

Approved

Date: *March 6, 2001*

MINUTES OF THE SENATE JUDICIARY COMMITTEE.

The meeting was called to order by Chairperson John Vratil at 9:38 a.m. on March 5, 2001 in Room 123-S of the Capitol.

All members were present except: Senator Adkins (excused)

Committee staff present:

Gordon Self, Revisor
Mike Heim, Research
Mary Blair, Secretary

Conferees appearing before the committee:

Representative Bob Bethell
Lesa Roberts, Health Occupations Credentialing, KDHE
Kerrie Ruhlman, Kansas Adult Care Executives
Doug McNett, Pawnee County Assistant Attorney, Kansas County and District Attorney Association (KCDAA)
Sandy Barnett, Kansas Coalition Against Sexual and Domestic Violence

Others attending: see attached list

Minutes of the March 1st meeting were approved on a motion by Senator Schmidt, seconded by Senator O'Connor. Carried.

HB 2154—concerning providers of care services; employment of persons by such providers

Conferee Representative Bethell testified in support of **HB 2154**, a bill which concerns the employment of persons by adult care homes and home health agencies. He presented background on the bill's predecessor, **2000 HB 2700**, which was vetoed by the governor due to a flaw and discussed amendments to **HB 2154** which correct this. (no attachment - see supplemental note on bill)

Conferee Roberts testified in support of the "intent" of **HB 2154** but stated that not all needed corrections are reflected in the amended bill. She detailed areas of concern and stated that KDHE supports the bill if clarification can be made on the problematic legal issues especially in the area of juvenile adjudications and KDHE's authority to distribute criminal history record information it receives from the KBI to these employers. (attachment 1) Lengthy discussion followed.

Conferee Ruhlman testified in support of **HB 2154** briefly discussing the provisions in the bill which her organization favors. (attachment 2)

Written testimony in support of **HB 2154** was submitted by Debra Zehr, Kansas Association of Homes and Services for the Aging (attachment 3) and Linda Lubensky, Kansas Home Care Association. (attachment 4)

The Chair assigned **SB 2154** to Senator Schmidt's subcommittee.

SB 235—concerning crime and punishment; re: domestic battery

Conferee McNett testified in support of **SB 235**, a bill which would codify domestic battery as its own statute. He discussed the need for this bill stating that it will assist state and local prosecutors in establishing escalating penalties for domestic violence and will simplify federal firearm and military background checks. (attachment 5) The Chair reviewed a bed study report from the Kansas Sentencing Commission (KSC) which indicates that clarifying amendments to the bill would alleviate a fiscal impact on the state. (see KSC fiscal note on **SB 235** at the KSC office) Discussion followed.

Conferee Barnett testified that she saw a need for **SB 235** but had concerns regarding it. She briefly discussed these concerns and stated she would provide written testimony later today or in the morning. She stated she felt there needed to be a better way to track previous convictions for domestic battery. She discussed the "extreme dynamics" of domestic battery cases as opposed to other battery cases and stated that she feared this bill would complicate the issue of domestic battery. (no attachment)

SB 14—concerning mediation; re: disputes which may be mediated

Senator Oleen reviewed her subcommittee's study on **SB 14** and detailed it's recommended amendments to the bill as noted in a balloon amendment distributed to Committee members. (attachment 6) Following discussion Senator Oleen moved to amend **SB 14** and pass it out favorably as amended, Senator Haley seconded. Carried.

The meeting adjourned at 10:31 a.m. The next meeting is March 6, 2001.

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: March 5, 2001

NAME	REPRESENTING
Dennis Rogers	SPS
Sally Rife	KIS
Paul Jones	KSC
Jan Brack	KSC
Lisa Roberts	KDHE
Steve Swen	KDHE
DAVE SIM	KBI
Douglas McNett	Pawnee County Attorney's Office
Goran Bechard	KCDFA
Debra Zehr	KATSA
John Petersen	KAHSA
Kerrie Kuhlman	KACE
Bill Henny	Ks Gov. Consulting
Kyle Smith	KBI
Sandy Barnett	KCSOV
Jeff Bottenberg	Kansas State PLS Ass'n
Kevin Barone	Hempwer chrt.
Quia Nunnish	Federico
Shelley King	Conley Braden, Pambert Assoc.



KANSAS
DEPARTMENT OF HEALTH & ENVIRONMENT
BILL GRAVES, GOVERNOR
Clyde D. Graeber, Secretary

Testimony on House Bill No. 2154

to the

Senate Judiciary Committee

by

Les Roberts, Director, Health Occupations Credentialing

March 5, 2001

Chairman Vratil, members of the committee, I am pleased to appear before you to discuss House Bill 2154. This bill would modify the functions of the adult care home operator and home health agency operator criminal background check laws. The first section is specific to operators of adult care homes; section 2 addresses operators of home health agencies.

The department supports the concepts of adding "attempt," "conspiracy to commit," and "criminal solicitation to commit" to those offenses which prohibit employment. We also support providing additional results of criminal history record information to operators and standards for processing results once received from the Kansas Bureau of Investigation.

We are pleased to note that the House removed "private contractors" from the original bill. The use of private contractors to provide the same or better criminal history record information was fraught with problems. There were also corrections made to the type of conviction data KBI would provide to the department. Not all needed corrections are reflected in the amended bill. The primary items of concern for House Bill 2154 are as follows:

1. Language in this bill limits access to juvenile records, thereby excluding misdemeanor adjudications for sexual battery and mistreatment of a dependent adult, which are prohibited under section (a)(1).
2. Language in this bill directs the department to give criminal history record information on juveniles to operators which appears to conflict with KSA 36-1618 and an opinion from the Attorney General (95-94).
3. Language in the bill directs the department to provide criminal history record information to operators when the department is restricted from doing so by the KBI.
4. Language which requires three-day response on results of the inquiry eliminates the department's ability to access a court records which have been a tangible source of prohibitions.
5. The language of the bill describing permanent and five-year prohibitions for less severe

crimes needs further scrutiny (e.g., neither previous language nor amended proposed language correctly identifies which convictions for “attempt,” “conspiracy to commit,” or “criminal solicitation of crimes” reflect comparative levels of severity).

Language in the bill attempts to streamline the data transferred between the KBI and the department by specifying what conviction data will be provided. The department previously requested the KBI to separate the data and provide only that data which would be pertinent under the law. At the time the KBI declined to provide information in that manner, primarily because of the additional hardship it would cause, either in hand-processing or extensive modifications to the information management process. It would be critical to know if this is now feasible by the KBI. If KBI continues to send records as is current practice, there would be considerable manual processing required of the department.

Provisions in this bill require a written response on every criminal background check request received. Staff would be required, within three working days, to issue either a letter stating that no criminal history was found on the individual; issue copies of the felony criminal history on the individual; or issue a notice prohibiting employment of the individual. The impact of this additional information sharing is reflected in the fiscal note.

This mandated time-frame would jeopardize the current practice of sending letters to the courts requesting confirmation of a conviction for a prohibited offense when information received from the KBI reveals incomplete criminal history information. The information from the courts cannot be obtained in the three-day limit. There have been a number of occasions (at least 36) when an individual has had a conviction of a prohibited offense, but the conviction information had not yet been reflected in the criminal history record information.

The department supports the bill if clarification can be made on the problematic legal issues especially the access to juvenile adjudications and the department’s authority to distribute criminal history record information it receives from KBI to these employers. Thank you again for the opportunity to comment on House Bill 2154. I would gladly respond to any questions you may have.



formerly

Kansas Professional Nursing Home Administrators Association

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Testimony before
Senate Judiciary on HB 2154

Mr. Chairmen, Members of the Committee:

I am Kerrie Ruhlman, Executive Director of the Kansas Adult Care Executives (KACE). Our Association represents over 300 adult care home administrators operating nursing homes throughout Kansas. I am very pleased to appear before you today in support of HB 2154.

This bill addresses many concerns we adult care home administrators have with present procedures in determining whether an individual is legally prohibited from being employed by an adult care home. Below are the items in the bill which we favor:

1. Other Crimes. We believe that anyone guilty of attempting to commit, conspiring to commit, or criminal solicitation of any of the presently enumerated crimes should be prohibited from employment.
2. Uncertainty. Under the current statute, the Kansas Department of Health and Environment is not required to notify providers if the prospective employee is eligible for hire. This creates uncertainty for providers, because they do not know if the delay is due to prohibited findings or a clear criminal history record. Obviously, having providers receive information indicating eligibility or ineligibility would eliminate this uncertainty.
3. Time. Currently, providers may wait up to ten days or longer before being notified that a prospective employee is prohibited. We certainly believe that this places an unnecessary burden on our facilities, as they face the challenges of a tight job market. A three-business day reporting time, whether the prospective employee is eligible or ineligible for hire, will ease the problems of uncertainty and needless wait for providers.

It is our opinion that this bill solves the weaknesses inherent in K.S.A. 1999 Supp.39-970. We urge your support of this legislation.

I would be happy to answer any questions. Thank you.

Kerrie Ruhlman
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KANSAS ASSOCIATION OF HOMES AND SERVICES FOR THE AGING

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Testimony in Support of House Bill 2154

To: Senator Vratil, Chair, and Members, Senate Judiciary Committee
From: Debra Zehr
Date: March 5, 2001

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Thank you Chairman Vratil, and Members of the Committee. The Kansas Association of Homes and Services for the Aging represents 150 not-for-profit long-term care providers across the state. Our goal is to assist our members to provide high quality, cost effective services for the elderly Kansans in their care.

We ask for your support of House Bill 2154. House Bill 2154 enhances the original intent of the Legislature to protect vulnerable persons who reside in adult care homes or receive home health care, by providing employers with more complete and timely criminal history information. It is in keeping with a bill passed overwhelmingly by the 2000 Legislature, but which was vetoed by the Governor due to a technical flaw (i.e. House Bill 2700.)

House Bill 2154 would require notification of employers when a background check comes up clear, just as if they had gone through a private entity or directly through KBI. According to the Kansas Department of Health and Environment (KDHE), less than one percent of the background checks completed since July 1, 1998 revealed a prohibited crime. Under the existing system, employers only receive notification on the remaining 99% "clear" checks on a quarterly basis. Employers experience uncertainty and frustration with this lack of closure.

House Bill 2154 would assist employers in making prudent hiring decisions by providing information about felony convictions beyond those that statutorily prohibit employment. KDHE tells us that 15-20% of background checks reveal non-prohibited convictions of a non-violent nature, such as theft or forgery. Employers are not notified of these convictions under the existing system, even though they would be so informed if they requested a background check directly from the KBI or a private contractor. In some instances this is important information that has a direct bearing on the safety of vulnerable elderly and their possessions.

House Bill 2154 would expand the original prohibitive crimes to include attempt, conspiracy or criminal solicitation to commit any of the prohibitive crimes. This closes a small but critical loophole in the statute.

A helpful addition to this bill would be the creation of a registry to inform employers of any prohibitions that have already been identified on a prospective employee through a previous check. Such a provision is contained in Senate bill 104, which has been assigned to a subcommittee of the Senate Judiciary Committee.

Thank you. I would be pleased to answer any questions.

Debra Zehr
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Kansas Home Care Association • 1000 Monterey Way, E2 • Lawrence, Kansas 66049 • (785) 841-8611
Fax (785) 749-5414

To: Chairman Vratil and the Senate Judiciary Committee
From: Linda Lubensky, Executive Director, Kansas Home Care Association
Date: March 5, 2001
Re: H.B. 2154, background check law revisions

The Kansas Home Care Association certainly supports the expansion of the prohibited crimes, listed under the Kansas background check law, that are added by H.B. 2154. Indeed we would welcome the further addition of other crimes that the current law, and H.B. 2154, do not address. Crimes such as theft, forgery, burglary, criminal damage to property, etc. are not prohibited, but are offenses of particular concern in home care due to the vulnerability of our clients. We have always felt that the list was inadequate and did not give us the information we need to adequately protect the individuals we serve. For that reason, we have pressed for more complete disclosure of criminal history.

Although H.B. 2154 tries to provide that disclosure, we have concern that the inclusion of juvenile offender information will make this bill impossible to implement. It has been made very clear that state and federal laws prohibit release of juvenile information. If you agree with that premise, the only alternative, that would allow greater protection for the public, would lie in further expansion of the list of prohibited crimes. In fact, some states choose to include all felony convictions.

We have been working cooperatively with KDHE over the past year to solve many of the notification issues. Therefore, I am only concerned that the time-lines, included in this bill, do not become overly cumbersome for KDHE, nor interfere with the solutions we have discussed with them. Nor am I concerned about the removal, by the House, of references to the use of private contractors. This is not an avenue that home care providers would pursue, primarily due to the cost.

Cost is a big issue for our providers, many of whom are still struggling with cash flow problems due to the enormous cut backs in Medicare over the last three years. Recently, other proposals have arisen to extend the checks to surrounding states, or even nationally, at rates exceeding \$40 per check. Such a significant increase in fees is of huge concern. Our providers simply cannot afford such hefty fees, and we hope you will make every attempt to keep this program workable and affordable. We would even ask that you consider restricting the background check requirement, for home care, to those employees who provide services directly to the patients. Currently, we are required to do checks on clerks and other office staff who never even see the clients face-to-face. We do realize that this would not be acceptable in the adult care home arena, as housekeeper and others do have direct access to their clients. But in home care, that is not the case. In our industry, only direct service providers go to the patient's home and have access to the individual and their surroundings.

We appreciate your consideration of our comments and would be happy to provide further information, as you require.

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CBC PROGRAM OFFENSE INFORMATION

NON PROHIBITED OFFENSES	FY 99	FY 00	FY 01	TOTAL
THEFT	1722	1310	1122	4154
GIVING A WORTHLESS CHECK	1168	1021	739	2928
DRIVING WHILE UNDER THE INFLUENCE	923	732	581	2236
DRIVING WHILE LICENSE REVOKED	557	460	448	1465
BATTERY (MISDEMEANOR)	773	651	478	1902
VEHICLE OR TRAFFIC VIOLATION	753	578	437	1768
DISORDERLY CONDUCT	496	443	351	1290
FORGERY	349	316	259	924
CRIMINAL DAMAGE TO PROPERTY	260	177	155	667
OBSTRUCTION OF LEGAL PROCESS OR OFFICIAL DUTY	240	216	191	647
BURGLARY	268	140	171	579

DRUG OFFENSES	FY 99	FY 00	FY 01	TOTAL
POSSIBLE HALLUCINATION	214	103	108	425
SALE OF OPIATES	84	65	70	219
POSSESSION OF OPIATES	190	113	101	404
POSSESSION OF DEPRESSANTS/STIMULANTS/HALLUCINOGENICS/STEROIDS	198	191	115	504
POSSESSION OF SIMULATED SUBSTANCE/PARAPHERNALIA	165	110	111	386
TOTAL	851	582	505	1938

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JOHN M. SETTLE PAWNEE COUNTY ATTORNEY

PAWNEE COUNTY COURTHOUSE · LARNED, KANSAS 67550 · 316-285-2139

Testimony
Senate Judiciary Committee
March 5, 2001
SUPPORT OF S.B. 235

Chairman Vratil and Members of the Senate Judiciary Committee:

The Kansas County and District Attorney's Association (KCDA) has asked me to speak in support of S.B. 235 and explain its grass roots origins.

For background purposes, my name is Douglas McNett and I am the Assistant Pawnee County Attorney. Our office files 400 misdemeanor and felony cases each year. Additionally, we conduct several hundred Care and Treatment hearings annually in conjunction with Larned State Hospital. We are a two-attorney office, which requires each of us to handle everything from minor traffic infractions to Rape and Manufacture of Methamphetamine prosecutions.

As you are aware, the Legislature in 1996 amended the misdemeanor battery statute to include special sentencing provisions where the battery constituted a domestic battery. Since its inception, our office has supported the concept of minimum and escalating penalties for domestic violence. We, however, have found it cumbersome to track and verify previous convictions under the current law.

Accordingly, a few years ago I began inquiring other members of KCDA about whether they too were having difficulty in establishing criminal histories and whether there was any support for codifying Domestic Battery as its own statute. As I'd expected, other prosecutors were experiencing the same kinds of frustration as I, especially those with higher transient populations.

Currently, if an individual has been convicted of domestic battery in Kansas, their criminal history would show a conviction under K.S.A. 21-3412 (i.e., misdemeanor battery). Prosecutors and law enforcement must now recreate the original conviction to show it was actually Domestic Battery. While S.B. 235 does not solve some of the problems associated with establishing "prior convictions" completely, it would ease this process immensely.

Please recognize that S.B. 235 does not change the language currently associated with Kansas' Domestic Violence laws. What it does is directs the Revisor of Statutes to

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assign "Domestic Battery" its own statute number such as K.S.A. 21-34XX. The advantage of this is that all future convictions under this law would carry that statutory moniker so that a prosecutor in Riley County will be able to quickly recognize a prior Domestic Battery conviction arising from Pawnee County.

Besides the advantages this change gives to state and local prosecutors in establishing escalating penalties, we have discovered there will be an additional benefit. The change will also simplify federal firearm and military background checks. Under federal firearms' regulations, individuals with domestic violence convictions are prohibited from owning or carrying a firearm.

Society and law enforcement alike have come to recognize that domestic violence is a unique crime, distinct from other simple batteries. It is time that the Kansas Criminal Justice Code acknowledges it as such.

For the foregoing reasons, KCDAAs urges you to codify Domestic Battery as its own statute.

Thank you for your time and consideration on this matter.

