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Bill Analysis

Version: As Introduced

Primary Sponsor: Rep. Brewer

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SUMMARY

- Requires the court to order mediation for married parents who do not agree on the allocation of parental rights and responsibilities or a specific parenting time schedule and conciliation for unmarried parents who do not agree on the allocation of parental rights and responsibilities.
- Permits the court to waive mandatory mediation or conciliation if it determines the mediation or conciliation is not appropriate after considering (1) the children's best interest and (2) whether either parent has been convicted of or pleaded guilty to certain violent offenses against a family or household member or perpetuated child abuse.
- Permits the court, on the motion of one or both parents, reduce the payment of mediation or conciliation costs for indigent parents, in addition to its current authority to waive or require one parent to pay the mediation or conciliation costs.
- Requires each party who has been ordered to mediation or conciliation to complete a court-approved orientation session.
- Requires any mediation or conciliation procedures adopted by local court rule to establish specified mediator and conciliator training requirements.
- Names the bill the "Ohio Custody Mediation and Orientation Act."

DETAILED ANALYSIS

Ohio Custody Mediation and Orientation Act

Overview

The bill, named the "Ohio Custody Mediation and Orientation Act,"[1] generally makes mediation and conciliation mandatory, rather than at the court's discretion or on the motion of a party as in current law, when parents do not agree on an appropriate allocation of parental rights and responsibilities for the care of their children or a specific parenting time schedule for their children.

Mediation for married parents

Mandatory mediation and waiver

Ohio law authorizes a court, in a proceeding for divorce, dissolution, legal separation, annulment, or the allocation of parental rights, to order parents to mediate their differences when they do not agree on an appropriate allocation of parental rights and responsibilities or a specific parenting time schedule. The bill requires the court to order the parents to mediation to resolve their disputes on those matters. Continuing law requires the parents to mediate their differences in accordance with mediation procedures adopted by the court by local rule.

The bill permits the court to waive the mediation requirement if it determines mediation is not appropriate. When determining whether mediation is appropriate, the court must consider both (1) under the bill, the children's best interest, and (2) under continuing law, whether either parent previously has been convicted of or pleaded guilty to domestic violence or an offense that caused physical harm involving a victim who was a family or household member or has been determined to be the perpetrator of an abusive act that caused a child to be adjudicated an abused child. Continuing law provides that if either parent has been convicted of or pleaded guilty to such an offense or is the perpetrator of an abusive act that caused a child to be an abused child, the court may order mediation only if it determines that mediation is in the parties' best interests and makes specific written findings of fact to support its determination.[2]

Mediation costs and payment waiver

Existing law allows parents to file a motion requesting the court to waive the payment of mediation costs. The court, for good cause shown, can waive the payment for either or both parents. The bill allows the court to waive or reduce the costs of mediation on a sliding scale for one or both parents only if either or both parents are indigent. Continuing law also allows the court to require one of the parents to pay the entire costs of mediation.[3]

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[1] Section 3.

[2] R.C. 3109.052(A).

[3] R.C. 3109.052(A).

The bill requires any mediation procedures adopted by local court rule for use under the bill to ensure the cost of mediation does not prohibit any parent from participating in mediation.[4]

Mediator qualification requirements

The bill requires any mediation procedures adopted by local court rule for use under the bill to establish qualifications for mediators who may be employed or used, including requiring mediators to be trained in the following:

- Family law and custody procedures;
- Child development;
- Power imbalance and father involvement issues;
- Domestic violence screening.[5]

Orientation session

If the court issues a mediation order, each party must complete a court-approved orientation session, in-person or online, that explains the following:

- The mediation process;
- Each parent's rights and responsibilities;
- The potential outcomes of mediation and court trial;
- Available local resources for parenting education and father engagement.[6]

Conciliation for unmarried parents

Under Ohio law, when a child is born to unmarried parents and paternity has been established, but the parents do not agree on the allocation of parental rights and responsibilities, a court, on its own motion or the motion of one of the parties, may order the unmarried parents to undergo conciliation with a magistrate to resolve the dispute. Similar to the bill's requirements for married parents, under the bill, the court is required to order conciliation for unmarried parents who do not agree on an appropriate allocation of parental rights and responsibilities. Continuing law requires a magistrate who serves as a conciliator to use conciliation procedures to resolve a dispute and, upon resolution, issue an order regarding the allocation of parental rights and responsibilities, parenting time, or companionship or visitation.

The bill permits the court to waive the conciliation requirement for the same reasons it permits a waiver of the mediation requirement for married parents.[7] Similarly, it applies to

[4] R.C. 3109.052(B).

[5] R.C. 3109.052(B).

[6] R.C. 3109.052(E).

[7] R.C. 3109.055(A), (C), and (D).

unmarried parents undergoing conciliation the same requirements regarding conciliation costs, conciliator training, and parent orientation as those that apply to mediation for married parents.[8]

HISTORY

Action	Date
Introduced	05-12-26

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[8] R.C. 3109.055(A), (B), and (E).