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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 1132 Session of  
2018

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INTRODUCED BY GREENLEAF, LEACH AND SCHWANK, APRIL 13, 2018

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REFERRED TO JUDICIARY, APRIL 13, 2018

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AN ACT

1 Amending Title 44 (Law and Justice) of the Pennsylvania  
2 Consolidated Statutes, in other officers, establishing the  
3 Pennsylvania Alternative Dispute Resolution Commission,  
4 providing for its powers and duties and establishing the  
5 Alternative Dispute Resolution Fund.

6 The General Assembly of the Commonwealth of Pennsylvania  
7 hereby enacts as follows:

8 Section 1. Title 44 of the Pennsylvania Consolidated  
9 Statutes is amended by adding a chapter to read:

10 CHAPTER 75

11 PENNSYLVANIA ALTERNATIVE DISPUTE RESOLUTION

12 COMMISSION

13 Sec.

14 7501. Scope of chapter.

15 7502. Definitions.

16 7503. Establishment of commission.

17 7504. Purposes of commission.

18 7505. Board of directors.

19 7506. Administrative matters.

20 7507. Powers and duties of commission.

1 7508. Reports.

2 7509. Alternative Dispute Resolution Fund.

3 § 7501. Scope of chapter.

4 This chapter relates to the Pennsylvania Alternative Dispute  
5 Resolution Commission.

6 § 7502. Definitions.

7 The following words and phrases when used in this chapter  
8 shall have the meanings given to them in this section unless the  
9 context clearly indicates otherwise:

10 "Alternative dispute resolution." A process that:

11 (1) assists persons in a dispute to resolve or manage  
12 their differences without resorting to criminal prosecution,  
13 civil unrest, economic disruption or violence; or

14 (2) is intended to prevent or mitigate a dispute.

15 The term does not include litigation.

16 "Alternative dispute resolution program." A program or  
17 service that provides or encourages alternative dispute  
18 resolution, regardless of the nature of the entity that provides  
19 the program or service. The term includes the following:

20 (1) Arbitration.

21 (2) Collaborative practice.

22 (3) Conciliation.

23 (4) Conflict coaching.

24 (5) Consensus building.

25 (6) Early neutral evaluation.

26 (7) Facilitation.

27 (8) Fact-finding.

28 (9) Mediation.

29 (10) Minitrial.

30 (11) Ombuds.

1           (12) Online dispute resolution.

2           (13) Restorative justice.

3           (14) Structured dialogue.

4           "Board of directors" or "board." The board of directors  
5 specified under section 7505 (relating to board of directors).

6           "Commission." The Pennsylvania Alternative Dispute  
7 Resolution Commission established under this chapter.

8           "Litigation." The term refers to litigation before  
9 administrative agencies as well as courts.

10 § 7503. Establishment of commission.

11           The Pennsylvania Alternative Dispute Resolution Commission is  
12 established as an independent agency of this Commonwealth.

13 § 7504. Purposes of commission.

14           The purposes of the commission are to:

15           (1) Encourage and facilitate the development, use,  
16 coordination, support and evaluation in this Commonwealth of  
17 affordable and high-quality alternative dispute resolution  
18 programs and services in this Commonwealth.

19           (2) Recommend improvements in alternative dispute  
20 resolution programs and services.

21 § 7505. Board of directors.

22           (a) Powers and duties.--The board of directors shall manage  
23 the commission and its staff in the exercise of the powers and  
24 duties of the commission under section 7507 (relating to powers  
25 and duties of commission) for the purposes specified in section  
26 7504 (relating to purposes of commission).

27           (b) Membership.--The board of directors shall consist of the  
28 following members:

29           (1) The Chief Justice of the Supreme Court.

30           (2) Seven members appointed by the Chief Justice of the

1 Supreme Court as follows:

2 (i) One member of the Pennsylvania Bar Association,  
3 preferably a member of the Alternative Dispute Resolution  
4 Committee or a practitioner of alternative dispute  
5 resolution.

6 (ii) One member of the Pennsylvania Council of  
7 Mediators.

8 (iii) One member who is a current or former dean or  
9 president of a Pennsylvania law school or a designated  
10 professor who teaches alternative dispute resolution.

11 (iv) One member who is a sitting judge of the  
12 Superior Court or the Commonwealth Court.

13 (v) One member who is a sitting judge of a court of  
14 common pleas.

15 (vi) One member who is a magisterial district judge.

16 (vii) One member from the general public.

17 (3) Five members appointed by the Governor as follows:

18 (i) One member who is a sitting member of the  
19 governing body of a county of the first class.

20 (ii) One member who is a sitting member of the  
21 governing body of a county of the second class.

22 (iii) Three members from the general public, at  
23 least one of whom is knowledgeable about community  
24 mediation.

25 (4) Four members who are sitting members of the General  
26 Assembly, appointed as follows:

27 (i) One member of the Senate appointed by the  
28 President pro tempore of the Senate.

29 (ii) One member of the Senate appointed by the  
30 Minority Leader of the Senate.