Douglas W. McNett
Assistant Pawnee County Attorney

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Senator Oleen's Judiciary Subcommittee
January 29, February 13, 2001

1. SB 14 amends the state law dealing with mediation.

Conferees: Senator John Vratil submitted a list of concerns (Attachment 1); Larry Rute, Kansas Legal Services (Attachment 2); Art Thompson, Dispute Resolution Coordinator, Office of Judicial Administration (Attachments 4,5, 6 and 7); Katherine Kirk, Lawrence attorney (Attachment 8), Terry Leatherman, Kansas Chamber of Commerce and Industry, and Wayne Maichel, Kansas AFL-CIO. See Attachment 7 for suggested amendments.

Subcommittee Action: The Subcommittee recommended SB 14 be amended as suggested in Attachment 7 and be reported favorably by the full Judiciary Committee.

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MEMORANDUM

SB 1
Attachment I

TO: Senator Lana Oleen

FROM: Senator John L. Vratil



DATE: January 29, 2001

SUBJECT: Mediation

It is my understanding that you have agreed to chair a sub-committee to conduct hearings on and make recommendations concerning SB 14, a bill concerning mediation; relating to disputes which may be ordered to mediation, and relating to certain costs of mediation. I have several thoughts and suggestions concerning that bill.

I will appreciate your sub-committee considering the following:

1. The sentence which appears on page 1, lines 16 and 17, should be re-written to clearly indicate that cases may be accepted for mediation without requiring an order from a judge. In other words, it should be clear that a judge may order mediation or parties may voluntarily agree to mediation.
2. I question whether we need a laundry list of disputes which may be submitted to mediation. That laundry list is reflected on page 1, lines 18 through 37. It might be more efficient to indicate that any civil or criminal claim or dispute may be submitted to mediation.
3. On page 2, lines 6 and 7, you might consider changing that sentence to indicate that mediation "shall" be conducted in accordance with the established standards and guidelines.
4. On page 2, lines 14 through 17, there is a sub-paragraph concerning payment of reasonable attorney's fees. I think that section should be re-written to clearly indicate that the attorney fees in question are those incurred in connection with and directly related to the proposed mediation.

Thank you for your willingness to serve on this sub-committee. If you have any questions or if I may be of any assistance, please give me a call.

JLV:jb

Attach ~~1~~
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**TESTIMONY OF LARRY R. RUTE
KANSAS LEGAL SERVICES, INC.
(785) 233-2068**

**SENATE JUDICIARY SUBCOMMITTEE
On Senate Bill No. 14**

Sen. Lana Oleen, Chair

**Tuesday, February 6, 2001
Room 531-N**

I would like to thank the Chair and members of the Committee for the opportunity to appear before you today. My name is Larry Rute. I am the General Counsel for Kansas Legal Services, Inc. (KLS) and Coordinator for Midland Mediation and Settlement Services. As you may be aware, KLS is a private, non-profit corporation dedicated to providing free or low-cost legal services to low- and moderate-income Kansans. Last year our attorneys and support staff, located in thirteen legal services field offices, provided legal advice/representation to more than 31,000 Kansans in all 105 counties.

In 1995 KLS established Midland Mediation and Settlement Services (Midland), providing mediation, arbitration and other alternative dispute resolution services to Kansans at all economic levels. Midland serves as the sole private contractor providing voluntary mediation services in behalf of the Kansas Human Rights Commission. We provide significant court referred family law mediation services in behalf of the Kansas Supreme Court's "Access to Justice" mediation program.

Midland has served as the Program Administrator for the Equal Employment Opportunity Commission's voluntary mediation program in both Kansas and Western Missouri. Our mediators serve as members of the Early Assessment panel of the Western District of Missouri federal court, U. S. Postal Service "Redress" mediators and mediators and hearing officers for the Kansas Department of Education. We have three full-time mediators and twelve part-time mediators providing mediation services throughout the state of Kansas and in portions of Western Missouri. We are proud of our approval by the Office of Judicial Administration as a statewide mediation center.

Kansas Legal Services believes that Senate Bill No. 14 and its proposed amendments are vitally important to enhance the availability of mediation to Kansas citizens. Alternative dispute resolution, particularly mediation, is emerging as an increasingly accepted method by which courts and administrative bodies develop flexible methods of resolving disputes and settling cases. Mediation techniques can be tailored to facilitate problem solving in a wide variety of settings.

It appears that Senate Bill No. 14 and its proposed amendments have several important goals including:

1. Clarifying the ability of the trial court to order a variety of matters to mediation;
2. Developing a format by which mediation conducted within state government meets the requirements of the Dispute Resolution Act;
3. Requiring the conduct of mediation under established standards and guidelines;
4. More clearly defining penalties if mediation is conducted in bad faith; and
5. Elimination of certain mediator fee restrictions.

We understand that this Committee is also interested in examining an improved statewide mediation referral model. We also understand that the Committee may be examining expanded funding availability for mediation programs.

The Office of Judicial Administration has developed excellent mediation requirements, mediator and mediator training qualifications and ethical standards for mediators by Supreme Court rule. We believe that these standards should apply both to mediation matters referred by the courts and conducted by state government. We propose the amendments found in Attachment No. 1.

We further recommend the following amendments to Senate Bill No. 14:

On Page 2, lines 6 and 7 indicate that mediation "shall" be conducted in accordance with the established standards and guidelines.

On Page 2, lines 14 through 17, add a sentence to clearly indicate that the attorney's fees referred to in this section are those fees incurred in connection with and directly related to the mediation.

On Page 2, lines 26 through 28, eliminate the current requirement that mediation conducted by the Secretary of Human Resources be restricted to \$50.00 per day for each mediation.

We strongly believe that steps should be taken by the Legislature to enhance the availability of mediation and assist individual Kansas citizens in obtaining greater access to all forms of alternative dispute resolution. I have seen from personal experience that providing greater access to mediation for low-income Kansans, particularly when dealing with child custody and parenting time questions, does much to relieve the burden of the courts and to provide greater cooperation by parents in mutually arriving, at and complying with, child custody and parenting time agreements.

While we have made an important first step to improve access by low-income families and children to mediation through the Kansas Supreme Court's Access to Justice program, we must go much further to meet the needs of all low-income Kansas children. Last spring the Legislature amended several family law related statutes specifically authorizing mediation of residency, visitation, parenting time, division of property and other issues. As a result has become increasingly necessary develop a statewide referral system to refer family law matters to qualified domestic mediators.

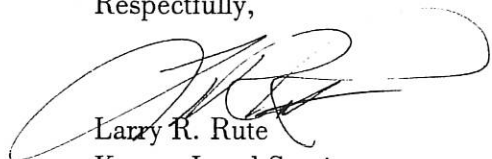
We propose that the Kansas Legislature provide funding through tobacco funds or some similar funding source to establish a single referral source, on pilot project basis, to serve as a "one stop" provider to judges, family law attorneys and the general public. An acceptable "one stop" provider may be the office of the Director of Alternative Dispute Resolution (OJA), an executive agency or one of the private statewide mediation centers, such as Kansas Legal Services. In addition, funding needs to be made available to fund additional projects to mediate matters in the following categories:

1. Child custody/parenting time;
2. Child support enforcement paternity proceedings; and
3. Juvenile court permanency planning.

We also believe that state administrative agencies should develop systems by which certain matters, particularly employment discrimination complaints, can be mediated before they are filed with enforcement agencies such as the Kansas Human Rights Commission or Equal Employment Opportunity Commission or in state and federal court. Mediations can be referred to experienced providers through a "one stop" service provider indicated above.

In conclusion, we believe that alternative dispute resolution systems, particularly mediation, provide a unique opportunity to empower individual citizens to participate in the resolution of very difficult family, public policy and employment issues. We hope to continue to participate in the improvement of alternative dispute resolution systems in the months and years to come.

Respectfully,



Larry R. Rute
Kansas Legal Services
(785) 233-2068

ATTACHMENT #1

5-501. Citation of act; application. (a) K.S.A. 1998 Supp. 5-501 through 5-516, and amendments thereto, shall be known and may be cited as the dispute resolution act.

(b) The dispute resolution act shall apply to registered and approved programs and individuals, and personnel thereof, to parties to dispute resolution being conducted by registered programs and individuals, and to disputes referred by a court or by state government to dispute resolution other than litigation. The dispute resolution act shall not apply to any judge acting in an official capacity.

5-509. Same; cases accepted. ~~(a) The following types of cases may be accepted for dispute resolution by an approved program or individual:~~

(a) Upon finding that alternatives to litigation may provide a more appropriate means to resolve the issues in a case and that the cost of the dispute resolution process are commensurate with the amount at controversy in the case and the parties' ability to pay the cost, a judge may order the parties to the case to participate in a judicial settlement conference or a non-binding dispute resolution process conducted by an approved program or individual.

~~— (1) Civil claims and disputes, including, but not limited to, consumer and commercial complaints, disputes involving allegations of shoplifting, disputes between neighbors, disputes between business associates, disputes between landlords and tenants, disputes involving matters under the small claims procedure act, farmer-lender disputes, and disputes within communities;~~

~~— (2) disputes concerning child custody and visitation rights and other areas of domestic relations;~~

~~— (3) juvenile offenses and disputes involving juveniles;~~

~~— (4) disputes between victims and offenders, in which the victims voluntarily agree to participate in mediation;~~

~~— (5) disputes involving allegations of unlawful discrimination under state or federal laws;~~

~~— (6) disputes referred by county attorneys or district attorneys;~~

~~— (7) disputes involving employer and employee relations under K.S.A. 72-5413 through 72-5432, and amendments thereto, or K.S.A. 75-4321 through 75-4337, and amendments thereto; and~~

~~— (8) disputes referred by a court, an attorney, a law enforcement officer, a social service agency, a school or any other interested person or agency, including the request of the parties involved.~~

(b) ~~A case may be referred prior to the commencement of formal judicial proceedings or may be referred as a pending court case.~~ If a court refers a case, information shall be provided to the court as to whether an agreement was reached and, if available, a copy of the signed agreement shall be provided to the court.

(c) Before the dispute resolution process begins, the neutral person conducting the process shall provide the parties with a written statement setting forth the procedures to be followed.

Attached + 3



State of Kansas
Office of Judicial Administration
Kansas Judicial Center
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Topeka, Kansas 66612-1507

(785) 291-3748
thompsona@kscourts.org

February 6, 2001

To: Senate Judiciary Subcommittee on Dispute Resolution
From: Art Thompson, Dispute Resolution Coordinator
Subject: SB 14

There are three changes I would propose to SB 14. The first would replace most of current K.S.A. 5-509 with a shorter statement which will accomplish two objectives:

1. take out specific references to types of cases, and
2. put in more appropriate language which allows judges to order dispute resolution when appropriate.

The second change is to replace the proposed language in Sec. 2 K.S.A. Supp. 5-516 with a proposed change in K.S.A. 5-501. The original language had the objective of requiring state government required dispute resolutions to meet specific standards and guidelines. The change in 5-501 simply includes state government as one of the entities which have to meet the same requirements as courts and approved programs currently are required to meet.

The third change concerns New Sec. 3. (b) and adds the language as to what reasonable attorney fees can be collected to be those "which are directly related to the proposed mediation" to a dispute.

SENATE BILL No. 14

By Special Committee on Federal and State Affairs

1-5

AN ACT concerning mediation; relating to disputes which may be ordered to mediation; relating to certain costs of mediation; amending K.S.A. 44-817 and K.S.A. 2000 Supp. 5-509 and 5-516 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2000 Supp. 5-509 is hereby amended to read as follows: 5-509. (a) The following types of cases may be ordered by a judge and accepted for dispute resolution by an approved program or individual:

(1) Civil claims and disputes, including, but not limited to, consumer and commercial complaints, disputes involving allegations of shoplifting, disputes between neighbors, disputes between business associates, disputes between landlords and tenants, disputes involving matters under the small claims procedure act, farmer-lender disputes, and disputes within communities;

(2) disputes concerning child custody, residency, visitation rights, parenting time and other areas of domestic relations;

(3) juvenile offenses and disputes involving juveniles;

(4) disputes between victims and offenders, in which the victims voluntarily agree to participate in mediation;

(5) disputes involving allegations of unlawful discrimination under state or federal laws;

(6) disputes referred by county attorneys or district attorneys;

(7) disputes involving employer and employee relations under K.S.A. 72-5413 through 72-5432, and amendments thereto, or K.S.A. 75-4321 through 75-4337, and amendments thereto; and

(8) disputes referred by a court, an attorney, a law enforcement officer, a social service agency, a school or any other interested person or agency, including the request of the parties involved.

(b) A case may be referred prior to the commencement of formal judicial proceedings or may be referred as a pending court case. If a court refers a case, information shall be provided to the court as to whether an agreement was reached and, if available, a copy of the signed agreement shall be provided to the court.

(c) Before the dispute resolution process begins, the neutral person

5-509. Same; cases accepted; following types of cases may be accepted for dispute resolution by an approved program or individual: (a) Upon finding that alternatives to litigation may provide a more appropriate means to resolve the issues in a case and that the cost of the dispute resolution process are commensurate with the amount at controversy in the case and the parties' ability to pay the cost, a judge may order the parties to the case to participate in a judicial settlement conference or a non-binding dispute resolution process conducted by an approved program or individual.

~~(1) Civil claims and disputes, including, but not limited to, consumer and commercial complaints, disputes involving allegations of shoplifting, disputes between neighbors, disputes between business associates, disputes between landlords and tenants, disputes involving matters under the small claims procedure act, farmer-lender disputes, and disputes within communities;~~

~~(2) disputes concerning child custody and visitation rights and other areas of domestic relations;~~

~~(3) juvenile offenses and disputes involving juveniles;~~

~~(4) disputes between victims and offenders, in which the victims voluntarily agree to participate in mediation;~~

~~(5) disputes involving allegations of unlawful discrimination under state or federal laws;~~

~~(6) disputes referred by county attorneys or district attorneys;~~

~~(7) disputes involving employer and employee relations under K.S.A. 72-5413 through 72-5432, and amendments thereto, or K.S.A. 75-4321 through 75-4337, and amendments thereto; and~~

~~(8) disputes referred by a court, an attorney, a law enforcement officer, a social service agency, a school or any other interested person or agency, including the request of the parties involved~~

(b) A case may be referred prior to the commencement of formal judicial proceedings or may be referred as a pending court case. If a court refers a case, information shall be provided to the court as to whether an agreement was reached and, available, a copy of the signed agreement shall be provided to the court.

(c) Before the dispute resolution process begins, the neutral person conducting the process shall provide the parties with a written statement setting forth the procedures to be followed.

1 conducting the process shall provide the parties with a written statement
2 setting forth the procedures to be followed.

3 Sec. 2. K.S.A. 2000 Supp. 5-516 is hereby amended to read as fol-
4 lows: 5-516. The supreme court, upon recommendation by the director
5 in consultation with the council, shall adopt rules:

6 (a) *Establishing standards and guidelines by which mediation should*
7 *be conducted;*

8 (b) for the administration of the dispute resolution act ~~and to;~~ and

9 (c) ~~prescribe prescribing~~ ethics requirements and standards for ap-
10 proved programs and individuals.

11 New Sec. 3. (a) The deliberate and intentional avoidance of media-
12 tion ordered pursuant to K.S.A. 5-509, and amendments thereto, shall
13 constitute evidence of bad faith.

14 (b) Upon a finding that a party to a dispute has acted in bad faith by
15 deliberately and intentionally avoiding mediation, the court may order
16 such party to pay the reasonable attorney fees of the other party or parties
17 to a dispute.

18 Sec. 4. K.S.A. 44-817 is hereby amended to read as follows: 44-817.

19 (a) The secretary of human resources shall have power to appoint any
20 competent, impartial, disinterested person to act as mediator in any labor
21 dispute either upon the secretary's own initiative or upon the request of
22 one of the parties to the dispute. It shall be the function of such mediator
23 to bring the parties together voluntarily under such favorable auspices as
24 will tend to effectuate settlement of the dispute, but neither the mediator
25 nor the secretary of human resources shall have any power of compulsion
26 in mediation proceedings. The secretary of human resources shall ~~provide~~
27 ~~necessary expenses for such mediators as may be appointed, under rea-~~
28 ~~sonable compensation not exceeding \$50 per day for each such mediator,~~
29 ~~and~~ prescribe reasonable rules of procedure for such mediators. *The cost*
30 *for such mediation services shall be borne by the secretary.*

1 (b) All verbal or written information transmitted between any party
2 to a dispute and a mediator conducting the proceeding, or the staff of an
3 approved program under K.S.A. 5-501 *et seq.* and amendments thereto
4 shall be confidential communications. No admission, representation or
5 statement made in the proceeding shall be admissible as evidence or
6 subject to discovery. A mediator shall not be subject to process requiring
7 the disclosure of any matter discussed during the proceedings unless all
8 the parties consent to a waiver. Any party, including the neutral person
9 or staff of an approved program conducting the proceeding, participating
0 in the proceeding has a privilege in any action to refuse to disclose, and
1 to prevent a witness from disclosing, any communication made in the
2 course of the proceeding. The privilege may be claimed by the party or
3 anyone the party authorizes to claim the privilege.

5-501. Citation of act; application. (a) K.S.A. 1998 Supp. 5-501 through 5-516, and amendments thereto, shall be known and may be cited as the dispute resolution act.

(b) The dispute resolution act shall apply to registered and approved programs and individuals, and personnel thereof, to parties to dispute resolution being conducted by registered programs and individuals, and to disputes referred by a court or by state government to dispute resolution other than litigation. The dispute resolution act shall not apply to any judge acting in an official capacity.

New Sec. 3. (b) Upon a finding that a party to a dispute has acted in bad faith by deliberately and intentionally avoiding mediation, the court may order such party to pay the reasonable attorney fees of the other party or parties *which are directly related to the proposed mediation* to a dispute.

