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House Bill 4823 (Substitute S-2)

Sponsor: Representative Richard Bandstra

House Committee: Judiciary

Senate Committee: Judiciary

Date Completed: 4-28-88

**SUMMARY OF HOUSE BILL 4823
(Substitute S-2):**

The bill would create the "Community Dispute Resolution Act" and establish the Community Dispute Resolution Center Program to provide for voluntary dispute resolution as an alternative to the judicial process. The bill also would:

- Provide for the Program to be funded by circuit court and district court filing fee increases (as proposed in Senate Bill 816).
- Require the program to be administered through community dispute resolution centers operated by grant recipients.
- Establish eligibility criteria for grant recipients, who would be selected by the State Court Administrator.
- Require annual reporting to the Legislature, Governor, and State Court Administrator.

The Program would be created "to provide conciliation, mediation, or other forms and techniques of voluntary dispute resolution to persons as an alternative to the judicial process". The Program would be funded by the Community Dispute Resolution Fund, which would be created in the State Treasury and administered by the State Court Administrator. The Fund would have to be credited with revenue received from circuit and district court filing fee increases, as well as any funds appropriated by the Legislature and any Federal and private funds received by the State to implement the Act.

The Program would be administered through community dispute resolution centers operated by grant recipients (nonprofit or governmental organizations) pursuant to a grant contract awarded by the State Court Administrator. To be eligible for funding, a grant recipient would have to do all of the following:

- Comply with the provisions of the proposed Act, and any requirements or guidelines established by the State Court Administrator.
- Provide neutral mediators who had received at least 25 hours of training in conflict resolution techniques in a course approved by the State Court Administrator and a program of internship as required by the Administrator.
- Provide dispute resolution services without cost to indigents.
- Reject any dispute that involved alleged acts that were or could be the subject of a violent felony or drug-related felony prosecution.
- Refer participants to other agencies or organizations for assistance, when appropriate.

Grant recipients would have to be selected from applications that included the following:

- The budget for the proposed center, including employee compensation and qualifications.
- A description of the proposed geographical area of service and an estimate of the number of participants to be served.
- A description of any current dispute resolution services available within the geographical area.
- A narrative of the proposed program, including the support of civic groups, social services agencies, local courts, and criminal justice agencies to accept and make referrals; the present availability of resources; and the applicant's administrative capacity.
- A description of any fee structure that would be applied to participants.
- Additional information needed by the State Court Administrator.

If an applicant met the eligibility requirements and guidelines and there were no other eligible applicants from the same county, the State Court Administrator would be required to award the applicant a grant at least equal to the pro rata share of available grant funds generated by court filing fees imposed in that county in the year preceding the year for which the application was made. If there were more than one eligible applicant from a county, the Administrator would have to award a grant or grants totaling an amount at least equal to the pro rata share of available grant funds generated by court filing fees imposed in that county in the year before the year for which the applications were made. The bill specifies that nothing in this provision would require a grant award that exceeded the proposed center's approved budget. ("Available grant funds" would mean that portion of the Community Dispute Resolution Fund available for awards to grant recipients, after administrative expenses had been met. "Administrative expenses" would mean those expenses incurred by the State Court Administrator in implementing the proposed Act.) The amount awarded to a grant recipient could not exceed 50% of the proposed center's approved budget, or the amount required above, whichever was higher.

The State Court Administrator or other authorized State official would have the power to inspect, examine, and audit the fiscal affairs of any grant recipient. Annually, each recipient would have to give the Administrator statistical data on its operating budget, number of referrals, categories or types of cases referred, number of parties served, number of disputes resolved, nature of resolution, amount and type of awards, rate of compliance, persons who returned to the center, duration and estimated costs of hearing, and other required

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information. The Administrator would have to report annually to the Legislature and the Governor regarding the operation and success of the centers funded under the Act.

Participation in the dispute resolution process would be voluntary and the form or technique used would have to be by mutual agreement of the parties. The work product and case files of a mediator or center would be confidential and not subject to disclosure in a judicial or administrative proceeding. Communications relating to the subject matter of the resolution made during the resolution process by a party, mediator, or other person also would be confidential.

The proposed Act would take effect after 120 days following its enactment. The bill is tie-barred to Senate Bill 816, which would raise circuit court and district filing fees and allocate the increase to the proposed Fund.

Legislative Analyst: S. Margules

FISCAL IMPACT

The bill would result in increased costs to the State. Costs include administrative costs to the State Court Administrator and grants to community dispute resolution centers. The State Court Administrator's office estimates annual costs to its office of \$70,000 and one-time start-up costs of approximately \$10,000. The amount of the grants will depend on the number of community dispute resolution centers and their individual budgets. The program, including the administrative costs of the State Court Administrator, is to be funded by increased filing fees in circuit and district courts that would be credited to the Community Dispute Resolution Fund.

Fiscal Analyst: B. Bowerman

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.