

IN THE CIRCUIT COURT, FOURTEENTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA, IN AND FOR BAY COUNTY

ADMINISTRATIVE ORDER NO. 90-10

IN RE: MEDIATION OF CHILD CUSTODY AND VISITATION DISPUTES

WHEREAS, it is the policy of the State of Florida to assure each minor child frequent and continuing contact with both parents after the parents have separated or dissolved their marriage and to encourage parents to share the rights and responsibilities of child rearing; and

WHEREAS, the Court finds that adversary trial techniques, except as an ultimate alternative, are not always the most appropriate means for the resolution of child custody and visitation disputes; and

WHEREAS, family mediation programs have proved successful in resolving such disputes without the necessity of trial; and

WHEREAS, the Supreme Court of Florida Matrimonial Commission has recommended that mediation be employed in an effort to amicably resolve child custody and/or visitation disputes; and

WHEREAS, family mediation is expressly authorized by Section 61.183, Florida Statutes;

NOW, WHEREFORE, in accordance with Sections 61.052(2)(b)(1), 61.13, 61.183 and 44.101, Florida Statutes and Rules 1.700, 1.710, 1.720, 1.730, 1.740, 1.760, 1.770 and 1.780, Florida Rules of Civil Procedure, it is

ORDERED as follows:

1. A Family Mediation and Conciliation Program of Bay County, Florida, is hereby established under the supervision of the Chief Judge of the Fourteenth Circuit Court or his appointee. The Family Mediation and Conciliation Committee of Bay County, Florida, is hereby established to implement and supervise the family mediation program. Its members shall be appointed on recommendation of the Chief Judge of the Fourteenth Judicial Circuit and serve for a term as designated by the Chief Judge.

2. The Mediation Committee of Bay County shall be responsible for contacting trained professional persons who may participate in the program. The committee, in its discretion, shall determine which persons have sufficient qualifications to act as program mediators. The committee shall maintain a list of said persons, with their addresses and hourly charges. The list shall be distributed to the Clerk of the Circuit Court and

attorneys in Bay County, Florida.

3. In all original dissolution of marriage cases involving minor children and all post-judgment family law custody and/or visitation proceedings initiated in the Circuit Court of Bay County no final hearings shall be held on the issues of custody and/or visitation until the court file contains a Certificate from a committee approved professional mediator that mediation was attempted (Form A, attached).

At any time during these proceedings and before a final hearing can be held involving custody and/or visitation, the parties and/or their attorneys shall apply ex parte to the Court for an order requiring both parties to attend a mediation conference with a committee approved professional mediator.

Unless the parties and/or attorneys have mutually agreed to the appointment of a particular mediator from the list of committee approved mediators, the petitioning party and/or attorney shall submit the request for appointment of mediator in the case to the Office of the State Court Administrator for the Fourteenth Circuit, Bay County. Immediately upon receipt of the request the Court Administrator's Office shall select a mediator using a rotating blind draw method from the list of committee approved mediators and advise the petitioning party and/or attorney of the name and address of that mediator. Upon selection, the party and/or attorney shall apply to the Court for an ex parte order appointing that mediator to the case and referring the case to mediation.

If a mediator is appointed by the Court under the rotating blind draw method, the mediator shall not charge more than \$70.00 per hour for mediation services. Each party shall, within two (2) days of the referral order being signed, deposit in their attorney's trust account, or in the registry of the Court, the sum of \$50.00 to cover the initial cost of mediation. The parties and/or attorneys shall file in the court file a notice of compliance with this deposit requirement. Either party may apply for an order relieving them of the responsibility for filing the initial deposit due to lack of finances. The Court shall expedite the hearing on such a request. Failure to post this fee or secure relief from the Court shall subject the offending party to sanctions, including the automatic cancellation by the Court of any hearings seeking relief for custody and/or visitation issues.

The parties and/or their attorneys shall contact the mediator within two (2) days of the date of the Court order for purposes of scheduling the initial conference and the mediator shall schedule the initial conference within twelve (12) days of the date of the Court order. The mediator shall complete the entire mediation process within thirty (30) days from the initial conference, unless extended by order of the Court on motion of the mediator or of a party. No extension of time shall be for a

period exceeding sixty (60) days from the first mediation conference.

4. Depending on the parties' financial circumstances, the Court shall assess the expense of mediation as costs against one or both of the parties. It is the obligation of the parties and/or their attorneys to advise the Court as to the imposition and payment of these costs. However, if the parties' financial circumstances show an inability to pay the costs, upon application of the affected party, the Court will order that these costs will be borne by Bay County, from a mediation fund to be established by the County. The hourly rate for mediators providing services to indigents paid by the County shall not exceed \$35.00 per hour. The Office of the Court Administrator for Bay County shall monitor the number of indigent cases assigned to each mediator and, if necessary, the Chief Judge may alter the selection method to insure an equitable division of said cases to all committee approved mediators.

5. The attorneys for the parties shall be responsible for scheduling and confirming their clients participation in the mediation conference.

6. All mediators shall observe the duties of the mediator as set forth in Rule 1.780, Florida Rules of Civil Procedure, as well as the American Bar Association standards for family mediators, specifically:

- a. The mediator has a duty to define and describe the process of mediation before reaching an agreement.
- b. The mediator shall not disclose any information obtained through the mediation process without the prior consent of both participants.
- c. The mediator has a duty to be impartial.
- d. The mediator has a duty to assure that the mediation participants make decisions based upon sufficient information and knowledge.
- e. The mediator has a duty to suspend or terminate whenever continuation of the process would harm or prejudice one or more of the participants.
- f. The mediator has a continuing duty to advise each of the mediation participants to obtain legal review prior to reaching an agreement.

7. In the event mediation results in an agreement between the parties, the mediator shall submit a memorandum of agreement to the attorneys for both parties. The attorney for the Petitioner shall be responsible for reducing the agreement to writing and presenting the same to the Court. If the Petitioner is not represented, the attorney for the Respondent shall assume this responsibility.

8. All communication of individuals involved in the mediation process and made during the mediation process shall be confidential and inadmissible as evidence in any subsequent legal proceedings.

9. Any party may apply to the Court for a waiver of the requirement of mandatory mediation and the Judge may waive such requirement if it appears that mediation of the issues would not be appropriate under the circumstances of that case. All requests for such a waiver shall be in written form signed by the moving party, with reasonable advance notice of the hearing on said request given to opposing counsel/party.

10. The failure of a party to attend the initial mediation conference and any subsequent conferences scheduled by the mediator without first receiving relief from the Court, shall subject the offending party to appropriate sanctions including contempt of court.


11. It shall be the responsibility of the Clerk of Court of Bay County to maintain records of the number of cases in which mediation was attempted; the number of such cases in which agreements were reached; the number of such cases which were determined by hearings and the number of such cases disposed of by other means.

12. In all cases which have been referred to mediation, the mediator shall report to the Court whether the parties appeared, whether an agreement was reached, the mediator's charges, and whether the mediator and parties have agreed to payment.

13. The Court will not entertain any motion for a home study until a mediation certificate is in the court or until the Court has ordered a waiver pursuant to paragraph 9 of this order.

14. This Administrative Order shall become effective the 1st day of May, 1990 at Panama City, Bay County, Florida.

ORDERED this 15 day of May, 1990, at Panama City, Bay County, Florida.


DON T. SIRMONS, Chief Judge