1 The confidentiality and privilege requirements of this section shall
2 not apply to:

3 (1) Information that is reasonably necessary to establish a defense for
4 the mediator or staff of an approved program conducting the proceeding
5 in the case of an action against the mediator or staff of an approved
6 program that is filed by a party to the mediation;

7 (2) any information that the mediator is required to report under
8 K.S.A. 38-1522 and amendments thereto;

9 (3) any information that is reasonably necessary to stop the commis-
10 sion of an ongoing crime or fraud or to prevent the commission of a crime
11 or fraud in the future for which there was an expressed intent to commit
12 such crime or fraud; or

13 (4) any information that the mediator is required to report or com-
14 municate under the specific provisions of any statute or in order to comply
15 with orders of the court.

16 Sec. 5. K.S.A. 44-817 and K.S.A. 2000 Supp. 5-509 and 5-516 are
17 hereby repealed.

18 Sec. 6. This act shall take effect and be in force from and after its
19 publication in the statute book.

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Senate Judiciary Subcommittee
Dispute Resolution
February 6, 2001

Art Thompson
Office of Judicial Administration
Dispute Resolution Coordinator

Where should a state government mediation administrative body be located?

- There are a number of states which use mediation to resolve disputes; both internal and external. The administrative function is housed in a number of locations. The highest number are in courts but that is primarily because mediation was first used by the courts. A number have this function located in their centralized hearing officer department. Some are in state universities, others are in a separate stand alone department, several are private contracts and one in a governor's office.
- Attachment 1 lists the comprehensive statewide systems.
- Attachment 2 lists the agencies which have a more coordination function.
- Attachment 3 is a list of the individual administrative governmental organizations.
- Attachment 4 is a list of the administrative law judge agencies which have a dispute resolution function.

What functions could an administrative body provide?

The main functions a dispute resolution administrative body could provide are:

- provide mediators (or other dispute resolution providers) for a particular dispute,
- provide evaluations of the providers to insure that they comply with state guidelines,
- provide or contract for the training of the service providers, and
- keep records and report to the Legislature.

One important function which has been found successful in the use of mediation in Kansas courts is to place the right mediator with a particular dispute. The more complicated or sensitive the dispute may be, the more important it is to find the right mediator, facilitator or other provider. A good referral system will allow for this.

What is the best type of service provision system for state government?

Once again, each state has developed systems which work best for their particular dynamics. Certainly budget is one important factor. The Federal Government has made a major commitment to the use of dispute resolution and mediation in particular. They have decided to use outside mediators to insure confidentiality and neutrality. Most states do not have the budget to afford using all outside providers. Many use internal mediators for most of their disputes and outside mediators for the more sensitive disputes. The three basic models are:

- each agency uses internal mediators for their disputes,
- agencies share mediators to better insure confidentiality and neutrality, or
- outside mediators.

ATTACHMENT 1:

ARKANSAS

Arkansas ADR Commission

Jennifer Jones Taylor
Justice Building, 625 Marshall St.
Little Rock, AR 72201-1020
(501) 682-9400 ext. 1332
(501) 682-9410 fax

jennifer.jones-taylor@mail.state.ar.us

Provides expertise on mediation systems to all branches of government. Provides no direct mediation services.

MARYLAND

Mediation And Conflict Resolution Office for the State of Maryland (MACRO)

Rachel Wohl, Executive Director
113 Towsontown Blvd., Suite C
Towson, MD 21286
(410) 321-2398
(410) 321-2399 fax

rachel.wohl@courts.state.md.us

Advances appropriate alternatives to litigation and alternatives to violence throughout Maryland's courts, neighborhoods, businesses, schools, government agencies, criminal and juvenile justice programs and businesses. Created in 1998 by the Chief Judge of Maryland's highest appellate court, this Forty-member Commission includes judges, public officials, legislators, lawyers, ADR practitioners, community members, business representatives, educators and others. The Commission developed and is now implementing a practical action plan entitled Join The Resolution.

MASSACHUSETTS

Office of Dispute Resolution

Susan Jeghelian, Executive Director
One Ashburton Place, Room 501
Boston, MA 02108
(617) 727-2224-ext. 21174
(617) 727-6495 fax

susan.jeghelian@state.ma.us

Provides a variety of ADR services to all branches of state government and municipalities.

MINNESOTA

Division of Alternative Dispute Resolution

Barbara Blackstone, Director

340 Centennial Office Building
St. Paul, MN 55155
(651) 296-2633
(651) 282-6396 fax
mnodr@gte.net

Promotes the use of ADR, especially within state agencies. Administers mediation programs for special education, human rights and vocational rehabilitation and a workplace mediation program for executive branch agencies and employees. A division of the Bureau of Mediation Services.

MONTANA

Montana Consensus Council
Office of the Governor
Matthew McKinney, Director
State Capitol Building
Helena, MT 59620
(406) 444-2075
(406)444-5529 fax
mmckinney@state.mt.us

Provides consensus building, training and education, research and publications for state and local government.

NEW JERSEY

Office of Dispute Settlement
Contact -- Fran Snyder
25 Market St.
P.O. Box 850
Trenton, NJ 08625
(609) 292-7686
(609) 292-6292 fax
snyder_f@opd.state.nj.us

Provides mediation and other neutral DR services to the public and private sectors.

OHIO

Ohio Commission on Dispute Resolution and Conflict Management
Maria Mone, Director
77 South High Street, 24th Floor
Columbus, OH 43266-0124
(614) 752-9595
(614) 752-9682 fax
mmone@cdr.state.oh.us
www.state.oh.us/cdr

Established in 1989, the Commission provides Ohioans with constructive, nonviolent

forums, processes, and techniques for resolving disputes. Focused on four program areas - educational institutions, state and local government, courts, and communities - the Commission works to positively affect the lives of all Ohio citizens by providing dispute resolution and conflict management training, consultation and technical assistance in designing dispute resolution programs, and facilitation and mediation services.

OREGON

Oregon Dispute Resolution Commission

Susan Brody, Executive Director

1201 Court Street NE, Suite 305

Salem, OR 97310

(503) 378-2877 x22

(503) 373-0794 fax

susan.e.brody@state.or.us

www.odrc.state.or.us

Provides broad services statewide including community-based mediation, state agency ADR, court-related mediation, training and ADR rulemaking, intergovernmental collaborative problem solving processes & public policy DR.

ATTACHMENT 2

ALABAMA

Alabama Department of Industrial Relations, Human Resources

State Personnel Directories ADR Committee

Harris L. Cornett

649 Monroe St. Room 2440

Montgomery, AL 36131

(334) 242-8613

Responsible for development and implementation of employee DR programs in Alabama Agencies.

Governor's Task Force on State Agency ADR

Judith Keegan, Director

415 Dexter Avenue

P.O. Box 671

Montgomery, AL 36101

(334) 269-1515-ext. 111

(334) 261-6310 fax

jkeegan@alabar.org

Established by Executive Order to develop programs for information, education, training, coordination and implementation for agency administrative processes.

CALIFORNIA

California Dispute Resolution Council

Robert Barrett

760 Market St., Suite 516

San Francisco, CA 94102-2406

(866) 285-6500 (toll free)

(866) 285-6600 (toll free fax)

www.cdrc.net

Services the DR field in Sacramento and other policy-making arenas. Provides informed opinions on proposed legislation and develops principles and standards that shape DR policy in the state of California.

COLORADO

Colorado Bar Association

ADR Forum Committee, ADR Government Subcommittee

Merrill Shields, Chair

1410 High Street

Denver, CO 80218

(303) 436-1930

(303) 322-2288 fax

merrillshie@aol.com

The ADR in Government subcommittee is focused on increasing the use of ADR, primarily mediation, in state government both internally and externally.

NEW MEXICO

The New Mexico ADR Advisory Council

Contact -- Robert Horwitz - New Mexico Environment Department, Administrative Services Division

1190 St. Francis Dr.

P.O. Box 26110

Santa Fe, NM 87505

(505) 476-3728

(505) 827-2413 fax

Contact -- Doug Bland - Department of Energy, Minerals and Natural Resources

2040 S. Pacheco

Santa Fe, NM 87505

(505) 827-5970

Established by Executive Order, the Council is made up of the head of each executive agency or their appointee and is responsible for insuring that agencies carry out the order to implement ADR.

OREGON

Oregon Dispute Resolution Steering Committee

Governor's Office

Greg Wolf, Chair

160 State Capitol

Salem, OR 97310

(503) 378-6548

greg.wolf@state.or.us

The Steering Committee, created by Executive Order, provides overall policy coordination for the use of collaborative processes in state government.

Attachment 3

INDIVIDUAL ADMINISTRATIVE AGENCIES

ALABAMA

Alabama Department of Industrial Relations, Human Resources

State Personnel Directories ADR Committee

Harris L. Cornett

649 Monroe St. Room 2440

Montgomery, AL 36131

(334) 242-8613

Responsible for development and implementation of employee DR programs in Alabama Agencies.

ALASKA

Alaska State Commission for Human Rights

Paula Haley, Executive Director

800 A Street, Suite 204

Anchorage, AK 99501-3669

(907) 276-3177 TTY/TDD

(907) 278-8588 fax

www.gov.state.ak.us/aschr.htm

The Commission investigates discrimination complaints involving employment, housing, finances, public accommodations and practices by the state and its political subdivisions. The Commission also offers free, voluntary mediation to parties involved in these complaints as an alternative to investigation. In addition, telephone mediation is available if the parties are willing to pay the cost of the telephone call.

ARIZONA

Department of Transportation Partnering Section

Ginger Murdough

206 S. 17th Ave., Room 192

Maildrop 175-A

Phoenix, AZ 85007

(602) 712-7120

Gmurdough@dot.state.az.us

The Partnering Office provides resources for workshop facilitation, facilitated problem solving, and mediation through contracted services. Project team feedback is provided through software titled "Partnering Evaluation Program (PEP)."

ARKANSAS

Department of Finance and Administration

Arkansas Inter-Agency Mediation Pilot Program

Don Lukas, Office of Personnel Management

P.O. Box 3278

Little Rock, AR 72203

(501) 682-2252

(501) 682-5335 fax

don.lukas@dfa.state.ar.us

Provides option to mediate to state employees filing an employment grievance. At present at least eight state agencies participate in the pilot program. If the governor signs an executive order, the program will become a permanent part of the grievance process for state employees.

CALIFORNIA

California Department of Consumer Affairs

Albert Balingit, Coordinator and Staff Attorney

400 R Street, Suite 3090

Sacramento, CA 95818-1368

(916) 322-5254

(916) 324-1368 fax

DCA@dca.ca.gov

www.dca.ca.gov/complainthelp/

Oversees the State Dispute Resolution Programs Act.

COLORADO

Colorado State Employees Mediation Program

Brad Mallon, State Workforce Development Administrator

1313 Sherman St., Room 115

Denver, CO 80203

(303) 866-4265

(303) 866-2334 fax

brad.mallon@state.co.us

Provides volunteer mediators for workplace disputes as well as training for mediators, both from within and outside state government. People who go through this training program are eligible to mediate employee disputes within Colorado state government.

HAWAII

Department of Commerce and Consumer Affairs

Medical Claims Conciliation Panel

Rod Miley

250 South King St.

Honolulu, HI 96813

(808) 586-2823

INDIANA

Department of Environmental Management

Office of Legal Counsel

Catherine Gibbs, Esq.

P.O. Box 6015

Indianapolis, IN 46206-6015

cgibbs@DEM.state.in.us

IOWA

Department of Inspections and Appeals

Kim Schmett, Director

Lucas State Office Building

Des Moines, IA 50319

(515) 281-5457

(515) 281-7289 fax

KANSAS

Office of the State Long-Term Care Ombudsman

Matthew Hickam, State Long-Term Care Ombudsman

610 SW 10th Street, 2nd floor

Topeka, KS 66612-1616

(785) 296-3017

1877-662-8362

(785) 296-3916 fax

ltco@state.ku.us

da.state.ks.us/care

Investigate, resolve complaints, and mediate disputes for residents of long-term care facilities.

KENTUCKY

The Kentucky Personnel Cabinet

Division of Communication & Recognition

Tina Johnson, Director

200 Fair Oaks Lane, Suite 511

Frankfort, KY 40601

(502) 564-3433

tina.johnson@mail.state.ky.us

Kentucky Natural Resources Environmental Protection Cabinet

Alan Wagers, Chief Hearing Officer

Office of Administrative Hearings

35-36 Fountain Pl.

Frankfort, KY 40601

(502) 564-7312

(502) 564-4973 fax

alan.wagers@mail.state.ky.us

www.nr.state.ky.us/nrecp/hearings/home.htm

Responsible for administrative, adjudicatory hearings upon the filing of a petition or complaint, and to recommend to the Secretary the final action that should be taken. Mediation is offered as a non-binding, voluntary and confidential process for surface mining and environmental issues.

MAINE

Bureau of Land and Water Quality Division of Watershed Management

Donald T. Witherill, Director

Station #17

State House

Augusta, ME 04333

(207) 287-7725

don.witherill@state.me.us

MINNESOTA

Department of Corrections Community and Juvenile Services

Kay Pranis, Restorative Justice Planner

1450 Energy Park Drive, Suite 200

St. Paul, MN 55108

(651) 642-0329

(651) 642-0457 fax

kpranis@co.doc.state.mn.us

Provides training and some grants for restorative justice projects.

NEW JERSEY

Department of Environmental Protection Office of Dispute Resolution

Richard J. McManus, Special Assistant

P.O. Box 402

Trenton, NJ 08625-0402

(609) 292-1997

(609) 984-0583 fax

Cases involving the department's enforcement or permitting actions which have been, or could be, referred to the Office of Administrative Law for hearing, are mediated.

Department of Law and Public Safety Alternative Dispute Resolution Unit

Yakov M. Dombroff, Director

P.O. Box 45023

Newark, NJ 07101

(973) 504-6100

Provides mediation for various types of consumer affairs cases; selection of cases decided upon solely by the referring agency.

NEW MEXICO

State of New Mexico Environment Department

Administrative Services Division

Robert Horwitz, Director

1190 St. Francis Drive

P.O. Box 26110
Santa Fe, NM 87505
(505) 476-3728
(505) 827-2413 fax
bob_horwitz@nmenv.state.nm.us

NEW YORK

State of New York Public Service Commission
Department of Public Service
Judith A. Lee, Chief Administrative Law Judge
Three Empire State Plaza
Albany, NY 12223-1350
(518) 474-4520
judith_lee@dps.state.ny.us
www.dps.state.ny.us/directory.htm

Department of Environmental Conservation
Daniel E. Louis, Chief Administrative Law Judge
Office of Hearings and Mediation Services
50 Wolf Road
Albany, NY 12233-1550
(518) 457-3468
delouis@gw.dec.state.ny.us

OHIO

Ohio Board of Tax Appeals
Tom Wang
Rhodes Office Tower 24th Floor
30 East Broad Street
Columbus, OH 43266-0422
(614) 466-6700
(614) 644-5196 fax
www.state.oh.us/bta/

Ohio Civil Rights Commission
Mediation of Civil Rights Complaints
111 E. Broad St. Suite #301
Columbus, OH 43205-1370
(614) 466-2785

Ohio School Facilities Commission
Construction Contract Partnering
Crystal Canan
88 E. Broad St. Suite 1400
Columbus, OH 43215
(614) 466-6290

Ohio Department of Mental Health
Mental Health Complaints Mediation
Ellen Deacon
30 E. Broad St. 8th Floor
Columbus, OH 43266
(614) 466-2333

Public Utilities Commission of Ohio
Utility (Certain Electric Service) Complaints Mediation and Arbitration
Russ Gooden
180 E. Broad St. 12th Floor
Columbus, OH 43215
(614) 466-0114
(614) 728-8373 fax
www.puc.state.oh.us

OKLAHOMA

Oklahoma Department Of Corrections
Post Conviction Mediation Program
Michael T. Oakley, Assistant General Counsel
3400 Martin Luther King Ave.
Oklahoma City, OK 73136
(405) 425-2666
Statewide in-house program for victims and offenders.

Oklahoma Department Of Corrections
Workplace Conflict Management Group
Samuel Terry, Mediation Program Manager
3400 Martin Luther King Ave.
Oklahoma City, OK 73136-0400
(405) 425-2583
Statewide in-house program for Department of Corrections employees.

Oklahoma Corporation Commission
Gas Gathering Alternative Dispute Resolution Program
Larry Fiddler, Manager Of Technical Services
P.O. Box 52000-2000
Oklahoma City, OK 73152-2000
(405) 521-2489
Statewide mediation services for disputes between producers and gatherers of natural gas during contract negotiations.

Oklahoma Merit Protection Commission
Melanie Cherry
310 North E. 28th St.

Oklahoma City, OK 73105

(405) 525-9144

(405) 528-6245 fax

Statewide services limited to state government employers and employees.

Department Of Human Services Employee Mediation Program

Personnel Resources Division, Employee Relations Unit

Clarese Amadi, Mediation Program Manager

P.O. Box 25352

Oklahoma City, OK 73125

(405) 557-6671

Statewide in-house program for Department Of Human Services Employees.

OREGON

General Government Cluster«Oregon Department of Administrative Services

Susan Marshall, Public Policy Dispute Resolution Coordinator

1225 Ferry St. SE

Salem, OR 97310

(503) 378-5469

(503)373-7337 fax

Natural Resources Cluster«Oregon Department of Land Conservation and Development

Dale Blanton, Public Policy Dispute Resolution Coordinator

635 Capitol Street NE, Suite 150

Salem, OR 97310

(503) 373-0050 ext. 246

(503) 378-5518 fax

dale.blanton@state.or.us

Human Services Cluster«Oregon Department of Human Resources

Karen Hartley, Public Policy Dispute Resolution Coordinator

500 Summer St. NE

Salem, OR 97310-101

(800) 442-5238

(503) 378-6532 fax

karen.hartley@state.or.us

Community Development Cluster«Oregon Department of Transportation

Carolyn Berry, Public Policy Dispute Resolution Coordinator

355 Capitol St. NE Rm. #135

Salem, OR 97310

(503) 986-3438

(503) 986-3432 fax

carolyn.r.berry@odot.state.or.us

PENNSYLVANIA

Department of Corrections

Victim Offender Mediation Program

Commonwealth of Pennsylvania

Jeffery A. Beard, Executive Deputy Secretary

2520 Lisburn Road

P.O. Box 598

Camp Hill, PA 17001-0598

(717) 975-4868

(717) 787-0132

Pennsylvania Department of Environmental Protection

Training and ADR Services Division

Bureau of Personnel

Cheryl Peoples, Manager

400 Market Street, 2nd Floor RCSOB

P.O. Box 2357

Harrisburg, PA 17105-2357

717-783-5787

cpeoples@state.pa.us

Facilitates meetings and mediates disputes that the Department of Environmental Protection (DEP) has with other companies or groups. DEP promotes public participation to proactively build consensus and resolve disputes in ways that are alternatives to litigation.

