

Original sponsor: Bradner, H. Beirne,
Brown, et al

Offered: 5/9/75
Referred: Finance

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 237 am FCC

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to mediation in divorce actions, and
7 expanding a litigant's right of peremptory challenge
8 under Alaska Civil Rule 42(c)."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. It is the intent of this Act to provide a means of mediation
11 between parties in divorce actions, in order to achieve a mutually agreeable
12 settlement, including but not limited to disposition of property rights, in
13 termination of the marriage, and to thereby minimize disruption of the house-
14 hold, adverse effects on minor children, and litigation between the parties.

15 * Sec. 2. AS 09.55 is amended by adding a new section to read:

16 Sec. 09.55.115. MEDIATION. (a) At any time within 30 days after
17 a complaint or cross-complaint in a divorce action is filed, a party to
18 the action may file a motion with the court requesting mediation, for
19 the purpose of achieving a mutually agreeable settlement in termination
20 of the marriage. When a party moves for settlement mediation, the other
21 party shall answer the motion on the record, and the judge may order
22 mediation. When no request for mediation is made, the court may at any
23 time order the parties to submit to mediation if it determines that
24 mediation may result in a more satisfactory settlement between the
25 parties.

26 (b) The court appoints the mediator. The court may appoint any
27 person the court finds suitable to act as mediator. Each party shall
28 have the right once to challenge peremptorily any mediator appointed.

29 (c) Mediation shall be conducted informally as a conference or

1 s series of conferences. The parties to the action and a court appointed
2 representative of any minor children of the marriage shall attend.
3 Counsel for the parties may attend all such conferences.

4 (d) After the first conference, either party may withdraw, or the
5 mediator may terminate mediation if he determines that mediation efforts
6 are unsuccessful. Upon withdrawal by either party or termination by the
7 mediator, the mediator shall notify the court that mediation efforts
8 have failed, and the divorce action shall proceed in the usual manner.

9 (e) Upon submission of the parties to mediation under this section,
10 divorce proceedings then pending shall be stayed for a period of 30 days
11 or until the court is notified that mediation efforts have failed. All
12 court orders made under sec. 200 of this chapter remain in effect during
13 the period of mediation.

14 * Sec. 3. Section 2(b) of this Act has the effect of expanding a
15 litigant's right of peremptory challenge under Alaska Civil Rule 42(c), by
16 allowing a party the right to challenge a mediator whose functions under
17 prior law in part parallel those of a superior court judge, in addition to
18 the challenges already provided under such rule.