

1 IN THE SENATE

BY DUNCAN

2

SENATE BILL NO. 302

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to mediation in divorce actions."

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

8 * Section 1. AS 25.24.060 is repealed and reenacted to read:

9 Sec. 25.24.060. MEDIATION. (a) Within 30 days after a com-
10 plaint or cross-complaint in a divorce action is filed, a party to the
11 action may file a motion with the court requesting mediation for the
12 purpose of achieving a mutually agreeable settlement in termination of
13 the marriage. When a party moves for settlement mediation, the other
14 party shall answer the motion on the record, and the court may order
15 mediation. If a request for mediation is not made, the court may at
16 any time order the parties to submit to mediation if it determines
17 that mediation may result in a more satisfactory settlement between
18 the parties.

19 (b) Notwithstanding (a) of this section, the court on its own
20 motion shall order the parties to submit to mediation if custody of,
21 or visitation with, a minor child is a contested issue in a divorce
22 action before the court. The order must require mediation to begin
23 within 30 days. The order must also require at least six hours of
24 mediation unless the parties reach an agreement in less than six hours
25 or the mediator determines that mediation efforts are unsuccessful.
26 The parties may consider issues other than child custody or child
27 visitation during court ordered mediation.

28 (c) The court shall waive mediation under (b) of this section if
29 during the marriage there has been a finding under AS 25.35 of sexual

1 or physical abuse of a child or spouse by either party to the action.

2 (d) The court shall appoint a person qualified under (i) of this
3 section to act as mediator. Each party shall have the right to one
4 peremptory challenge of a mediator.

5 (e) Mediation shall be conducted informally as a conference or
6 series of conferences. The public shall be excluded from conferences,
7 but the court may allow persons to attend a conference if their atten-
8 dance is compatible with the purposes of mediation. Counsel for the
9 parties may not attend the conferences, unless the mediator determines
10 that counsel for both parties should be present during one or more of
11 the conferences.

12 (f) Except as otherwise provided in (b) of this section, after
13 the first conference either party may withdraw, or the mediator may
14 terminate mediation if the mediator determines that mediation efforts
15 are unsuccessful. Upon withdrawal by either party or termination by
16 the mediator, the mediator shall notify the court that mediation
17 efforts have failed, and the divorce action shall proceed in the usual
18 manner.

19 (g) Upon submission of the parties to mediation under this
20 section, the divorce action then pending is stayed for a period of 30
21 days or until the court is notified that mediation efforts have failed
22 or that an agreement has been reached. Court orders made under AS
23 25.24.140 remain in effect during the period of mediation.

24 (h) If the parties reach an agreement, the mediator shall place
25 the agreement in writing. The agreement shall be signed by the
26 parties and submitted to the court for its consideration. The media-
27 tor shall prepare a report to the court on the issues that were not
28 resolved by mediation.

29 (i) The superior court shall maintain a roster of qualified

1 mediators. A qualified mediator shall have

2 (1) a law degree or a master's degree in psychology, social
3 work, family and child counseling, or other behavioral science sub-
4 stantially related to marriage and family interpersonal relationships;

5 (2) a minimum of two years of experience in family law or
6 in counseling, mediation, or psychotherapy;

7 (3) knowledge of the court system and the procedures of
8 domestic relations proceedings;

9 (4) knowledge of public and private social resources avail-
10 able in the community;

11 (5) knowledge of adult psychopathology and the psychology
12 of families;

13 (6) knowledge of child development, child abuse, clinical
14 issues relating to children, the effect of divorce on children, the
15 effects of domestic violence on children, and child custody research
16 sufficient to enable a counselor to assess the mental health needs of
17 children.