Pennsylvania Department of Labor and Industry

Bureau of Mediation

Brian Abela

419 Labor and Industry Building

Harrisburg, PA 17120

(717) 787-2803

(717) 705-6329 fax

babela@state.pa.us

Provides free mediation service to employers and employees in Pennsylvania.

Pennsylvania Public Utility Commission

Office of Administrative Law Judge

Herb Nurick, Mediation Coordinator

P.O. Box 3265

Harrisburg, PA 17105-3265

717-783-5428

717-787-0481 fax

nurick@puc.state.pa.us

The Commission's mediation policy accords all utilities, under the jurisdiction of the PUC, and their customers, the opportunity to mediate disputes. The Office of Administrative Law Judge manages the mediation program, which allows parties to

request mediation prior to or during a proceeding.

SOUTH CAROLINA

State Employee Grievance Procedure

Office of Human Resources

Sam Wilkins, Assistant Director/Legal Counsel

1201 Main St. Ste. 1000

Columbia, SC 29201

(803) 737-0900

Mediation and Arbitration of state employment disputes under the State Employee Grievance Procedure Act (mandatory).

South Carolina Statewide Mediators Pool

Office of Human Resources

Sam Wilkins, Assistant Director/Legal Counsel

1201 Main St., Suite 1000

Columbia, SC 29201

(803) 737-0900

Mediation of state employment disputes (voluntary).

TEXAS

Natural Resources Conservation Commission

Alternative Dispute Resolution Office

Carl Forrester, Director

P.O. Box 13087

Austin, TX 78759

(512) 239-4010

(512) 239-4015 fax

cforrest@tnrcc.state.tx.us

Commission uses ADR wherever possible to save time and money for the parties and for the state, and to strive for "win-win" resolutions in agency disputes (mostly contested cases). ADR (most often mediation) is used primarily in permitting and licensing cases, water rate cases, and disputes involving cleanup sites. It may also be used in non-contested case agency disputes (e.g., voluntary clean ups, tire audits, or superfund).

UTAH

Utah State Tax Commission

Irene Rees

210 North 1950 West

Salt Lake City, UT 84134

(801) 297-2200

VERMONT

Department of Public Service

Consumer Affairs and Public Information

Deena Frankel, Director

112 State St., Drawer 20
Montpelier, VT 05620-2601
(802) 828-4021
(802) 828-2342 fax
frankel@psd.state.vt.us

Human Rights Commission
Harvey Golubuck, Executive Director
135 State St., Drawer 33
Montpelier, VT 05633-6301
1-800-416-2010
(802) 828-2480
(802) 828-2481
hglubock@hrc.state.vt.us
human.rights@hrc.state.vt.us
www.hrc.state.vt.us/

Provides conciliation and mediation services, at no cost to the parties, in cases falling within the Commission's jurisdiction. These include cases charging discrimination in housing and state employment and in the provision of services by businesses and government.

VIRGINIA

Department of Employment Dispute Resolution

Neil A. G. McPhie, Director
One Capitol Square
830 E. Main Street, Suite 400
Richmond, Virginia 23219
(804)786-7994
(804)786-0100 fax
1-888-23-ADVICE Toll Free Advice Line:
nmcphie@EDR.state.va.us
administrator@edr.state.va.us
www.edr.state.va.us

Provides comprehensive conflict resolution services to state agencies and their employees. Administers the state's workplace mediation program and employee grievance procedure, conducts training in conflict resolution, mediation, and the grievance procedure, and provides one-to-one consultations with agency managers and employees.

WASHINGTON

Department of Social and Health Services

Board of Appeals
Krystal Wiitala Knutson, Review Judge
P.O. Box 45803
Olympia, WA 98504-5803
(206) 956-6058

kknutson@dshs.wa.gov

State Department of Revenue

Trish Johnson, ADR Coordinator

P.O. Box 47460

Olympia, WA 98504-7460

(206) 956-3148

(360) 664-2729 fax

trishj@dor.wa.gov

Offers mediation as an option for cost-effective, faster resolution of tax disputes and is conducting a pilot mediation program. Either the taxpayer or the department can propose participating in voluntary mediation. Results of the test program will be evaluated during fiscal year 2001.

Environmental Hearings Office

Phyllis MacLeod, Administrative Appeals Judge

PO Box 40903

Olympia, WA 98604-0903

(360) 493-9223

*Mediation available for environmental disputes within the Board's jurisdiction.
Mediation provided by hearing officers.*

Growth Management Hearings Board

Mediation services are provided to parties before the boards concerning land use planning disputes. Each board serves a geographic area of the state. The mediation service is provided by board members from the following geographic areas:

Western Washington Growth Management Hearings Board

Taylor Square - 905 24th Way SW, Suite B-2

PO Box 40953

Olympia, Washington 98504-0953

(360) 664-8966

(360) 664-8975 fax

western@gmaboardswa.gov

www.gmaboardswa.gov

Central Puget Sound Growth Management Hearings Board

The Financial Center

1215 4th Avenue

Suite 322

Seattle, Washington 98161-1001

(206) 389-2625

(206) 389-2588 fax

cps@gmaboardswa.gov

Eastern Growth Management Hearings Board

Larson Building, Suite 818
6 South 2nd Street
Yakima, Washington 98901
(509) 454-7803
(509) 454-7292 fax
ew@gmaboardswa.gov
ewgmhb@wolfenet.com

Office of Community Development

Shane Hope, Assistant Director, Growth Management Division
PO Box 48300
Olympia, WA. 98504-8300
(360) 753-1197

Provides mediation services to state agencies, communities and local governments in disputes concerning comprehensive growth plans, county-wide planning and urban growth areas. Mediation is also available through referral.

Department of Health

Office of Professional Standards

Karl Schmidt, Sr. Health Law Judge
PO Box 47879
Olympia, WA 98504-7879
(206) 389-2600
(360) 236-4677

Provides mediation services to health profession licensees concerning disciplinary and licensing hearings. These mediators are also used for workplace disputes within the agency. Mediation is provided by hearing officers.

Personnel Appeals Board

Don Bennett, Executive Secretary
PO Box 40911
Olympia, WA 98504-0911
(360) 664-0373

Mediation is required for state civil service employee appeals. Mediators provide services under contract.

Attachment 4

ALJ'S

ALABAMA

Attorney General's Office

Office of Administrative Hearings
Tori L. Adams-Burks, Administrative Law Judge
11 South Union Street, Room 224
Montgomery, AL 36130
(334) 242-7395
(334) 353-9050 fax

taburks@ago.state.al.us

COLORADO

Colorado Division of Administrative Hearings

Marshall Snider, Chief Administrative Law Judge
1120 Lincoln St., Suite 1400
Denver, CO 80203
(303) 894-2500

Provides mediation and settlement conference services to parties in administrative proceedings, or potential proceedings, before the Colorado central panel administrative hearing agency.

KENTUCKY

Kentucky Natural Resources Environmental Protection Cabinet

Alan Wagers, Chief Hearing Officer
Office of Administrative Hearings
35-36 Fountain Pl.
Frankfort, KY 40601
(502) 564-7312
(502) 564-4973 fax

alan.wagers@mail.state.ky.us

www.nr.state.ky.us/nrecp/hearings/home.htm

Responsible for administrative, adjudicatory hearings upon the filing of a petition or complaint, and to recommend to the Secretary the final action that should be taken. Mediation is offered as a non-binding, voluntary and confidential process for surface mining and environmental issues.

MAINE

Division of Administrative Hearings

Allan Toubman, Chief Administrative Hearing Officer
2 Anthony Ave., Suite 1
Augusta, ME 04330-9477
(207) 624-5900
(207) 624-5903 fax

allan.a.toubman@state.me.us

janus.state.me.us/labor/appeals/

Provides dispute resolution service to state agencies. It primarily hears appeals on Unemployment Compensation benefit issues for the Department of Labor.

MARYLAND

Office of Administrative Hearings

Laurie Bennett, Administrative Law Judge
Joan Borsnan Gordon, Administrative Law Judge

11101 Gilroy Road
Hunt Valley, MD 21031-1301

(410) 229-4100
(410) 229-4111 fax

1800-388-8805

lbennett@oah.state.md.us

www.oah.state.md.us

Hears all contested state administrative law cases, mediates special education disputes, and encourages mediation where appropriate.

MINNESOTA

Minnesota Office of Administrative Hearings

Ken Nickolai, Chief Administrative Law Judge

Phyllis A. Reha, Administrative Law Judge

100 Washington Square, Suite 1700

Minneapolis, MN 55401-2138

(612) 341-7602

(612) 349-2665

phyllis.reha@state.mn.us

www.oah.state.mn.us

Provides low cost dispute resolution services to persons involved in disputes wherein at least one of the parties is a state agency or local unit of government. Also facilitates advisory groups formed to develop rules for various state agencies.

NEW YORK

State of New York Public Service Commission

Department of Public Service

Judith A. Lee, Chief Administrative Law Judge

Three Empire State Plaza

Albany, NY 12223-1350

(518) 474-4520

judith_lee@dps.state.ny.us

www.dps.state.ny.us/directory.htm

Department of Environmental Conservation

Daniel E. Louis, Chief Administrative Law Judge

Office of Hearings and Mediation Services

50 Wolf Road

Albany, NY 12233-1550

(518) 457-3468

delouis@gw.dec.state.ny.us

PENNSYLVANIA

Pennsylvania Public Utility Commission

Office of Administrative Law Judge

Herb Nurick, Mediation Coordinator

P.O. Box 3265

Harrisburg, PA 17105-3265

717-783-5428

717-787-0481 fax

nurick@puc.state.pa.us

The Commission's mediation policy accords all utilities, under the jurisdiction of the PUC, and their customers, the opportunity to mediate disputes. The Office of Administrative Law Judge manages the mediation program, which allows parties to request mediation prior to or during a proceeding.

TENNESSEE

Administrative Procedures Division

Office of the Secretary of State

Charles Sullivan, Director

Thomas G. Stovall, Assistant Director

William R. Snodgrass Tower, 8th Floor

312 8th Ave.

Nashville, TN 37243

(615) 741-7008

(615) 741-0518

tstovall@mail.state.us

TEXAS

Office of Administrative Hearings

Nancy Lynch, ADR Coordinator

300 W. 15th St. Suite 502

Austin, TX 78701

(512) 475-4993 fax

nancy.lynch@soah.state.tx.us

WASHINGTON

Environmental Hearings Office

Phyllis MacLeod, Administrative Appeals Judge

PO Box 40903

Olympia, WA 98604-0903

(360) 493-9223

Mediation available for environmental disputes within the Board's jurisdiction.

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Growth Management Hearings Board

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cps@gmaboardswa.gov

Eastern Growth Management Hearings Board

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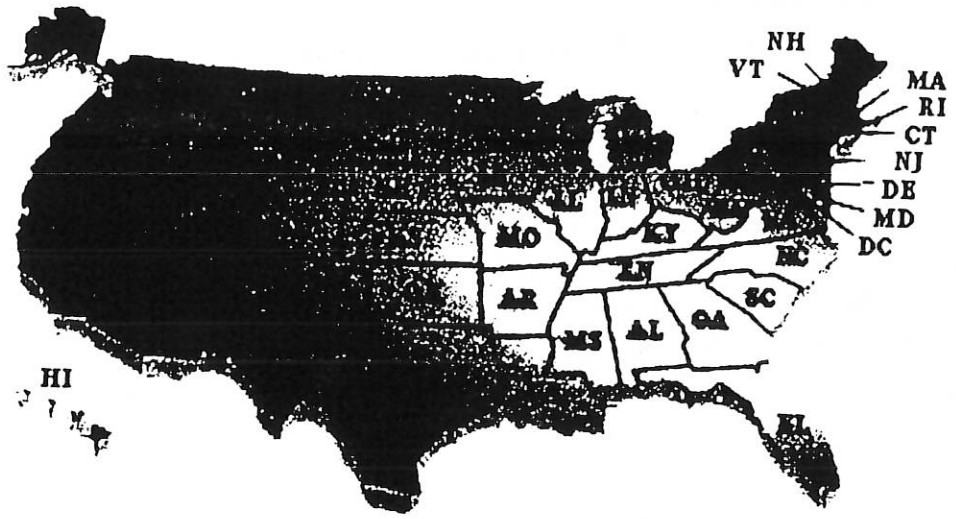
ewgmhb@wolfenet.com

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Sen. and.
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P | C | I
POLICY CONSENSUS INITIATIVE

State Programs Meeting — Albuquerque 2000



State Programs of Dispute Resolution

Successes and accomplishments
during the past year

Important on-going projects

Topics or issues to discuss
with other programs

State Programs of Dispute Resolution

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Alaska Court System.....	2
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The Alabama Center for Dispute Resolution

Judy Keegan, Director

Successes/accomplishments during the past last year:

- Luncheon to introduce state agency representatives to the use of ADR in agency work, and the forthcoming training we will provide them.
- Revision of the Alabama Civil Court Mediation Rules.
- Consumer arbitration brochure.
- Alabama Mediation Training Approval Guidelines, Including Required Components, Application Procedures, and the Application for Mediation Course Approval.
- One-page newsletter.

Important, on-going projects:

- Course Agenda for training of state agency representatives in the 4th quarter of 2000.
- Procedures for mediator complaints to the Alabama Supreme Court Commission on Dispute Resolution.
- Draft of a new Alabama Arbitration Act, based on the Revised Uniform Arbitration Act.

Topics or issues to discuss with other programs:

- When I was in KY, I spoke with Eileen Pruett about a Judges Guide to Civil Mediation that they are putting together. I have wanted to do the same thing (beyond a ten page handout that I have been doing for new judges), and will get some good ideas from her. So, any new ideas that we can modify and tailor to our state without too much trouble.

Alaska Court System

Suzanne DiPietro, Director

Successes/accomplishments during the past last year:

- Trained mediators and did first mediations in child protection program
- Began volunteer small claims program
- Hired part-time dispute resolution coordinator to our program

Important, on-going projects:

- Volunteer small claims program
- Designing appellate court settlement conference program

Resource Solutions, University of Alaska Anchorage

Meg King, Director

Successes/accomplishments during the past last year:

- Consistently offering training opportunities: Facilitation, Collaborative Leadership, and a Training Conference.
- Applied Research on how to improve advisory and decision making efforts between federal government and citizens to affect cleanup at the numerous contaminated sites in Alaska. This includes Restoration Advisory Boards and the much talked about, but little understood, Government-to-Government relationship with tribes. Several products will result from this effort: A best practices guide, A case study on tribal capacity building, and what activities constitute government-to-government relations.

(Resource Solutions, continued)

- Applied Research on improving public participation and decision making for land-use master planning and transportation planning with the only MPO (metropolitan planning organization) in Alaska. The vast majority of transportation funding in Anchorage is from federal tax dollars (85%). ISTEA and TEA-21 legislation provided guidance to MPOs to first make decisions about land use planning, and then make a concerted effort to include and be responsive to the "under served" including environmental and ADA interests in making decisions on long-range planning issues. This project will provide agencies with a "roadmap" enabling them to meet these directives. It will also create a citizen's guide, as well as how to address controversial issues in a systematic manner.

Important, on-going projects:

- State collaborative on water quality permitting regulations. (Negotiated rulemaking approach)
- Joint Watershed Summit with state and federal leaders and local watershed organizers to determine how to facilitate getting resources to local efforts, and creating a statewide watershed organization—the Alaska Watershed Cooperative.
- Natural Resource Leadership Initiative, is a project that holds promise to implement the Western Governors Association ENLIBRA principals, and more importantly to Alaska, is a strategy to help bridge the "rural-urban gap". This model is being used in North Carolina, Florida, Kentucky and several other states.



California Center for Public Dispute Resolution

Susan Sherry, Director

Successes/accomplishments during the past last year:

- Signing the Regional Water Forum Agreement, a six-year effort mediated by the Center
- Hiring three senior practitioners
- Development of five-year plan
- Deepening of working relationship with state agencies

Important, on-going projects:

- Aquatic Habitat Lower American River
- Sacramento Transportation/Air Quality Forum
- California Department of Water Resources - Integrated Storage Investigation

Topics or issues to discuss with other programs:

- Finding senior practitioners
- Training senior practitioners

California Administrative Office of the Courts

Heather Anderson, Director

Successes/accomplishments during the past last year:

- Recommended for adoption statewide rules of court requiring trial courts to provide information about ADR to civil litigants, including general information about ADR, information about ADR resources within the court and information about community ADR resources. Also recommended rules requiring courts that make lists of ADR neutrals available to civil litigants to provide specified information about the neutral, including his/her training and experience, and to adopt a set of ethical standards applicable to the neutrals on the list

(California Administrative Office of the Courts, continued)

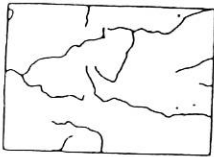
- Began implementation of mediation pilot programs for civil cases in four trial courts. Program is designed to assess the benefits of court-connected mediation programs. Two courts have mandatory mediation programs in which the court compensates the mediators and two courts have voluntary mediation programs.
- Established working group to develop model ethical standards for mediators in court-connected mediation programs for civil cases.

