10 3 2. Confidentiality is also protected as provided in
11 section 654A-13 679C.2.

12 Sec. 7. NEW SECTION. 20.31 MEDIATOR PRIVILEGE.

13 1. As used in this section, unless the context otherwise
14 requires:

15 a. "Mediation" means a process in which an impartial
16 person attempts to facilitate the resolution of a dispute by
17 promoting voluntary agreement of the parties to the dispute.
18 Mediation shall be deemed to commence upon the mediator's
19 receipt of notice of assignment and shall be deemed to
20 conclude when the dispute is resolved.

21 b. "Mediator" means a member or employee of the board or
22 any other person appointed or requested by the board to assist
23 parties in resolving disputes involving collective bargaining
24 impasses, contested cases, other agency cases, or contract
25 grievances.

26 2. A mediator shall not be required to testify in any
27 judicial, administrative, or grievance proceeding regarding
28 any matters occurring in the course of a mediation, including
29 any verbal or written communication or behavior, other than
30 facts relating exclusively to the timing or scheduling of
31 mediation. A mediator shall not be required to produce or
32 disclose any documents, including notes, memoranda, or other
33 work product, relating to mediation, other than documents
34 relating exclusively to the timing or scheduling of mediation.
35 This subsection shall not apply in any of the following

1 circumstances:

2 a. The testimony, production, or disclosure is required by
3 statute.

4 b. The testimony, production, or disclosure provides
5 evidence of an ongoing or future criminal activity.

6 c. The testimony, production, or disclosure provides
7 evidence of child abuse as defined in section 232.68,
8 subsection 2.

9 Sec. 8. Section 22.7, subsection 20, Code Supplement 1997,
10 is amended by striking the subsection.

11 Sec. 9. Section 22.7, Code Supplement 1997, is amended by
12 adding the following new subsection:

13 NEW SUBSECTION. 38. Mediation documents as defined in
14 section 679C.1, except written mediation agreements that
15 resulted from a mediation which are signed on behalf of a
16 government body. However, written mediation agreements
17 resulting from mediation conducted pursuant to chapter 216
18 shall be kept confidential.

19 Sec. 10. Section 216.15B, Code 1997, is amended to read as
20 follows:

21 216.15B MEDIATION -- CONFIDENTIALITY.

22 1. For the purposes of this section, "mediator" shall be
23 the person designated in writing by the commission to conduct
24 mediation of a complaint filed under this chapter. The
25 written designation must specifically refer to this section.

26 ~~All verbal or written information relating to the
27 subject matter of a mediation agreement and transmitted
28 between either the complainant or the respondent and a
29 mediator to resolve a complaint filed under this chapter,
30 whether reflected in notes, memoranda, or other work products,
31 is a confidential communication except as otherwise expressly
32 provided in this chapter.-- Mediators involved in a mediation
33 under this section shall not be examined in any judicial or
34 administrative proceeding regarding the confidential
35 communications and are not subject to judicial or~~

1 administrative process requiring the disclosure of the
2 confidential communications. -- If a written confidential
3 communication is kept by the mediator it must be kept in a
4 mediation file which is maintained separately from the case
5 file. -- The confidential communications may not be included in
6 the commission's case file unless the person providing the
7 information consents to its inclusion in the case file. -- The
8 mediation file is not part of the file made available to the
9 parties upon the commission's receipt of a right to sue
10 letter. -- Information maintained in the mediation file and not
11 included in the case file shall not be considered when making
12 a recommendation or decision regarding screening, probable
13 cause, or any issue in a contested case.

14 3. -- A mediator who has reason to believe that a complainant
15 or respondent has given perjured evidence concerning a
16 confidential communication is not barred by this section from
17 disclosing the basis for this belief to any party to a cause
18 in which the alleged perjury occurs or to the appropriate
19 authorities, including testifying concerning the relevant
20 confidential communications. -- If a dispute regarding the
21 existence of a mediation agreement exists, the terms of the
22 mediation agreement, or the conduct of the mediation process
23 itself, the mediator may be examined regarding relevant
24 confidential communications.

25 2. If mediation is conducted pursuant to this section, the
26 confidentiality of all mediation communications and mediation
27 documents is protected as provided in section 679C.2.

28 Sec. 11. Section 654A.13, Code 1997, is amended by
29 striking the section and inserting in lieu thereof the
30 following:

31 654A.13 CONFIDENTIALITY.

32 If mediation is conducted pursuant to this chapter, the
33 confidentiality of all mediation communications and mediation
34 documents is protected as provided in section 679C.2.

35 Sec. 12. Section 679.12, Code 1997, is amended by striking

1 the section and inserting in lieu thereof the following:

2 679.12 CONFIDENTIALITY.

3 If mediation is conducted pursuant to this chapter, the
4 confidentiality of all mediation communications and mediation
5 documents is protected as provided in section 679C.2.

6 EXPLANATION

7 This bill creates new Code chapter 679C relating to
8 mediation confidentiality in general. The new Code chapter
9 provides that if a mediation is conducted pursuant to a court
10 order, a court-connected mediation program, a written
11 agreement between the parties, or a provision of law, all
12 mediation communications and mediation documents shall be
13 deemed confidential, except under certain circumstances. The
14 new Code chapter provides that if a mediation is conducted
15 pursuant to a court order, a court-connected mediation
16 program, a written agreement between the parties, or a
17 provision of law, a mediator or a representative of a
18 mediation program shall not testify about a mediation
19 communication or mediation document in any judicial or
20 administrative proceeding, except under certain circumstances.
21 The new Code chapter provides that a mediator or mediation
22 program shall not be liable for any civil damages for a
23 statement, decision, or omission made in the process of
24 mediation unless acts or omissions of bad faith, malicious
25 purpose, or willful or wanton disregard for human rights,
26 safety, or property are involved.

27 This bill establishes confidentiality provisions for
28 mediation involving collective bargaining disputes before the
29 public employment relations board pursuant to Code sections
30 20.20 and 20.31. Other than facts relating to the timing or
31 scheduling of mediation, a mediator shall not be required to
32 testify or produce or disclose any communications, behavior,
33 or documents relating to or occurring during the course of
34 mediation. The provisions include a list of exceptions under
35 which testimony, production, or disclosure may occur.

1 The new Code chapter 679C provides that mediation conducted
2 pursuant to sections 20.20 and 20.31 and mediation conducted
3 before the Iowa industrial commissioner are not subject to new
4 Code chapter 679C.

5 The bill makes conforming amendments in Code chapters 13,
6 22, 216, 654A, and 679.

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HOUSE FILE 2025

H-8084

1 Amend House File 2025 as follows:

2 1. Page 3, line 24, by inserting after the word
3 "property." the following: "This section shall apply
4 to mediation conducted before the industrial
5 commissioner and mediation conducted pursuant to
6 chapter 216."

7 2. Page 3, by striking lines 26 through 28 and
8 inserting the following: "Mediation conducted
9 pursuant to sections 20.20 and 20.31 shall not be
10 subject to this chapter. Except as provided in
11 section 679C.4, mediation conducted before the
12 industrial commissioner shall not be subject to this
13 chapter. Except as provided in section 679C.4 and
14 except for mediation conducted pursuant to chapter
15 216.15B, mediation conducted pursuant to chapter 216
16 shall not be subject to this chapter."

17 3. Page 5, by striking lines 16 through 18 and
18 inserting the following: "governing body. However,
19 confidentiality of mediation documents resulting from
20 mediation conducted pursuant to chapter 216 shall be
21 governed by chapter 216."

By CHAPMAN of Linn

H-8084 FILED FEBRUARY 24, 1998