

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 445

H.P. 346 House of Representatives, February 19, 1987
On Motion of Representative PARADIS of Augusta referred to the Committee on Judiciary. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk
Presented by Representative ANTHONY of South Portland.
Cosponsored by Senator GAUVREAU of Androscoggin and Representative MARSANO of Belfast.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-SEVEN

AN ACT Permitting Private Mediation for
Divorcing Couples.

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 4 MRSA §18, sub-§7 is enacted to read:

7. Certification of private mediators. For purposes of Title 19, section 752, the Court Mediation Service may certify persons in private practice as mediators based on their qualifications through training and experience as determined by the Court Mediation Service.

Sec. 2. 19 MRSA §752, sub-§4, as amended by PL 1985, c. 750, §5, is further amended to read:

1 4. Mediation. Prior to a contested hearing un-
2 der this section where there are minor children of
3 the parties, the court shall refer the parties to me-
4 diation; except that, for good cause shown, the
5 court, prior to referring the parties to mediation,
6 may hear motions for temporary relief, pending final
7 judgment on any issue or combination of issues for
8 which good cause for temporary relief has been shown.
9 Mediation may be provided by the Court Mediation Ser-
10 vice or by persons in private practice whose qualifi-
11 cations, based on training and experience, have been
12 certified by the Court Mediation Service. Upon motion
13 supported by affidavit, the court may, for extraordi-
14 nary cause shown, waive the mediation requirement un-
15 der this subsection. Any agreement reached by the
16 parties through mediation on any issues shall be re-
17 duced to writing, signed by the parties and presented
18 to the court for approval as a court order. When
19 agreement through mediation is not reached on any is-
20 sue, the court must determine that the parties made a
21 good faith effort to mediate the issue before pro-
22 ceeding with a hearing. If the court finds that ei-
23 ther party failed to make a good faith effort to me-
24 diate, the court may order the parties to submit to
25 mediation, may dismiss the action or any part of the
26 action, may render a decision or judgment by default,
27 may assess attorney's fees and costs or may impose
28 any other sanction that is appropriate in the circum-
29 stances. The court may also impose an appropriate
30 sanction upon a party's failure without good cause to
31 appear for mediation after receiving notice of the
32 scheduled time for mediation.

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STATEMENT OF FACT

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Some divorcing couples prefer to use persons in private practice for mediation services, rather than the services available through the Court Mediation Service in complying with the statutory requirement to have attempted mediation prior to a contested hearing. This bill permits the use of a private mediator, provided that the mediator has first been certified by the Court Mediation Service to be qualified based on training and experience.

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