Important, on-going projects:

- Designing and implementing evaluation of courts' mediation pilot programs
- Development of model ethical standards for mediators in court-connected mediation programs for civil cases.
- Planning statewide conference of judges and court administrators involved with court-connected ADR programs for civil cases.

Topics or issues to discuss with other programs:

- Ethical standards, enforcement, and other quality control issues
- Integration of ADR activities across governmental branches (judicial, executive) and fields (governmental, community, private)



**Office of Dispute Resolution
(Colorado Judicial Branch)**

Cindy Savage, Director

Successes/accomplishments during the past last year:

- Development of parenting education curricula and programs to fill gaps in services in rural areas and in target audiences; current offerings include Co-parenting, Parallel Parenting (for high-conflict cases), and Never-married Parents.
- Development of the ADR Module and ADR Codes on the Judicial Branch computer system, to track ODR cases and generate management reports, and to track court referrals to ADR.
- Denver Juvenile Court - development of a program to provide mediation and parenting education for never-married parents; the full program will also include the availability of parenting coordinators for appropriate cases.

Important, on-going projects:

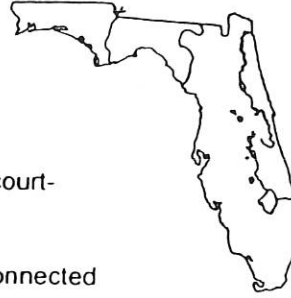
- Creating the ODR Advisory Committee.
- Creating a High-Risk Victim-Offender Dialogue program.
- The ADR Forum - planning for a conference, to be sponsored by the Colorado Judicial Institute, which will examine the current state of ADR in Colorado and future needs.

Topics or issues to discuss with other programs:

- How to work effectively with an advisory committee.
- Community mediation centers, including relationship with a state office and securing funding.
- Truancy mediation.
- Victim-offender mediation and dialogue.
- Funding for executive branch ADR.

Florida Dispute Resolution Center

Sharon Press, Director



Successes/accomplishments during the past last year:

- Adoption of revised standards of conduct for certified and court-appointed mediators
- Adoption of continuing mediator education requirements
- Mediation of approximately 125,000 cases through court-connected mediation programs during the last calendar year.

Important, on-going projects:

- Implementation of continuing mediator education
- Evaluation / assessment of county court (small-claims), family, and community mediation programs
- Integration of family courts (including mediation).

Florida Conflict Resolution Consortium (FCRC)

Bob Jones, Director

Successes/accomplishments during the past last year:

- Completion of the Governor's Administrative Procedure Act Alternative Dispute Resolution Pilot Project
- Legislative approval of the Florida Uniform Building Code Commission Recommendations; a process facilitated by the FCRC.
- Completion of the update of the 2020 Florida Transportation Plan

Important, on-going projects:

- Growth Management Study Commission
- Energy and regulated industries commissions and related efforts
- Everglades restoration

Topics or issues to discuss with other programs:

- Dispute system design for state agencies
- Evaluation of state DR program success
- Managing and facilitating cross-jurisdictional planning and decision-making
- Communicating the value of improved relations, as well as, substantive benefits of consensus processes.
- Resolving process issues facilitators have with sponsors, chairs, staff and others who want to influence the process.

FCRC—Central Florida Regional Office

Chris Pederson, coordinator

Successes/accomplishments during the past last year:

- Resolution of disputes in a small town concerning citizen complaints against the police department and the city manager. The conflicted had racial overtones.
- Resolution of disputes among council members and the city manager in a small town.
- Development of a consensus package of recommendations by a steering committee for a county council concerning environmental, cultural, historical, and outdoor resources.

(FCRC Central Florida Regional Office, continued)

Important, on-going projects:

- Consensus building process involving government and private stakeholders concerning issues in Biscayne Bay in South Florida culminating in recommendations to the Florida legislature.
- Consensus building process involving annexation issues with county and cities.
- Developing an internship program in our central Florida office.

Topics or issues to discuss with other programs:

- Issues impacting university based ADR programs



Georgia Office of Dispute Resolution

Shinji Morokuma, Director

Successes/accomplishments during the past last year:

- Deprivation Mediation Project
- Statistical report on ADR in Georgia courts

Important, on-going projects:

- New national journal for conflict resolution practitioners
- Mediation participant satisfaction survey, study, and conference
- Mediator training to handle violence in mediation

Topics or issues to discuss with other programs:

- Reporting of ethics issues
- Neutral competency and training standards
- Information needs of practitioners
- Ideas for articles for new journal

The Hawaii State Judiciary Center for Alternative Dispute Resolution

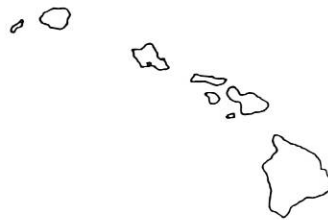
Elizabeth Kent, Director

Successes/accomplishments during the past last year:

- Produced an educational video about mediation featuring four "stories." The video is tailored to meet the needs of Hawaii's unique and diverse population.
- A mediation diversion program (misdemeanor level) was started on Kauai.
- Facilitated the domestic violence working group, a group that was formed in response to a legislative initiative. The group came up with 31 recommendations to address domestic violence problems.

Important, on-going projects:

- A program for mediating disputes arising from natural disasters.
- Development and implementation of a shared facilitator consortium for state departments and agencies.
- Development and implementation of a shared mediator consortium for state departments and agencies.



Indiana Conflict Resolution Institute

Lisa Bingham, Director



Successes/accomplishments during the past last year:

- We organized a shared neutrals program among 5 state agencies (Indiana Department of Environmental Management, Office of Environmental Adjudication, Department of Natural Resources, Natural Resources Commission, and State Emergency Management Agency).
- We launched a searchable database of Indiana ADR providers on our website. Providers can fill out a survey on line and get added to the database.
- We launched a searchable database of ADR field research and evaluation literature on our website. It contains annotated bibliographic entries summarizing various studies, and is intended to grow gradually to become comprehensive.

Important, on-going projects:

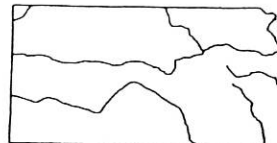
- We would like to see the Governor issue an executive order requiring the appointment of dispute resolution specialists in each agency.
- We are helping PCI and USIECR on the public/environmental conflict resolution evaluation project, and on the barriers to ADR use in state government project.
- We are trying to organize a national internship program for graduate students interested in conflict resolution.

Topics or issues to discuss with other programs:

- Unfunded mandates like an executive order, and people's experience with them.

Kansas Office of Judicial Administration

Art Thompson, Director



Successes/accomplishments during the past last year:

- We finished a year long study of the opinions of all state judges, approved mediators and a random sample of attorneys as to the use of ADR in Kansas. The results were very positive.
- We submitted three new recommendations to the court which will expand the ability of judges to order various forms of dispute resolution, expand the use of approved mediators, and improve individual courts and programs ability to evaluate their service providers.

Important, on-going projects:

- We are re-evaluating how courts and approved programs can best select providers of dispute resolution services. We will hold a series of meetings across the state to gather ideas and comments.
- We will be working with state government to expand their use of mediation and other dispute resolution forms to serve both their employees and the citizens who have disputes. The Kansas Legislature is holding an interim committee study of this issue.
- We are beginning to work to define an early neutral evaluation system for state courts.
- We are going to hold additional judicial education.
- We launched a research project with the University of Kansas to set up an experimental/control study of two courts that have used mediation for 10 years compared to two of equal characteristics that have not.

Topics or issues to discuss with other programs:

- I would be interested in talking with other programs about how they evaluate their efforts. This includes how to evaluate mediators (or others), programs and in-house systems. How can we expand services and still provide those services to lower income parties? How do we know that ADR is beneficial to courts and governments? If ADR is successful, how can we explain that to judges and administrators?

Court ADR Service of the State of Maine Judicial Branch

Diane Kenty, Director



Successes/accomplishments during the past last year:

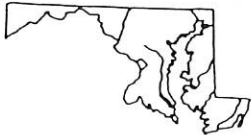
- Proposed draft rule submitted to Supreme Judicial Court for new statewide mandatory ADR program in Superior Court (trial court of general jurisdiction) offering arbitration and early neutral evaluation in addition to mediation in nearly all civil cases; participated in working group on establishing "best practices" for use of consensus processes in state government; and implementation of pilot project for mediation of child protection (abuse/neglect) cases.

Important, on-going projects:

- proposed new statewide Superior Court ADR program and rosters; proposal for mediation in juvenile drug court cases in collaboration with community mediation programs; participation in Maine's second state-wide ADR Week.

Topics or issues to discuss with other programs:

- Innovative uses of ADR in court cases; collaboration among branches of government.



Maryland ADR Commission

Rachel Whol, Director

Successes/accomplishments during the past last year:

- Published and began implementing Action Plan, Join the Resolution
- Created MD Assoc. of Community Mediation Centers (MACMC) Secured
- \$1.3 million in state funds for FY2001 projects

Important, on-going projects:

- Creating video documentary about a High School Peace and Tolerance Retreat and a video documentary about the benefits of mediation
- Coordinating three circuit court pilot ADR programs, two District Court civil mediation pilot programs, and a mediation awareness training program for all court personnel.
- Coordinating several pilot ADR programs with state and local government agencies and hiring a public policy director to expand our efforts in this arena.

Topics or issues to discuss with other programs:

- Funding formulas for community mediation programs
- Quality assurance models for mediators and mediation training
- Public awareness campaigns
- Creating workplace mediation programs in cooperation with public employee unions
- Dealing with County Government administrations.

Massachusetts Office of Dispute Resolution (MODR)

Susan Jeghelian, Acting Director



Successes/accomplishments during the past last year:

- Executive Order 416: Integrating Dispute Resolution Into State Government, issued by Governor Argeo Paul Cellucci in November 1999 ordering:
- Designation of ADR Coordinators by each Secretary, Department Head and Agency Head
- Training of ADR Coordinators by MODR
- Submission of Annual ADR Plans by each ADR Coordinator for their Secretariat/Department/Agency to the Executive Office for Administration & Finance
- Submission of Annual ADR Reports by each ADR Coordinator for their Secretariat/Department/ Agency to the Executive Office for Administration & Finance
- Presentation by MODR and the Executive Office for Administration & Finance of an annual "Commonwealth Dispute Resolution Award" to honor a person in Mass. government who has played a significant role in dispute resolution.
- Expansion of Court Programs: MODR designed and implemented two new programs in two different Trial Court Departments, 1) The Plymouth Superior Court ADR Program and 2) The Massachusetts Land Court ADR Program.
- Expansion of Government Programs: MODR designed and implemented several new programs with state agencies:
 - The Department of Telecommunications and Energy ADR Program (a collaboration with Community Mediation Programs)
 - The Massachusetts Commission Against Discrimination ADR Program
 - The Division of Administrative Law Appeals Mediation Program
 - The Massachusetts Rehabilitation Commission Mediation Program (currently still in design stage)

Important, on-going projects:

- Executive Order #416 Implementation (see above)
- Policy Consensus Institute Evaluation Project: MODR, along with the Oregon Commission on Dispute Resolution and the U.S. Institute for Environmental Conflict Resolution, are participating in a program evaluation initiative sponsored by PCI to develop assessment tools and processes for environmental and public policy dispute resolution programs.
- Expansion of ADR Training Programs —in recent months MODR has received a significant number of requests to provide training for state agencies; several from agencies we have worked with in the past and several from new agencies who have heard about us from others. A couple of these requests have indicated a desire for training to take place over a two-year period. Thus, with the Executive Order training and these requests, MODR expects to have a full training plate for at least the next two years.

Topics or issues to discuss with other programs:

- Outreach efforts to promote the use of ADR in government
- Training programs for government agencies
- Qualification standards, processes and training for neutrals

**Office of Dispute Resolution,
Michigan State Court Administrative Office**

Doug Van Epps, Director



Successes/accomplishments during the past last year:

- Michigan Supreme Court adoption of new court rules guiding the development of ADR in the trial courts.
- New legislative appropriation to complement filing fee funds to support community mediation.
- New legislative appropriation to support judiciary staff in ADR matters.

What are the three most important projects you are working on now?

- Developing criteria for approving mediator trainers.
- Implementing new court rules governing ADR.
- Developing new outcome assessment models for community mediation programs.



**Minnesota Office of Dispute Resolution
(Soon to be renamed Bureau of Mediation Services:
Division of Alternative Dispute Resolution)**

Barbara Blackstone, Director

Successes/accomplishments during the past last year:

- We are transitioning after retirement of long term director (FYI - the interviews of the 8 applicants are taking place next week - I have applied and certainly hope to be named director.)
- We have increased the use of human rights mediation and serve as a contract provider for EEOC.
- We have a draft evaluation of our two-year old workplace mediation pilot project about to go the governor's office. We're hoping to have the pilot project designation changed to program and to have the Executive Order renewed.

Important, on-going projects:

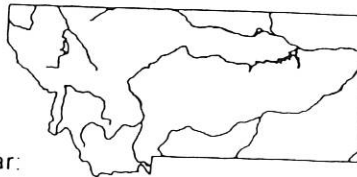
- Have convened a broad-based ADR work group to promote the creation of an ADR task force similar to Maryland's.
- Incorporating the state college and university system's 54 campuses into the workplace mediation program.
- Working with the medical licensing boards on incorporating ADR into their processes.

Topics or issues to discuss with other programs:

- Developing a comprehensive, integrated ADR system from existing programs/projects.
- Use of ADR in licensing situations.

Montana Consensus Council

Matt McKinney, Director



Successes/accomplishments during the past last year:

- Sanitation and subdivisions—Confusion and conflict over the role of local and state officials in reviewing and permitting sanitation systems for subdivisions led to the formation of this working group during the legislative session of 1999. Over a period of 12 months, the group came to agreement on a package of provisions to clarify the disputed roles. The group also agreed to create a technical advisory committee to

(Montana Consensus Council, continued)

identify the best available technology for the sanitation systems and advise local and state officials on sanitation systems standards and other related issues.

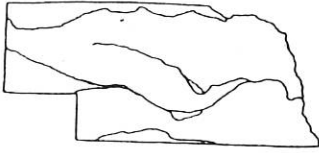
- Delivery of public mental health services in Montana—After the legislature fired the managed care company responsible for managing public mental health system claims and access to providers, the legislature passed a bill that created the Mental Health Oversight Council. The Consensus Council was then asked to convene this group of 19 interested parties appointed last fall to oversee the development of a new 5-year plan for delivering public mental health services in Montana. The group is made up of consumers of mental health services (as prescribed by the bill that created the group, at least 51% of the seats at the table must be consumers), advocates and/or family members of consumers, members of the public at large, providers of mental health services, legislators, and the Department of Public Health and Human Services. This year, the group agreed on a vision and set of values to guide the plan, and then developed 22 specific recommendations related to adults, children, and the criminal justice system. In addition, the Council has been influential in setting program and budget priorities for the next legislative session.
- Citizen ballot initiatives—Montanans have expressed much concern in the past several years about the initiative process whereby any citizen can gather signatures to put a measure on the ballot. Under the assumption that part of our role is to help convene difficult conversations Montanans need to have, but without our assistance, probably wouldn't, the Consensus convened a series of meetings last year. The group has developed tentative agreement on a package of specific improvements to the initiative process, including implementation and monitoring steps.

Important, on-going projects:

- Platform on Western Natural Resources—We are working with the Council of State Governments (West, the Western Governor's Association, the Western Municipal Conference, and the Western Interstate Region of the National Association of Counties) to develop a process for fostering collaboration on natural resource issues among western states and the federal government. The platform is intended to provide a framework to solve natural resource and other public policy issues important to citizens and officials in the American West; serve as a vehicle to shape and recommend common, jointly developed policy recommendations to the U.S. Congress and the federal government on federal air, land and water policies; build on, extend, and implement work that is underway, particular WGA's *Principles for Environmental Management in the West* and the *Western Charter Project*; and help clarify and legitimize the role of collaboration in western resource policy.
- Federal Lands Memorandum of Understanding and associated projects under the MOU—We're busy with a number of projects under the MOU including a project for the Bureau of Land Management to convene a Missouri River Subgroup to the Central Montana Resource Advisory Council. The subgroup is charged with seeking agreement on a set of river management recommendations for the 149-mile stretch of the National Wild and Scenic Missouri River between Fort Benton, Montana and U.S. Highway 191. Also under the umbrella of the MOU, we are exploring other management concerns that could benefit from the use of public participation and collaborative problem solving. So far, these concerns include travel planning, weed control, forest plan revisions, and coal bed methane development in southeastern Montana.
- Legislators Guide to Collaborative Problem solving in the West (working with the Council of State Governments-West)—This guide is designed to help legislators in the West understand how collaboration and consensus building can be used to supplement the familiar processes of public participation and legislative decision making. Drawing on our person experience and the lessons learned during the past 30 years, this user-friendly guide explains when it is most appropriate to use a collaborative, consensus-seeking process, and how to design and coordinate effective processes

Topics or issues to discuss with other programs.

- Funding strategies of all kinds to support our work.



