

House Bill 1048
House Judiciary Committee
Testimony Presented by Sara Behrens
January 8, 2025

Good morning Chairman Klemin, members of the committee. My name is Sara Behrens and I am a staff attorney with the State Court Administrator's Office. I am here today in support of House Bill 1048. Currently, section 14-09.1-07 requires mediators in the Family Mediation Program to create a written agreement for the parties to the mediation and present it to the court. The current language is not in line with the role of a mediator or the current practice of mediators. A group of mediators from the Family Mediation Program raised concerns following a recent North Dakota Supreme Court case in which a party claimed confusion regarding the agreement and the nature of the agreement where the parties had not signed the agreement.

The current statute requiring the mediator to disclose the agreement to the court conflicts with the mediators' ethical obligations and duties of confidentiality. In practice, the mediator creates a written summary for the parties to utilize in creating the agreement they wish to present to the court. The mediator informs the court if an agreement was reached, but not the details of the agreement. If the parties wish to file the agreement, they may do so, but they may also choose not to

file the agreement and, instead, litigate the issues. This bill modifies section 14-09.1-07 to align with current practice and mediator ethical responsibilities.

Thank you for your consideration and we urge a do pass.