



## Ohio Revised Code

### Section 3109.052 Mediation of differences as to allocating parental rights and responsibilities.

Effective: March 22, 2001

Legislation: Senate Bill 180 - 123rd General Assembly

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(A) If a proceeding for divorce, dissolution, legal separation, annulment, or the allocation of parental rights and responsibilities for the care of a child involves one or more children, if the parents of the children do not agree upon an appropriate allocation of parental rights and responsibilities for the care of their children or do not agree upon a specific schedule of parenting time for their children, the court may order the parents to mediate their differences on those matters in accordance with mediation procedures adopted by the court by local rule. When the court determines whether mediation is appropriate in any proceeding, it shall consider whether either parent previously has been convicted of or pleaded guilty to a violation of section 2919.25 of the Revised Code involving a victim who at the time of the commission of the offense was a member of the family or household that is the subject of the proceeding, whether either parent previously has been convicted of or pleaded guilty to an offense involving a victim who at the time of the commission of the offense was a member of the family or household that is the subject of the proceeding and caused physical harm to the victim in the commission of the offense, and whether either parent has been determined to be the perpetrator of the abusive act that is the basis of an adjudication that a child is an abused child. If either parent has been convicted of or pleaded guilty to a violation of section 2919.25 of the Revised Code involving a victim who at the time of the commission of the offense was a member of the family or household that is the subject of the proceeding, has been convicted of or pleaded guilty to any other offense involving a victim who at the time of the commission of the offense was a member of the family or household that is the subject of the proceeding and caused physical harm to the victim in the commission of the offense, or has been determined to be the perpetrator of the abusive act that is the basis of an adjudication that a child is an abused child, the court may order mediation only if the court determines that it is in the best interests of the parties to order mediation and makes specific written findings of fact to support its determination.

If a court issues an order pursuant to this division requiring mediation, it also may order the parents to file a mediation report within a specified period of time and order the parents to pay the cost of mediation, unless either or both of the parents file a motion requesting that the court waive that



requirement. Upon the filing of a motion requesting the waiver of that requirement, the court, for good cause shown, may waive the requirement that either or both parents pay the cost of mediation or may require one of the parents to pay the entire cost of mediation. Any mediation procedures adopted by local court rule for use under this division shall include, but are not limited to, provisions establishing qualifications for mediators who may be employed or used and provisions establishing standards for the conduct of the mediation.

(B) If a mediation order is issued under division (A) of this section and the order requires the parents to file a mediation report, the mediator and each parent who takes part in mediation in accordance with the order jointly shall file a report of the results of the mediation process with the court that issued the order under that division. A mediation report shall indicate only whether agreement has been reached on any of the issues that were the subject of the mediation, and, if agreement has been reached, the content and details of the agreement. No mediation report shall contain any background information concerning the mediation process or any information discussed or presented in the process. The court shall consider the mediation report when it allocates parental rights and responsibilities for the care of children under section 3109.04 of the Revised Code and when it establishes a specific schedule of parenting time under section 3109.051 of the Revised Code. The court is not bound by the mediation report and shall consider the best interest of the children when making that allocation or establishing the parenting time schedule.

(C) If a mediation order is issued under division (A) of this section, the mediator shall not be made a party to, and shall not be called as a witness or testify in, any action or proceeding, other than a criminal, delinquency, child abuse, child neglect, or dependent child action or proceeding, that is brought by or against either parent and that pertains to the mediation process, to any information discussed or presented in the mediation process, to the allocation of parental rights and responsibilities for the care of the parents' children, or to the awarding of parenting time rights in relation to their children. The mediator shall not be made a party to, or be called as a witness or testify in, such an action or proceeding even if both parents give their prior consent to the mediator being made a party to or being called as a witness or to testify in the action or proceeding.

(D) Division (A) of this section does not apply to either of the following:

(1) Any proceeding, or the use of mediation in any proceeding that is not a proceeding for divorce,



dissolution, legal separation, annulment, or the allocation of parental rights and responsibilities for the care of a child;

(2) The use of mediation in any proceeding for divorce, dissolution, legal separation, annulment, or the allocation of parental rights and responsibilities for the care of a child, in relation to issues other than the appropriate allocation of parental rights and responsibilities for the care of the parents' children and other than a specific parenting time schedule for the parents' children.