1 (iii) One member of the House of Representatives  
2 appointed by the Speaker of the House of Representatives.

3 (iv) One member of the House of Representatives  
4 appointed by the Minority Leader of the House of  
5 Representatives.

6 (c) Terms of members.--

7 (1) Each member under subsection (b)(2) and (4) shall  
8 serve a three-year term.

9 (2) Each member under subsection (b)(3) shall serve a  
10 two-year term.

11 (3) A member of the commission may be reappointed for  
12 one term.

13 (d) Successor member.--A member of the commission shall  
14 remain in office until a successor is appointed and qualified  
15 under subsection (b).

16 (e) Vacancies.--Notwithstanding subsection (c), if a vacancy  
17 occurs in the membership of the commission, through the death,  
18 resignation or termination while in the office from which  
19 appointed or disqualification of a member, a new member may be  
20 appointed by the appointing authority of the vacated member to  
21 serve the remainder of the unexpired term. The new member shall  
22 be appointed and qualified in conformity with subsection (b).

23 (f) Diversity.--Appointing authorities shall select members  
24 to the commission in such a manner as to ensure diversity of  
25 race, ethnic origin, age, gender, occupation and geographic  
26 residence.

27 § 7506. Administrative matters.

28 (a) Officers of board.--The board of directors shall select  
29 a chairperson from its members and other necessary officers  
30 during its first meeting in each calendar year.

1 (b) Quorum.--Seven members of the board shall constitute a  
2 quorum.

3 (c) Staff.--The commission shall employ an executive  
4 director and an associate director selected by the board and may  
5 employ other professional, technical and clerical staff under  
6 the supervision of the board.

7 (d) Expenses.--The members of the board shall serve without  
8 compensation, but shall be reimbursed for actual and necessary  
9 expenses incurred in the performance of their duties under this  
10 chapter.

11 § 7507. Powers and duties of commission.

12 The commission has the following powers and duties:

13 (1) To assist in the development, use, coordination,  
14 support and evaluation of alternative dispute resolution  
15 programs in governmental, educational, business, community or  
16 other settings and in judicial settings in concert with the  
17 Unified Judicial System.

18 (2) To support the advancement of alternative dispute  
19 resolution methods.

20 (3) To advise representatives of judicial and education  
21 systems, business and governmental entities and communities  
22 regarding alternative dispute resolution procedures and  
23 practices.

24 (4) To collect and disseminate information and make  
25 referrals for alternative dispute resolution programs and  
26 related education, training and research.

27 (5) To collect and disseminate data helpful to the  
28 purposes of the commission.

29 (6) To identify and encourage the use of best practices  
30 in alternative dispute resolution.

1       (7) To educate the public regarding alternative dispute  
2 resolution programs and methods.

3       (8) To facilitate access to alternative dispute  
4 resolution programs and services.

5       (9) To facilitate the establishment of programs that  
6 provide education or training in alternative dispute  
7 resolution.

8       (10) To develop an annual operating budget, which shall  
9 be approved by the board before the start of the fiscal year  
10 of the Commonwealth.

11       (11) To hire and determine the salary of commission  
12 staff, which shall serve at the pleasure of the board.

13       (12) To establish and maintain a central office and  
14 other offices as necessary.

15       (13) To seek, solicit and apply for grants from public  
16 or private sources to provide for the operation of  
17 alternative dispute resolution programs in this Commonwealth.

18       (14) To accept the services of volunteers who agree to  
19 assist the commission without compensation. The volunteers  
20 may be reimbursed for expenses incurred for the purposes of  
21 this chapter.

22       (15) To enter into contracts for goods or services, or  
23 authorize the executive director to enter into contracts as  
24 necessary to implement this chapter.

25       (16) To prepare reports, including reports required  
26 under section 7508 (relating to reports), as necessary.

27       (17) To promulgate regulations and issue rules as  
28 necessary for the administration of this chapter.

29       (18) To set priorities for the implementation of this  
30 section in accordance with available resources and the

1 purposes of the commission under section 7504 (relating to  
2 purposes of commission).

3 § 7508. Reports.

4 (a) Annual reports.--The commission shall submit an annual  
5 report to the Governor, the General Assembly and the  
6 Pennsylvania Supreme Court regarding the operations of the  
7 commission during the preceding fiscal year.

8 (b) Biennial reviews.--The commission shall conduct a review  
9 every two years of the use, effectiveness, fairness, cost and  
10 quality of alternative dispute resolution programs and services  
11 in this Commonwealth. The review may be included in the annual  
12 report.

13 § 7509. Alternative Dispute Resolution Fund.

14 (a) Establishment.--The Alternative Dispute Resolution Fund  
15 is established in the State Treasury to receive and disburse  
16 money to implement this chapter.

17 (b) Source of funding.--The General Assembly may appropriate  
18 or transfer funds necessary to implement this chapter to the  
19 Alternative Dispute Resolution Fund.

20 Section 2. This act shall take effect in 60 days.