**Nebraska Office of Dispute Resolution
(Office of the Supreme Court)**

Wendy Hind, Director

Successes/accomplishments during the past last year:

- Increase in Number of Contracts, Expansion of Programs and Services and Contract Fees for the Community Based Mediation System
- Greater Access and improved relationship with the Supreme Court
- Continued Private/Public Partnership

Important, on-going projects:

- Increase in State Appropriation to Community Mediation System
- Building our Restorative Justice and Family Group Conferencing programs
- Comprehensive statewide data collection system

Topics or issues to discuss with other programs:

- Programs
- Funding of those Programs
- State Structure of ADR system
- Legislation

**New York State Unified Court System, Office of
Alternative Dispute Resolution Programs**

Dan Weitz, State ADR Coordinator



Successes/accomplishments during the past last year:

- Establishment of various new programs throughout the state particularly in New York City Family Court (including mediation of custody and visitation cases as well as those involving Persons In Need of Supervision (PINS))
- Linking up with local bar associations and courts to provide mediation training throughout the state (Appellate Division Attorney-Client Grievance Mediation; Westchester County Divorce Mediation; NYC Family Court, Court Attorneys and Referees; Schenectady County Bar Association Divorce Mediation); Two-day "train-the-trainers" workshop for 43 trainers)

Important, on-going projects:

- Working with our Advisory Committee to prepare final recommendations to promote ADR in New York State (issues include confidentiality, neutral qualifications, and compensation for neutrals)
- Implementing an automated database and contract management system for community mediation centers
- Beginning work on a "National Conference Celebrating the 20th Anniversary of Community Mediation in New York."

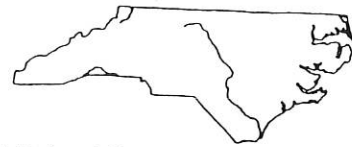
Topics or issues to discuss with other programs:

- Training on ADR for the Bench, Bar and Public
- Diversity in mediation styles and its effect on the development of qualifications and standards for neutrals
- Joint collaboration on videos on ADR

University of North Carolina Institute of Government

Public Dispute Resolution Program

John Stephens, Director



Successes/accomplishments during the past last year:

- One-day workshop under contract to NC Dept. of Environment and Natural Resources, "Getting the Most Out of Collaborative Stakeholder Processes" attended by 40 people. Co-designed and presented with the Policy Consensus Initiative and the Natural Resources Leadership Institute [NRLI] of NC State University. Multiple spin-offs of consulting since then.
- Draft case index Directing research assistants to do 70 index entries of published materials on public disputes: citation, location of dispute, parties involved, issues, and summary of activity. Still needs development to be searchable by topic. Interested in working with Resolve and other programs/providers who have materials.
- UNC-CH School of Public Health, Public Health Leadership Institute, (May 8-19). Online teaching/facilitation with advance readings, "Conflict Management." Thirty participants from ten states.

Important, on-going projects:

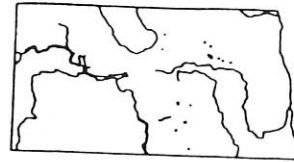
- Working with a 10-person Review Team to develop new standards and processes for coastal land use planning, a local/state joint responsibility in NC. Finishing process of making recommendations to Coastal Resources Commission in September 2000.
- 2001 NC Leadership and Participation Conference. Trying to cross all substantive sectors for Spring conference focused on stakeholder needs about participation and collaboration on public issues. Working with Steve Smutko, NC State University [draft program attached].
- PDR Guidebook for NC - A general primer for state and local government officials, and citizen, interest group and other participants in public issue processes. Goal: first draft by end of 2000
- Developing regular training workshops on negotiation, group collaboration, public dispute assessment and wise use of third parties. See: <http://ncinfo.iog.unc.edu/programs/dispute/wkshp.htm> (Information on dates of workshops to be updated by end of August).

Topics or issues to discuss with other programs:

- More case summary/study and index information - sharing online [building on Resolve's efforts and session at SPIDR-Newport2000.
- Recruiting, mentoring, developing more diverse pool of third parties primarily African-American and Hispanic providers
- Seeking a reviewer of recent land use mediation reports and resources for state/local government audience
- Using the web for teaching, consulting, interaction with clients/colleagues
- I'm Curious about Regional/cross-border public dispute resolution work [e.g., what every happened to the US-Canada Trans-boundary Initiative?]

Consensus Council of North Dakota

Larry Spears, Director



Successes/accomplishments during the past last year:

- The National Grasslands Stewardship Initiative
- The International flood Mitigation Initiative for the Red River
- Establishing an Internship Program
- Enlargement of the board of directors

Important, on-going projects:

- The National Grasslands Stewardship Initiative
- The International flood Mitigation Initiative for the Red River
- The Rural School Consolidation Initiative



Ohio Commission on Dispute Resolution and Conflict Management

Maria Mone, Director

Successes/accomplishments during the past last year:

- School Conflict Management Program added 98 new school grantees
- Truancy Prevention Through Mediation Program released evaluation report demonstrating program success and the program added three new counties
- Commission sponsored a three-part series for state government "Improving Public Policy Through Collaboration" and facilitated a number of collaborative processes for state agencies

Important, on-going projects:

- School Conflict Management Initiative including the Early Childhood Conflict Management Project
- Truancy Prevention Through Mediation Program
- Work place Mediation Project

Topics or issues to discuss with other programs:

- Developments in the legislative arena—what new legislation has your state passed or is attempting to pass re: the field
- What is the current status of quality control/oversight for the practice of mediation in your state
- What new evaluation data does your state office have related to the success of DR programs?

Supreme Court of Ohio, Office of DR Programs

Eileen Pruett, Director

Successes/accomplishments during the past last year:

- Twelve grant funded programs developed local funding for court staff mediation services.
- Evaluations of three civil mediation pilot programs completed.
- Truancy Intervention Through Mediation Project for elementary and middle schools expanded.

Important, on-going projects:

- Development of instructions and data entry process for exit surveys and case records to be used at trial courts for monitoring quality of mediation.

(Supreme Court of Ohio, Office of DR Programs, continued)

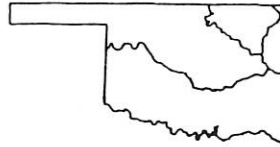
- Expansion of civil mediation programs in small and medium sized courts of general jurisdiction.
- Consideration of additional continuing education and other materials for attorneys about preparing clients for and participating with clients in mediation.

Topics or issues to discuss with other programs:

- Impact of Uniform Mediation Act on court connected mediation programs
- National Standards for Family Mediators (ABA /AFM/AFCC/SPIDR) final draft should be available late August.
- Quality issues in a context other than regulation or limiting the field, i.e. how do we monitor and assure quality services without developing a full-blown bureaucracy.

Alternative Dispute Resolution System of Oklahoma

Sue Darst Tate, Director

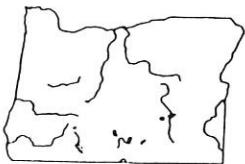


Successes/accomplishments during the past last year:

- The Chief Justice of the Oklahoma Supreme Court named Honorable Justice Daniel J. Boudreau as the Dispute Resolution Liaison for the State Supreme Court.
- We started two new pilot project sites for Parent-Teen Mediation.
- Phyllis Bernard, professor of law and director of the Oklahoma City mediation program in our system, traveled to Rivers State, Nigeria, to train village women and attorneys in the facilitative style of mediation used in Oklahoma. This trip was a result of a visit two years ago by two women from Nigeria who came to Oklahoma as guests of the League of Women Voters. One of the women is a teacher and the other is an attorney. Phyllis is pictured in the ABA Journal for June, 2000 in an article titled "Much To Do About ADR."

Important, on-going projects:

- Funding to put a full-time training coordinator in charge of our school-based, peer mediation program. PROS (Peaceful Resolutions for Oklahoma Students) is a collaborative project of the Law-Related Education component of the Oklahoma Bar Association and the Early Settlement Mediation Centers of the ADR System.
- Planning a long-range planning conference and retreat to develop a five-year plan for the ADR System. Managers of the 23 programs that make up the system and the Dispute Resolution Advisory Board members have been asked to reserve October 23 - 25, 2000 to spend at one of our state lodges to complete this project.
- Preparing for a 2-day conference to train mediators and the professionals who will be involved in five pilot sites to implement Child Permanency Planning Mediation.



Oregon Public Policy Dispute Resolution Program Oregon Dispute Resolution Commission

Susan Brody, Director

Successes/accomplishments during the past last year:

- Developing an updated handbook on collaborative processes
- Initiating a program evaluation project
- Outreach to state agencies not previously aware of the program

(Oregon Public Policy Dispute Resolution Program / Oregon Dispute Resolution Commission, continued)

Important, on-going projects:

- Development of a program evaluation framework and related databases
- Expansion of service to state education agencies (higher ed and K through 12)
- Working on an Executive Order on Dispute Resolution.

Topics or issues to discuss with other programs:

- Cooperation/coordination of dispute resolution services among various providers (both public and private)
- Ways to ensure quality service
- Opportunities and issues for use of in-house neutrals

Center for Public Policy Dispute Resolution University of Texas School of Law

Jan Summer, Director



Successes/accomplishments during the past last year:

- Approval of the Graduate Portfolio Program in Dispute Resolution at The University of Texas at Austin. This program offers graduate and professional school students the opportunity to obtain, along with their degree, a Certificate indicating completion of the requirements of the Portfolio program in Dispute Resolution. The Center wrote the program, applied for Graduate and Law School approval and will administer this program for the campus.
- Invited and trained 25 Senior Texas policy makers and policy leaders in the Fellow 2000 Program, June, 2000.
- Completed six complex high profile multi-party public policy disputes processes
 - A neg-reg involving electrical deregulation for the Texas Public Utility Commission.
 - A consensus process in partnership with the Texas Attorney General for the production of model rules for agencies with rulemaking authority and actual rules for agencies with no rulemaking authority. This satisfied statutory requirements in a 1999 statute providing a new process for Texas governmental contract disputes.
 - A policy dialog for the Texas Comptroller of Public Accounts resolving issues surrounding timing of property taxation across to State.
 - Two (2) partnering workshops, the first, between the senior management of Texas Natural Resource Conservation Commission (TNRCC) and EPA, Region six (6-18 total participants), and the second, among the next tier of management of the same agencies (100 total participants); and a policy dialogue for the Texas Department Protective and Regularity Service establishing rate setting methodology for foster care providers.

Important, on-going projects:

- Moving the Center into the new law school addition-John Connally Center for Justice—"spring clean" & packing);
- Establishing the new portfolio program mentioned above and the Center budget request for FY 2002-2004;
- Completing the summer training schedule of four major public training courses.

Topics or issues to discuss with other programs:

- grants, contracts and fund raising;
- partnering uses outside of construction;
- structuring research programs involving academics with public policy issues and processes



Supreme Court of Virginia Department of Dispute Resolution Services

Geetha Ravindra, Director

Successes/accomplishments during the past last year:

- Passage of Senate Bill 127, which amends Section 124.4 of the Code of Virginia and pays \$100 per case to mediators in all court-referred custody, visitation and support cases.
- Appropriation of \$500,000 from the General Assembly for mediation for FY 2000-2001 and \$700,000 for FY 2001-2002.
- Development of a model parent education curriculum.

Important, on-going projects:

- Employment mediation program for court employees and employees of the state court administrative office.
- A Visioning Conference for ADR in Virginia for all mediators
- A study of the appropriate timing of the referral of family cases to mediation funded by State Justice Institute.

University of Virginia Institute for Environmental Negotiation

Frank Dukes, Director

Successes/accomplishments during the past last year:

- Initiated the "Virginia Natural Resources Leadership Institute (VNRLI), a nine-month program that will train a corps of up to 30 people representing private, public, and nonprofit sectors in leadership and conflict resolution skills. First session begins Sept. 27, 2000.
- Completed initial draft of guidance for environmental advocates considering collaborative processes, in partnership with the wilderness society and the National Audubon Society
- Initiated the "Community-based Collaborative Research Consortium" with the support of the Hewlett Foundation and the Udall Center.

Important, on-going projects:

- Natural Resources Leadership Institute and Draft Guidance for environmental advocates (above)
- The Southern Tobacco Communities Project, which is seeking ways of building a future for tobacco farming communities in healthy and sustainable ways.
- A partnership with the state coalition of community mediation centers to develop their capacity to address community wide disputes.

Topics or issues to discuss with other programs:

- Funding sources
- Certification and qualifications
- Community mediation programs that address public issues.

SB 14
Art Thompson

#6 2/6 '01
Sen. Jud.
Sub-cttee.

Senate Judiciary Subcommittee
Dispute Resolution
February 6, 2001

Art Thompson
Office of Judicial Administration
Dispute Resolution Coordinator

Where should a state government mediation administrative body be located?

- There are a number of states which use mediation to resolve disputes; both internal and external. The administrative function is housed in a number of locations. The highest number are in courts but that is primarily because mediation was first used by the courts. A number have this function located in their centralized hearing officer department. Some are in state universities, others are in a separate stand alone department, several are private contracts and one in a governor's office.
- Attachment 1 lists the comprehensive statewide systems.
- Attachment 2 lists the agencies which have a more coordination function.
- Attachment 3 is a list of the individual administrative governmental organizations.
- Attachment 4 is a list of the administrative law judge agencies which have a dispute resolution function.

What functions could an administrative body provide?

The main functions a dispute resolution administrative body could provide are:

- provide mediators (or other dispute resolution providers) for a particular dispute,
- provide evaluations of the providers to insure that they comply with state guidelines,
- provide or contract for the training of the service providers, and
- keep records and report to the Legislature.

One important function which has been found successful in the use of mediation in Kansas courts is to place the right mediator with a particular dispute. The more complicated or sensitive the dispute may be, the more important it is to find the right mediator, facilitator or other provider. A good referral system will allow for this.

What is the best type of service provision system for state government?

Once again, each state has developed systems which work best for their particular dynamics. Certainly budget is one important factor. The Federal Government has made a major commitment to the use of dispute resolution and mediation in particular. They have decided to use outside mediators to insure confidentiality and neutrality. Most states do not have the budget to afford using all outside providers. Many use internal mediators for most of their disputes and outside mediators for the more sensitive disputes. The three basic models are:

- each agency uses internal mediators for their disputes,
- agencies share mediators to better insure confidentiality and neutrality, or
- outside mediators.

ATTACHMENT 1:

ARKANSAS

Arkansas ADR Commission

Jennifer Jones Taylor
Justice Building, 625 Marshall St.
Little Rock, AR 72201-1020
(501) 682-9400 ext. 1332
(501) 682-9410 fax

jennifer.jones-taylor@mail.state.ar.us

Provides expertise on mediation systems to all branches of government. Provides no direct mediation services.

MARYLAND

Mediation And Conflict Resolution Office for the State of Maryland (MACRO)

Rachel Wohl, Executive Director
113 Towsontown Blvd., Suite C
Towson, MD 21286
(410) 321-2398
(410) 321-2399 fax

rachel.wohl@courts.state.md.us

Advances appropriate alternatives to litigation and alternatives to violence throughout Maryland's courts, neighborhoods, businesses, schools, government agencies, criminal and juvenile justice programs and businesses. Created in 1998 by the Chief Judge of Maryland's highest appellate court, this Forty-member Commission includes judges, public officials, legislators, lawyers, ADR practitioners, community members, business representatives, educators and others. The Commission developed and is now implementing a practical action plan entitled Join The Resolution.

MASSACHUSETTS

Office of Dispute Resolution

Susan Jeghelian, Executive Director
One Ashburton Place, Room 501
Boston, MA 02108
(617) 727-2224-ext. 21174
(617) 727-6495 fax

susan.jeghelian@state.ma.us

Provides a variety of ADR services to all branches of state government and municipalities.

MINNESOTA

Division of Alternative Dispute Resolution

Barbara Blackstone, Director

340 Centennial Office Building
St. Paul, MN 55155
(651) 296-2633
(651) 282-6396 fax

mnodr@gte.net

Promotes the use of ADR, especially within state agencies. Administers mediation programs for special education, human rights and vocational rehabilitation and a workplace mediation program for executive branch agencies and employees. A division of the Bureau of Mediation Services.

MONTANA

Montana Consensus Council

Office of the Governor
Matthew McKinney, Director
State Capitol Building
Helena, MT 59620
(406) 444-2075
(406)444-5529 fax

mmckinney@state.mt.us

Provides consensus building, training and education, research and publications for state and local government.

NEW JERSEY

Office of Dispute Settlement

Contact -- Fran Snyder
25 Market St.
P.O. Box 850
Trenton, NJ 08625
(609) 292-7686
(609) 292-6292 fax

snyder_f@opd.state.nj.us

Provides mediation and other neutral DR services to the public and private sectors.

OHIO

Ohio Commission on Dispute Resolution and Conflict Management

Maria Mone, Director
77 South High Street, 24th Floor
Columbus, OH 43266-0124
(614) 752-9595
(614) 752-9682 fax

mmone@cdr.state.oh.us

www.state.oh.us/cdr

Established in 1989, the Commission provides Ohioans with constructive, nonviolent

forums, processes, and techniques for resolving disputes. Focused on four program areas - educational institutions, state and local government, courts, and communities - the Commission works to positively affect the lives of all Ohio citizens by providing dispute resolution and conflict management training, consultation and technical assistance in designing dispute resolution programs, and facilitation and mediation services.

OREGON

Oregon Dispute Resolution Commission

Susan Brody, Executive Director
1201 Court Street NE, Suite 305
Salem, OR 97310
(503) 378-2877 x22
(503) 373-0794 fax

susan.e.brody@state.or.us

www.odrc.state.or.us

Provides broad services statewide including community-based mediation, state agency ADR, court-related mediation, training and ADR rulemaking, intergovernmental collaborative problem solving processes & public policy DR.

ATTACHMENT 2

ALABAMA

**Alabama Department of Industrial Relations, Human Resources
State Personnel Directories ADR Committee**

Harris L. Cornett

649 Monroe St. Room 2440

Montgomery, AL 36131

(334) 242-8613

Responsible for development and implementation of employee DR programs in Alabama Agencies.

Governor's Task Force on State Agency ADR

Judith Keegan, Director

415 Dexter Avenue

P.O. Box 671

Montgomery, AL 36101

(334) 269-1515-ext. 111

(334) 261-6310 fax

jkeegan@alabar.org

Established by Executive Order to develop programs for information, education, training, coordination and implementation for agency administrative processes.

