

1996 BILL 203

Fourth Session, 23rd Legislature, 45 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 203

FAMILY DISPUTE RESOLUTION ACT

MR. YANKOWSKY

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 203
Mr. Yankowsky

BILL 203

1996

FAMILY DISPUTE RESOLUTION ACT

(Assented to , 1996)

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of Alberta, enacts as follows:

Interpretation

1 In this Act,

- (a) "clerk" means a clerk or deputy clerk of the court;
- (b) "court" means the court before which a family law proceeding is held;
- (c) "family law proceeding" means a cause or matter brought pursuant to:
 - (i) the *Child Welfare Act*,
 - (ii) the *Domestic Relations Act*,
 - (iii) the *Divorce Act* (Canada),
 - (iv) the *Matrimonial Property Act*, or
 - (v) Part 3 of the *Provincial Court Act*,

and, for greater certainty, but without restricting the generality of the foregoing, includes an application for a variation of an order made under any one or more of the Acts referred to in this clause;

(d) "judge" means a judge of the court.

2(1) Where a family law proceeding respecting the issue of custody, access or guardianship is commenced, the clerk shall arrange for, and the parties shall attend, a mediation screening and orientation session prior to taking any further step in the proceeding.

(2) After the mediation screening and orientation session

- (a) the parties may continue with the mediation, or
- (b) any party may discontinue the mediation and continue with the proceeding.

(3) At the request of a party, the mediator shall file a certificate of non-attendance with the court where a party did not attend the mediation screening and orientation session.

(4) After the mediation screening and orientation session, the mediator shall file a certificate of completion with the court.

(5) Where a certificate of non-attendance is filed, the court may, on application,

- (a) adjourn the application and order the party who did not attend the mediation screening and orientation session to attend,
- (b) adjourn the application and order that further mediation occur, on any terms the court considers appropriate, or
- (c) strike out the pleadings or other documents of the party who did not attend unless
 - (i) that party satisfies the court that the party has a reasonable excuse for not attending, and
 - (ii) it would be inequitable to strike out the party's pleadings or documents.

(6) Subject to an order of the court to the contrary, nothing in this section prevents a party from making an application to the court for interim relief.

(7) This section applies only

- (a) at the judicial centres designated in the regulations, and
- (b) to family law proceedings commenced after a designation pursuant to clause (a).

Evidence not
admissible

3 Evidence arising from any admission or communication made in the course of mediation or a mediation screening and orientation session is not admissible in any cause or matter or proceeding before a court, except with the written consent of the mediator and all parties to the cause or matter in which the mediator acted.

Mediator not
liable

4 No action lies or shall be instituted against a mediator for any loss or damage suffered by a person by reason of anything in good faith done, caused, permitted or authorized to be done, attempted to be done or omitted to be done by the mediator in

- (a) the carrying out or supposed carrying out of any duty or power conferred by this Act, or
- (b) the carrying out or supposed carrying out of any order made pursuant to this Act.

Home study
report

5(1) A judge, on application or on the judge's own motion, may adjourn a family law proceeding and order the preparation of a home study report in the prescribed form for the assistance of the court respecting the custody, access to or welfare of children.

(2) A person who prepares a report for the assistance of the court may, by ex parte order of the court, be called as a witness and

- (a) is subject to cross-examination by any party in the proceeding, and
- (b) is deemed not to be a witness of any party in the proceeding.

(3) No action lies or shall be instituted against a person who prepares a home study report and who is required by the court to make recommendations respecting the custody, access to or welfare of children for any loss or damage suffered by a person by reason

of anything in good faith done, caused, permitted or authorized to be done, attempted to be done or omitted to be done by that person in the carrying out or supposed carrying out of that duty.

Counselling
and other
services

6(1) A judge, on application or on the judge's own motion, may adjourn a family law proceeding where the judge considers that any party to the proceeding or any child affected by the proceeding would benefit from counselling or other services.

(2) Where a family law proceeding is adjourned pursuant to subsection (1), the judge may order a party to pay all or a portion of the fees and expenses specified in the order for any of the services.

Regulations

7 The Lieutenant Governor in Council may make regulations

- (a) designating the judicial centres at which section 2 applies;
- (b) prescribing when the mediation screening and orientation session in a family law proceeding is to occur;
- (c) respecting the procedures for the mediation screening and orientation session process;
- (d) prescribing the standards to be met in providing mediation screening and orientation sessions including the qualifications of persons to be employed in providing that service;
- (e) prescribing the forms to be used under this Act.

Conflict

8 Where there is a conflict between this Act and any other enactment, this Act prevails.

Binds the
Crown

9 The Crown is bound by this Act.

Coming into
force

10 This Act comes into force on Proclamation.