CALIFORNIA

California Dispute Resolution Council

Robert Barrett

760 Market St., Suite 516

San Francisco, CA 94102-2406

(866) 285-6500 (toll free)

(866) 285-6600 (toll free fax)

www.cdrc.net

Services the DR field in Sacramento and other policy-making arenas. Provides informed opinions on proposed legislation and develops principles and standards that shape DR policy in the state of California.

COLORADO

Colorado Bar Association

ADR Forum Committee, ADR Government Subcommittee

Merrill Shields, Chair

1410 High Street

Denver, CO 80218

(303) 436-1930

(303) 322-2288 fax

merrillshie@aol.com

The ADR in Government subcommittee is focused on increasing the use of ADR, primarily mediation, in state government both internally and externally.

NEW MEXICO

The New Mexico ADR Advisory Council

Contact -- Robert Horwitz - New Mexico Environment Department, Administrative Services Division

1190 St. Francis Dr.

P.O. Box 26110

Santa Fe, NM 87505

(505) 476-3728

(505) 827-2413 fax

Contact -- Doug Bland - Department of Energy, Minerals and Natural Resources

2040 S. Pacheco

Santa Fe, NM 87505

(505) 827-5970

Established by Executive Order, the Council is made up of the head of each executive agency or their appointee and is responsible for insuring that agencies carry out the order to implement ADR.

OREGON

Oregon Dispute Resolution Steering Committee

Governor's Office

Greg Wolf, Chair

160 State Capitol

Salem, OR 97310

(503) 378-6548

greg.wolf@state.or.us

The Steering Committee, created by Executive Order, provides overall policy coordination for the use of collaborative processes in state government.

Attachment 3

INDIVIDUAL ADMINISTRATIVE AGENCIES

ALABAMA

Alabama Department of Industrial Relations, Human Resources

State Personnel Directories ADR Committee

Harris L. Cornett

649 Monroe St. Room 2440

Montgomery, AL 36131

(334) 242-8613

Responsible for development and implementation of employee DR programs in Alabama Agencies.

ALASKA

Alaska State Commission for Human Rights

Paula Haley, Executive Director

800 A Street, Suite 204

Anchorage, AK 99501-3669

(907) 276-3177 TTY/TDD

(907) 278-8588 fax

www.gov.state.ak.us/aschr.htm

The Commission investigates discrimination complaints involving employment, housing, finances, public accommodations and practices by the state and its political subdivisions. The Commission also offers free, voluntary mediation to parties involved in these complaints as an alternative to investigation. In addition, telephone mediation is available if the parties are willing to pay the cost of the telephone call.

ARIZONA

Department of Transportation Partnering Section

Ginger Murdough

206 S. 17th Ave., Room 192

Maildrop 175-A

Phoenix, AZ 85007

(602) 712-7120

Gmurdough@dot.state.az.us

The Partnering Office provides resources for workshop facilitation, facilitated problem solving, and mediation through contracted services. Project team feedback is provided through software titled "Partnering Evaluation Program (PEP)."

ARKANSAS

Department of Finance and Administration

Arkansas Inter-Agency Mediation Pilot Program

Don Lukas, Office of Personnel Management

P.O. Box 3278

Little Rock, AR 72203

(501) 682-2252

(501) 682-5335 fax

don.lukas@dfa.state.ar.us

Provides option to mediate to state employees filing an employment grievance. At present at least eight state agencies participate in the pilot program. If the governor signs an executive order, the program will become a permanent part of the grievance process for state employees.

CALIFORNIA

California Department of Consumer Affairs

Albert Balingit, Coordinator and Staff Attorney

400 R Street, Suite 3090

Sacramento, CA 95818-1368

(916) 322-5254

(916) 324-1368 fax

DCA@dca.ca.gov

www.dca.ca.gov/complainthelp/

Oversees the State Dispute Resolution Programs Act.

COLORADO

Colorado State Employees Mediation Program

Brad Mallon, State Workforce Development Administrator

1313 Sherman St., Room 115

Denver, CO 80203

(303) 866-4265

(303) 866-2334 fax

brad.mallon@state.co.us

Provides volunteer mediators for workplace disputes as well as training for mediators, both from within and outside state government. People who go through this training program are eligible to mediate employee disputes within Colorado state government.

HAWAII

Department of Commerce and Consumer Affairs

Medical Claims Conciliation Panel

Rod Miley

250 South King St.

Honolulu, HI 96813

(808) 586-2823

INDIANA

Department of Environmental Management

Office of Legal Counsel

Catherine Gibbs, Esq.

P.O. Box 6015

Indianapolis, IN 46206-6015

cgibbs@DEM.state.in.us

IOWA

Department of Inspections and Appeals

Kim Schmett, Director
Lucas State Office Building
Des Moines, IA 50319
(515) 281-5457
(515) 281-7289 fax

KANSAS

Office of the State Long-Term Care Ombudsman

Matthew Hickam, State Long-Term Care Ombudsman
610 SW 10th Street, 2nd floor
Topeka, KS 66612-1616
(785) 296-3017
1877-662-8362
(785) 296-3916 fax

ltco@state.ku.us

da.state.ks.us/care

Investigate, resolve complaints, and mediate disputes for residents of long-term care facilities.

KENTUCKY

The Kentucky Personnel Cabinet

Division of Communication & Recognition

Tina Johnson, Director
200 Fair Oaks Lane, Suite 511
Frankfort, KY 40601
(502) 564-3433

tina.johnson@mail.state.ky.us

Kentucky Natural Resources Environmental Protection Cabinet

Alan Wagers, Chief Hearing Officer
Office of Administrative Hearings
35-36 Fountain Pl.
Frankfort, KY 40601
(502) 564-7312
(502) 564-4973 fax

alan.wagers@mail.state.ky.us

www.nr.state.ky.us/nrecp/hearings/home.htm

Responsible for administrative, adjudicatory hearings upon the filing of a petition or complaint, and to recommend to the Secretary the final action that should be taken. Mediation is offered as a non-binding, voluntary and confidential process for surface mining and environmental issues.

MAINE

**Bureau of Land and Water Quality
Division of Watershed Management**

Donald T. Witherill, Director

Station #17

State House

Augusta, ME 04333

(207) 287-7725

don.witherill@state.me.us

MINNESOTA

**Department of Corrections
Community and Juvenile Services**

Kay Pranis, Restorative Justice Planner

1450 Energy Park Drive, Suite 200

St. Paul, MN 55108

(651) 642-0329

(651) 642-0457 fax

kpranis@co.doc.state.mn.us

Provides training and some grants for restorative justice projects.

NEW JERSEY

**Department of Environmental Protection
Office of Dispute Resolution**

Richard J. McManus, Special Assistant

P.O. Box 402

Trenton, NJ 08625-0402

(609) 292-1997

(609) 984-0583 fax

Cases involving the department's enforcement or permitting actions which have been, or could be, referred to the Office of Administrative Law for hearing, are mediated.

**Department of Law and Public Safety
Alternative Dispute Resolution Unit**

Yakov M. Dombroff, Director

P.O. Box 45023

Newark, NJ 07101

(973) 504-6100

Provides mediation for various types of consumer affairs cases; selection of cases decided upon solely by the referring agency.

NEW MEXICO

State of New Mexico Environment Department

Administrative Services Division

Robert Horwitz, Director

1190 St. Francis Drive

P.O. Box 26110
Santa Fe, NM 87505
(505) 476-3728
(505) 827-2413 fax
bob_horwitz@nmenv.state.nm.us

NEW YORK

State of New York Public Service Commission
Department of Public Service
Judith A. Lee, Chief Administrative Law Judge
Three Empire State Plaza
Albany, NY 12223-1350
(518) 474-4520
judith_lee@dps.state.ny.us
www.dps.state.ny.us/directory.htm

Department of Environmental Conservation
Daniel E. Louis, Chief Administrative Law Judge
Office of Hearings and Mediation Services
50 Wolf Road
Albany, NY 12233-1550
(518) 457-3468
delouis@gw.dec.state.ny.us

OHIO

Ohio Board of Tax Appeals
Tom Wang
Rhodes Office Tower 24th Floor
30 East Broad Street
Columbus, OH 43266-0422
(614) 466-6700
(614) 644-5196 fax
www.state.oh.us/bta/

Ohio Civil Rights Commission
Mediation of Civil Rights Complaints
111 E. Broad St. Suite #301
Columbus, OH 43205-1370
(614) 466-2785

Ohio School Facilities Commission
Construction Contract Partnering
Crystal Canan
88 E. Broad St. Suite 1400
Columbus, OH 43215
(614) 466-6290

Ohio Department of Mental Health
Mental Health Complaints Mediation
Ellen Deacon
30 E. Broad St. 8th Floor
Columbus, OH 43266
(614) 466-2333

Public Utilities Commission of Ohio
Utility (Certain Electric Service) Complaints Mediation and Arbitration
Russ Gooden
180 E. Broad St. 12th Floor
Columbus, OH 43215
(614) 466-0114
(614) 728-8373 fax
www.puc.state.oh.us

OKLAHOMA

Oklahoma Department Of Corrections
Post Conviction Mediation Program
Michael T. Oakley, Assistant General Counsel
3400 Martin Luther King Ave.
Oklahoma City, OK 73136
(405) 425-2666
Statewide in-house program for victims and offenders.

Oklahoma Department Of Corrections
Workplace Conflict Management Group
Samuel Terry, Mediation Program Manager
3400 Martin Luther King Ave.
Oklahoma City, OK 73136-0400
(405) 425-2583
Statewide in-house program for Department of Corrections employees.

Oklahoma Corporation Commission
Gas Gathering Alternative Dispute Resolution Program
Larry Fiddler, Manager Of Technical Services
P.O. Box 52000-2000
Oklahoma City, OK 73152-2000
(405) 521-2489
Statewide mediation services for disputes between producers and gatherers of natural gas during contract negotiations.

Oklahoma Merit Protection Commission
Melanie Cherry
310 North E. 28th St.

Oklahoma City, OK 73105

(405) 525-9144

(405) 528-6245 fax

Statewide services limited to state government employers and employees.

Department Of Human Services Employee Mediation Program

Personnel Resources Division, Employee Relations Unit

Clarese Amadi, Mediation Program Manager

P.O. Box 25352

Oklahoma City, OK 73125

(405) 557-6671

Statewide in-house program for Department Of Human Services Employees.

OREGON

General Government Cluster«Oregon Department of Administrative Services

Susan Marshall, Public Policy Dispute Resolution Coordinator

1225 Ferry St. SE

Salem, OR 97310

(503) 378-5469

(503)373-7337 fax

Natural Resources Cluster«Oregon Department of Land Conservation and Development

Dale Blanton, Public Policy Dispute Resolution Coordinator

635 Capitol Street NE, Suite 150

Salem, OR 97310

(503) 373-0050 ext. 246

(503) 378-5518 fax

dale.blanton@state.or.us

Human Services Cluster«Oregon Department of Human Resources

Karen Hartley, Public Policy Dispute Resolution Coordinator

500 Summer St. NE

Salem, OR 97310-101

(800) 442-5238

(503) 378-6532 fax

karen.hartley@state.or.us

Community Development Cluster«Oregon Department of Transportation

Carolyn Berry, Public Policy Dispute Resolution Coordinator

355 Capitol St. NE Rm. #135

Salem, OR 97310

(503) 986-3438

(503) 986-3432 fax

carolyn.r.berry@odot.state.or.us

PENNSYLVANIA

Department of Corrections

Victim Offender Mediation Program

Commonwealth of Pennsylvania
Jeffery A. Beard, Executive Deputy Secretary
2520 Lisburn Road
P.O. Box 598
Camp Hill, PA 17001-0598
(717) 975-4868
(717) 787-0132

**Pennsylvania Department of Environmental Protection
Training and ADR Services Division**

Bureau of Personnel
Cheryl Peoples, Manager
400 Market Street, 2nd Floor RCSOB
P.O. Box 2357
Harrisburg, PA 17105-2357
717-783-5787

cpeoples@state.pa.us

Facilitates meetings and mediates disputes that the Department of Environmental Protection (DEP) has with other companies or groups. DEP promotes public participation to proactively build consensus and resolve disputes in ways that are alternatives to litigation.

Pennsylvania Department of Labor and Industry

Bureau of Mediation
Brian Abela
419 Labor and Industry Building
Harrisburg, PA 17120
(717) 787-2803
(717) 705-6329 fax

babela@state.pa.us

Provides free mediation service to employers and employees in Pennsylvania.

Pennsylvania Public Utility Commission

Office of Administrative Law Judge
Herb Nurick, Mediation Coordinator
P.O. Box 3265
Harrisburg, PA 17105-3265
717-783-5428
717-787-0481 fax

nurick@puc.state.pa.us

The Commission's mediation policy accords all utilities, under the jurisdiction of the PUC, and their customers, the opportunity to mediate disputes. The Office of Administrative Law Judge manages the mediation program, which allows parties to

request mediation prior to or during a proceeding.

SOUTH CAROLINA

State Employee Grievance Procedure

Office of Human Resources
Sam Wilkins, Assistant Director/Legal Counsel
1201 Main St. Ste. 1000
Columbia, SC 29201
(803) 737-0900

Mediation and Arbitration of state employment disputes under the State Employee Grievance Procedure Act (mandatory).

South Carolina Statewide Mediators Pool

Office of Human Resources
Sam Wilkins, Assistant Director/Legal Counsel
1201 Main St., Suite 1000
Columbia, SC 29201
(803) 737-0900

Mediation of state employment disputes (voluntary).

TEXAS

Natural Resources Conservation Commission

Alternative Dispute Resolution Office

Carl Forrester, Director
P.O. Box 13087
Austin, TX 78759
(512) 239-4010
(512) 239-4015 fax

cforrest@tnrcc.state.tx.us

Commission uses ADR wherever possible to save time and money for the parties and for the state, and to strive for "win-win" resolutions in agency disputes (mostly contested cases). ADR (most often mediation) is used primarily in permitting and licensing cases, water rate cases, and disputes involving cleanup sites. It may also be used in non-contested case agency disputes (e.g., voluntary clean ups, tire audits, or superfund).

UTAH

Utah State Tax Commission

Irene Rees
210 North 1950 West
Salt Lake City, UT 84134
(801) 297-2200

VERMONT

Department of Public Service

Consumer Affairs and Public Information
Deena Frankel, Director

112 State St., Drawer 20
Montpelier, VT 05620-2601
(802) 828-4021
(802) 828-2342 fax
frankel@psd.state.vt.us

Human Rights Commission

Harvey Golubuck, Executive Director
135 State St., Drawer 33
Montpelier, VT 05633-6301
1-800-416-2010
(802) 828-2480
(802) 828-2481
hglubock@hrc.state.vt.us
human.rights@hrc.state.vt.us
www.hrc.state.vt.us/

Provides conciliation and mediation services, at no cost to the parties, in cases falling within the Commission's jurisdiction. These include cases charging discrimination in housing and state employment and in the provision of services by businesses and government.

VIRGINIA

Department of Employment Dispute Resolution

Neil A. G. McPhie, Director
One Capitol Square
830 E. Main Street, Suite 400
Richmond, Virginia 23219
(804)786-7994
(804)786-0100 fax
1-888-23-ADVICE Toll Free Advice Line:
nmcphie@EDR.state.va.us
administrator@edr.state.va.us
www.edr.state.va.us

Provides comprehensive conflict resolution services to state agencies and their employees. Administers the state's workplace mediation program and employee grievance procedure, conducts training in conflict resolution, mediation, and the grievance procedure, and provides one-to-one consultations with agency managers and employees.

WASHINGTON

Department of Social and Health Services

Board of Appeals
Krystal Wiitala Knutson, Review Judge
P.O. Box 45803
Olympia, WA 98504-5803
(206) 956-6058

kknutson@dshs.wa.gov

State Department of Revenue

Trish Johnson, ADR Coordinator

P.O. Box 47460

Olympia, WA 98504-7460

(206) 956-3148

(360) 664-2729 fax

trishj@dor.wa.gov

Offers mediation as an option for cost-effective, faster resolution of tax disputes and is conducting a pilot mediation program. Either the taxpayer or the department can propose participating in voluntary mediation. Results of the test program will be evaluated during fiscal year 2001.

Environmental Hearings Office

Phyllis MacLeod, Administrative Appeals Judge

PO Box 40903

Olympia, WA 98604-0903

(360) 493-9223

Mediation available for environmental disputes within the Board's jurisdiction.

Mediation provided by hearing officers.

Growth Management Hearings Board

Mediation services are provided to parties before the boards concerning land use planning disputes. Each board serves a geographic area of the state. The mediation service is provided by board members from the following geographic areas:

Western Washington Growth Management Hearings Board

Taylor Square - 905 24th Way SW, Suite B-2

PO Box 40953

Olympia, Washington 98504-0953

(360) 664-8966

(360) 664-8975 fax

western@gmaboardswa.gov

www.gmaboardswa.gov

Central Puget Sound Growth Management Hearings Board

The Financial Center

1215 4th Avenue

Suite 322

Seattle, Washington 98161-1001

(206) 389-2625

(206) 389-2588 fax

cps@gmaboardswa.gov

Eastern Growth Management Hearings Board

Larson Building, Suite 818
6 South 2nd Street
Yakima, Washington 98901
(509) 454-7803
(509) 454-7292 fax
ew@gmaboardswa.gov
ewgmhb@wolfenet.com

Office of Community Development

Shane Hope, Assistant Director, Growth Management Division
PO Box 48300
Olympia, WA. 98504-8300
(360) 753-1197

Provides mediation services to state agencies, communities and local governments in disputes concerning comprehensive growth plans, county-wide planning and urban growth areas. Mediation is also available through referral.

Department of Health

Office of Professional Standards

Karl Schmidt, Sr. Health Law Judge
PO Box 47879
Olympia, WA 98504-7879
(206) 389-2600
(360) 236-4677

Provides mediation services to health profession licensees concerning disciplinary and licensing hearings. These mediators are also used for workplace disputes within the agency. Mediation is provided by hearing officers.

Personnel Appeals Board

Don Bennett, Executive Secretary
PO Box 40911
Olympia, WA 98504-0911
(360) 664-0373

Mediation is required for state civil service employee appeals. Mediators provide services under contract.

Attachment 4

ALJ'S

ALABAMA

Attorney General's Office

Office of Administrative Hearings

Tori L. Adams-Burks, Administrative Law Judge

11 South Union Street, Room 224

Montgomery, AL 36130

(334) 242-7395

(334) 353-9050 fax

taburks@ago.state.al.us

COLORADO

Colorado Division of Administrative Hearings

Marshall Snider, Chief Administrative Law Judge

1120 Lincoln St., Suite 1400

Denver, CO 80203

(303) 894-2500

Provides mediation and settlement conference services to parties in administrative proceedings, or potential proceedings, before the Colorado central panel administrative hearing agency.

KENTUCKY

Kentucky Natural Resources Environmental Protection Cabinet

Alan Wagers, Chief Hearing Officer

Office of Administrative Hearings

35-36 Fountain Pl.

Frankfort, KY 40601

(502) 564-7312

(502) 564-4973 fax

alan.wagers@mail.state.ky.us

www.nr.state.ky.us/nrecp/hearings/home.htm

Responsible for administrative, adjudicatory hearings upon the filing of a petition or complaint, and to recommend to the Secretary the final action that should be taken. Mediation is offered as a non-binding, voluntary and confidential process for surface mining and environmental issues.

MAINE

Division of Administrative Hearings

Allan Toubman, Chief Administrative Hearing Officer

2 Anthony Ave., Suite 1

Augusta, ME 04330-9477

(207) 624-5900

(207) 624-5903 fax

allan.a.toubman@state.me.us

janus.state.me.us/labor/appeals/

Provides dispute resolution service to state agencies. It primarily hears appeals on Unemployment Compensation benefit issues for the Department of Labor.

MARYLAND

Office of Administrative Hearings

Laurie Bennett, Administrative Law Judge
Joan Borsnan Gordon, Administrative Law Judge
11101 Gilroy Road
Hunt Valley, MD 21031-1301
(410) 229-4100
(410) 229-4111 fax
1800-388-8805

lbennett@oah.state.md.us

www.oah.state.md.us

Hears all contested state administrative law cases, mediates special education disputes, and encourages mediation where appropriate.

MINNESOTA

Minnesota Office of Administrative Hearings

Ken Nickolai, Chief Administrative Law Judge
Phyllis A. Reha, Administrative Law Judge
100 Washington Square, Suite 1700
Minneapolis, MN 55401-2138
(612) 341-7602
(612) 349-2665

phyllis.reha@state.mn.us

www.oah.state.mn.us

Provides low cost dispute resolution services to persons involved in disputes wherein at least one of the parties is a state agency or local unit of government. Also facilitates advisory groups formed to develop rules for various state agencies.

NEW YORK

State of New York Public Service Commission

Department of Public Service

Judith A. Lee, Chief Administrative Law Judge
Three Empire State Plaza
Albany, NY 12223-1350
(518) 474-4520

judith_lee@dps.state.ny.us

www.dps.state.ny.us/directory.htm

Department of Environmental Conservation

Daniel E. Louis, Chief Administrative Law Judge
Office of Hearings and Mediation Services
50 Wolf Road
Albany, NY 12233-1550

(518) 457-3468

delouis@gw.dec.state.ny.us

PENNSYLVANIA

Pennsylvania Public Utility Commission

Office of Administrative Law Judge

Herb Nurick, Mediation Coordinator

P.O. Box 3265

Harrisburg, PA 17105-3265

717-783-5428

717-787-0481 fax

nurick@puc.state.pa.us

The Commission's mediation policy accords all utilities, under the jurisdiction of the PUC, and their customers, the opportunity to mediate disputes. The Office of Administrative Law Judge manages the mediation program, which allows parties to request mediation prior to or during a proceeding.

TENNESSEE

Administrative Procedures Division

Office of the Secretary of State

Charles Sullivan, Director

Thomas G. Stovall, Assistant Director

William R. Snodgrass Tower, 8th Floor

312 8th Ave.

Nashville, TN 37243

(615) 741-7008

(615) 741-0518

tstovall@mail.state.us

TEXAS

Office of Administrative Hearings

Nancy Lynch, ADR Coordinator

300 W. 15th St. Suite 502

Austin, TX 78701

(512) 475-4993 fax

nancy.lynch@soah.state.tx.us

WASHINGTON

Environmental Hearings Office

Phyllis MacLeod, Administrative Appeals Judge

PO Box 40903

Olympia, WA 98604-0903

(360) 493-9223

*Mediation available for environmental disputes within the Board's jurisdiction.
Mediation provided by hearing officers.*

Growth Management Hearings Board

Mediation services are provided to parties before the boards concerning land use planning disputes. Each board serves a geographic area of the state. The mediation service is provided by board members from the following geographic areas:

Western Washington Growth Management Hearings Board

Taylor Square - 905 24th Way SW, Suite B-2

PO Box 40953

Olympia, Washington 98504-0953

(360) 664-8966

(360) 664-8975 fax

western@gmaboardswa.gov

www.gmaboardswa.gov

Central Puget Sound Growth Management Hearings Board

The Financial Center

1215 4th Avenue

Suite 322

Seattle, Washington 98161-1001

(206) 389-2625

(206) 389-2588 fax

cps@gmaboardswa.gov

Eastern Growth Management Hearings Board

Larson Building, Suite 818

6 South 2nd Street

Yakima, Washington 98901

(509) 454-7803

(509) 454-7292 fax

ew@gmaboardswa.gov

ewgmhb@wolfenet.com

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Session of 2001

SENATE BILL No. 14

By Special Committee on Federal and State Affairs

1-5

Section 1. K.S.A. 2000 Supp. 5-501 is hereby amended to read as follows: 5-501. (a) K.S.A. 2000 Supp. 5-501 through 5-516, and amendments thereto, shall be known and may be cited as the dispute resolution act.

(b) The dispute resolution act shall apply to registered and approved programs and individuals, and personnel thereof, to parties to dispute resolution being conducted by registered programs and individuals, and to disputes referred by a court, by state government or as otherwise provided by statute to dispute resolution other than litigation. The dispute resolution act shall not apply to any judge acting in an official capacity.

9 AN ACT concerning mediation; relating to disputes which may be ordered to mediation; relating to certain costs of mediation; amending
10 K.S.A. 44-817 and K.S.A. 2000 Supp. 5-509 [and 5-516] and repealing
11 the existing sections.
12

13
14 *Be it enacted by the Legislature of the State of Kansas:*

15 [Section 1.] K.S.A. 2000 Supp. 5-509 is hereby amended to read as
16 follows: 5-509. (a) [The following types of cases may be ordered by a judge
17 and accepted for dispute resolution by an approved program or individual:

18 (1) Civil claims and disputes, including, but not limited to, consumer
19 and commercial complaints, disputes involving allegations of shoplifting,
20 disputes between neighbors, disputes between business associates, dis-
21 putes between landlords and tenants, disputes involving matters under
22 the small claims procedure act, farmer-lender disputes, and disputes
23 within communities;

24 (2) disputes concerning child custody, residency, visitation rights,
25 parenting time and other areas of domestic relations;

26 (3) juvenile offenses and disputes involving juveniles;

27 (4) disputes between victims and offenders, in which the victims vol-
28 untarily agree to participate in mediation;

29 (5) disputes involving allegations of unlawful discrimination under
30 state or federal laws;

31 (6) disputes referred by county attorneys or district attorneys;

32 (7) disputes involving employer and employee relations under K.S.A.
33 72-5413 through 72-5432, and amendments thereto, or K.S.A. 75-4321
34 through 75-4337, and amendments thereto; and

35 (8) disputes referred by a court, an attorney, a law enforcement of-
36 ficer, a social service agency, a school or any other interested person or
37 agency, including the request of the parties involved.]

38 (b) [A case may be referred prior to the commencement of formal
judicial proceedings or may be referred as a pending court case.] If a court
41 refers a case, information shall be provided to the court as to whether an
42 agreement was reached and, if available, a copy of the signed agreement
shall be provided to the court.

43 (c) Before the dispute resolution process begins, the neutral person

5-501 and

Sec. 2.

Upon finding that alternatives to litigation may provide a more appropriate means to resolve the issues in a case and that the costs of the dispute resolution process are commensurate with the amount at controversy in the case and the parties' ability to pay such costs, a judge may order the parties to the case to participate in a judicial settlement conference or a non-binding dispute resolution process conducted by an approved program or individual.

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conducting the process shall provide the parties with a written statement setting forth the procedures to be followed.

Sec. 2. K.S.A. 2000 Supp. 5-516 is hereby amended to read as follows: 5-516. The supreme court, upon recommendation by the director in consultation with the council, shall adopt rules:

(a) Establishing standards and guidelines by which mediation should be conducted;

(b) for the administration of the dispute resolution act ~~and to~~; and

(c) ~~prescribe~~ prescribing ethics requirements and standards for approved programs and individuals.

New Sec. 3. (a) The deliberate and intentional avoidance of mediation ordered pursuant to K.S.A. 5-509, and amendments thereto, shall constitute evidence of bad faith.

(b) Upon a finding that a party to a dispute has acted in bad faith by deliberately and intentionally avoiding mediation, the court may order such party to pay the reasonable attorney fees of the other party or parties to a dispute.

Sec. 4. K.S.A. 44-817 is hereby amended to read as follows: 44-817.

(a) The secretary of human resources shall have power to appoint any competent, impartial, disinterested person to act as mediator in any labor dispute either upon the secretary's own initiative or upon the request of one of the parties to the dispute. It shall be the function of such mediator to bring the parties together voluntarily under such favorable auspices as will tend to effectuate settlement of the dispute, but neither the mediator nor the secretary of human resources shall have any power of compulsion in mediation proceedings. The secretary of human resources shall provide

~~necessary expenses for such mediators as may be appointed, under reasonable compensation not exceeding \$50 per day for each such mediator, and prescribe reasonable rules of procedure for such mediators. The cost~~

~~for such mediation services shall be borne by the secretary.~~

(b) All verbal or written information transmitted between any party to a dispute and a mediator conducting the proceeding, or the staff of an approved program under K.S.A. 5-501 et seq. and amendments thereto shall be confidential communications. No admission, representation or statement made in the proceeding shall be admissible as evidence or subject to discovery. A mediator shall not be subject to process requiring the disclosure of any matter discussed during the proceedings unless all the parties consent to a waiver. Any party, including the neutral person or staff of an approved program conducting the proceeding, participating in the proceeding has a privilege in any action to refuse to disclose, and to prevent a witness from disclosing, any communication made in the course of the proceeding. The privilege may be claimed by the party or anyone the party authorizes to claim the privilege.

Delete

which are directly related to the mediation

or the secretary's designee

be authorized to charge fees to the parties for mediation, conflict resolution services or training programs contracted for to be provided by the agency and shall

costs

allocated

or the secretary's designee

1 (c) The confidentiality and privilege requirements of this section shall
2 not apply to:

3 (1) Information that is reasonably necessary to establish a defense for
4 the mediator or staff of an approved program conducting the proceeding
5 in the case of an action against the mediator or staff of an approved
6 program that is filed by a party to the mediation;

7 (2) any information that the mediator is required to report under
8 K.S.A. 38-1522 and amendments thereto;

9 (3) any information that is reasonably necessary to stop the commis-
10 sion of an ongoing crime or fraud or to prevent the commission of a crime
11 or fraud in the future for which there was an expressed intent to commit
12 such crime or fraud; or

13 (4) any information that the mediator is required to report or com-
14 municate under the specific provisions of any statute or in order to comply
15 with orders of the court.

16 Sec. 5. K.S.A. 44-817 and K.S.A. 2000 Supp. 5-509 and 5-516 are
17 hereby repealed.

5-501 and

18 Sec. 6. This act shall take effect and be in force from and after its
19 publication in the statute book.

SB 14
Katherine Kirk

#B 2/13/01
Sen. Jud.
Subcommittee

TESTIMONY OF KATHERINE L. KIRK
1046 New Hampshire Lawrence, KS 66049
(785) 840-9400 Fax (785) 843-2468 kkirk@1040nh.com

SENATE JUDICIARY SUBCOMMITTEE
SB 14

Tuesday February 13, 2001

Introduction:

I appreciate the Chair and other members of the committee taking their time to consider my statements concerning SB 14 and mediation. My name is Katherine Kirk. I am currently practicing as a licensed attorney in family, professional malpractice, and personal injury matters. I also have an extensive family law, special education, public policy, and civil mediation practice in addition to acting as a state court appointed domestic arbitrator in high conflict cases (domestic case manager), and a federal court appointed special education arbitrator. I find it encouraging that the legislature is considering expansion of a variety of intervention tools for conflict management throughout the state.

History:

To those of us in the field of dispute resolution who conduct different processes as well as training and educating others in the processes, I believe there is a common philosophy that education is a key to building a responsible and well-functioning system of conflict management. "In the beginning," before the Dispute Revolution Act, members of Heartland Mediators Association, various religious groups, and schools were quietly and intently attempting to educate the public in the benefits of dispute resolution—particularly mediation.

Even before the act, there was a great deal of discussion in Kansas, as well as every other state as to what "mediation" was. The common definition, which is codified, has several key components: mediation is confidential and privileged, mediators do not make decisions, and all agreements are voluntary. Therefore, the mediator is a translator, orchestrator, and facilitator. Except for the privilege, which is fairly unique to Kansas, these attributes are universally accepted as descriptive of the mediation process worldwide. Although some mediators are more "encouraging" than others, the key to the integrity of the process is confidentiality and party crafted resolutions.

As the first appointed Director of Dispute Resolution in Kansas, I and the Council at that time spent a great deal of time establishing mediation guidelines, ethics, and standards which were compatible with the general definition, other states, and the professional ethics governing behavioral sciences and law. One of the primary notions was that although many people "mediate" very effectively naturally and instinctively, that specific skill training based on agreed components would build a responsible system on which the citizens of the state could generally rely. With that in mind, we built a system which

included approval of mediators and trainers, as well as approved course components. These were made into Supreme Court Rules.

Funding:

With the limited funds available to dispute resolution processes, the system has relied upon a great deal of volunteers and creativity. Even with those in place, a reliable system requires at least minimal funding for responsible administration and training. One of the original effective means, which has not been used to its full capacity is tapping into the college and university systems throughout the state. Training provided in core curriculum not only educates students in the skills of conflict management which they can pass on in their profession, but it also is a means to build volunteer and low income clinics like those at KU, Washburn Law School, Ft. Hays State, and WSU.

Another method which was discussed, but never implemented was that of allowing each courthouse or county determine its own individual needs as to dispute resolution, and create a local filing fee option which can be funneled either through the court system to provide mediation for low income parties, or through the county for either court related or community related programs, such as the Safe Streets program in Topeka or the restorative justice programs across the states.

Yet another option for community based programs which was discussed several years ago, but not attempted, was to develop a collaborative project with the Chambers of Commerce across the state. This type of system would place voluntary or low income mediation centers in local chambers. The theory is based on the fact that most communities have a chamber, and members might be willing to provide space and/or an slight increase in membership fees to provide mediation to the community.

Education:

Conflict management and mediation are taught in the majority, if not all, of the colleges and universities in the state. Although not every department has classes, almost all are accessible to all students. These classes are most often found in psychology, social work, religious, law, and political science departments or schools. Unfortunately, schools of education are not on board to the same degree. The KSDE of education recognized the benefits of mediation in the area of special education several years ago and implemented a state-wide mediation option for placement decisions. Many individual schools throughout the state have peer mediation, playground mediation, and conflict management programs. Yet, there is no state-wide initiative supporting conflict management curriculum. In states where holistic school programs are implemented (e.g. peer mediation, conflict management curriculum, special education mediation, truancy, and parent/adolescent mediation all in the same school), violence takes a drastic turn downward, and school attendance goes upward. These types of systems can be implemented with few additional resources. Many can be encouraged through teach training.

Training of mediators needs to be done in a state-wide manner consistent with the tenants

of the process. If it is further expanded to state government, it makes sense to use those standards already proven to provide a competent base. These would be the same standards currently used in training through the Kansas Bar Association, the colleges and universities engaging in approved programs, KCC, Department of Administration, the state CPM courses, and others. These trainings emphasize not only the components of a good process, but also system development which includes a strict separation of the mediator from the dispute and parties. In other words, mediation which has no appearance of bias or lack of confidentiality. The other aspect of a good training includes instruction on how to appropriately and effectively engage in mediation when representing, or appearing as a party.

Restorative Justice/Victim Offender Mediation/Victim Offender Reconciliation:

Art Thompson will be explaining where programs exist and some of the specifics of these programs. I would like to add my unconditional support and encouragement for expansion of these programs. In Douglas County where I provide both voluntary training and act as a voluntary mediator, we have experienced some astounding success. This summer at the Juvenile Justice Conference a panel will be presenting information on how to conduct this type of mediation and also present ideas on program development.

Along the same vein, mediation is underused in other parts of the juvenile system. Many of the opportunities to expand the use of mediation in the juvenile system could be done quite literally for the cost of training.

All though there are a number of other issues I could discuss, I do not want to take more of the committee's time. Thank you for consideration of these thoughts.

A handwritten signature in cursive script that reads "Katherine Zuk". The signature is written in black ink and is positioned in the lower center of the page.