**2025 HOUSE JUDICIARY**

**HB 1048**

# 2025 HOUSE STANDING COMMITTEE MINUTES

**Judiciary Committee**
Room JW327B, State Capitol

HB 1048
1/8/2025

A BILL for an Act to amend and reenact section 14-09.1-07 of the North Dakota Century Code, relating to mediation agreements.

10:48 a.m. Chairman Klemin called the meeting to order.

Members Present: Chairman Klemin, Vice-Chairman Karls, Vice-Chairman Vetter, Representatives Christianson, Henderson, Hoverson, Johnston, McLeod, Olson, Satrom, Tveit, VanWinkle, Wolff, Schneider

**Discussion Topics:**

- Mediation procedure
- Mediation court filings

10:48 a.m. Sarah Behrens, Staff Attorney with the State Court Administrators Office, testified in favor and provided testimony #28141.

10:53 a.m. Chairman Klemin closed the hearing.

10:54 a.m. Representative Olson moved a Do Pass.

10:54 a.m. Representative Satrom seconded the motion.

10:56 a.m. Do Pass motion was withdrawn.

10:56 a.m. Representative Tveit proposed a verbal amendment to remove the overstrike on the word "shall" on page 1 line 7 as well as removing the word "may".

10:56 Representative VanWinkle seconded the motion.

| Representatives | Vote |
|---|---|
| Representative Lawrence R. Klemin | Y |
| Representative Karen Karls | Y |
| Representative Steve Vetter | Y |
| Representative Nels Christianson | Y |
| Representative Donna Henderson | Y |
| Representative Jeff Hoverson | Y |
| Representative Daniel Johnston | Y |
| Representative Carrie McLeod | Y |
| Representative SuAnn Olson | Y |
| Representative Bernie Satrom | Y |
| Representative Mary Schneider | Y |

| | |
|---|---|
| Representative Bill Tveit | Y |
| Representative Lori VanWinkle | Y |
| Representative Christina Wolff | Y |

Motion Passed 14-0-0.

11:00 Representative Olson motioned for a Do Pass as Amended.

11:00 Representative VanWinkle seconded the motion.

| Representatives | Vote |
|---|---|
| Representative Lawrence R. Klemin | Y |
| Representative Karen Karls | Y |
| Representative Steve Vetter | Y |
| Representative Nels Christianson | Y |
| Representative Donna Henderson | N |
| Representative Jeff Hoverson | Y |
| Representative Daniel Johnston | Y |
| Representative Carrie McLeod | Y |
| Representative SuAnn Olson | Y |
| Representative Bernie Satrom | Y |
| Representative Mary Schneider | Y |
| Representative Bill Tveit | Y |
| Representative Lori VanWinkle | Y |
| Representative Christina Wolff | Y |

Motion Passed 13-1-0.

11:03 a.m. Representative Olson will carry the bill.

11:05 a.m. Chairman Klemin closed the hearing.

*Wyatt Armstrong, Committee Clerk*

25.8028.01001
Title.02000

Adopted by the Judiciary Committee

January 8, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

**PROPOSED AMENDMENTS TO**

**HOUSE BILL NO. 1048**

Introduced by

Judiciary Committee

(At the request of the Supreme Court)

A BILL for an Act to amend and reenact section 14-09.1-07 of the North Dakota Century Code, relating to mediation agreements.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 14-09.1-07 of the North Dakota Century Code is amended and reenacted as follows:

**14-09.1-07. Mediation ~~agreement~~summary.**

The mediator shall ~~reduce to writing~~may prepare a written summary of any agreement of the parties. The mediator shall inform the parties ~~of their right to review~~ the ~~agreement with counsel before they sign the agreement. After the agreement is~~summary may not be shown to the court unless signed by the parties~~, the mediator shall present the agreement to the court. The agreement is not binding upon the parties until approved by order of the court~~. The mediator shall advise the court whether an agreement was reached.

# REPORT OF STANDING COMMITTEE
# HB 1048

**Judiciary Committee (Rep. Klemin, Chairman)** recommends **AMENDMENTS (25.8028.01001)** and when so amended, recommends **DO PASS** (13 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1048 was placed on the Sixth order on the calendar.

**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.

**2025 SENATE JUDICIARY**

**HB 1048**

# 2025 SENATE STANDING COMMITTEE MINUTES

**Judiciary Committee**
Peace Garden Room, State Capitol

HB 1048
2/18/2025

| Relating to mediation agreements. |
|---|

9:45 a.m. Chair Larson opened the hearing.

Members present:
Chair Larson, Vice Chairman Paulson, Senators: Castaneda, Cory, Luick, Myrdal, Braunberger.

**Discussion Topics:**

- Mediation agreements
- Ethical obligations of mediators
- Confidentiality in mediation

9:45 a.m. Cathy A. Ferderer, ND Court System, submitted testimony in favor #37942.

9:48 a.m. Chair Larson closed the hearing.

9:49 a.m. Senator Luick moved a Do Pass.

9:49 a.m. Senator Myrdal seconded the motion.

| Senators | Vote |
|---|---|
| Senator Diane Larson | Y |
| Senator Bob Paulson | Y |
| Senator Ryan Braunberger | Y |
| Senator Jose L. Casteneda | Y |
| Senator Claire Cory | Y |
| Senator Larry Luick | Y |
| Senator Janne Myrdal | Y |

Motion Passed 7-0-0.

9:49 a.m. Senator Casteneda will carry the bill.

9:50 a.m. Chair Larson closed the hearing.

*Kendra McCann, Committee Clerk*

# REPORT OF STANDING COMMITTEE
# ENGROSSED HB 1048 (25.8028.02000)

**Judiciary Committee (Sen. Larson, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT OR EXCUSED AND NOT VOTING). HB 1048 was placed on the Fourteenth order on the calendar. This bill does not affect workforce development.

**House Bill 1048**
**Senate Judiciary Committee**
**Testimony Presented by Cathy Ferderer**
**February 18, 2025**

Good morning Chairman Larson, members of the committee. My name is Cathy Ferderer and I am the Director of Juvenile and Family Services with the State Court Administrator's Office. As part of my role, I oversee the Family Mediation, Expedited Parenting Time Mediation and Post Judgment Mediation Programs for the North Dakota Court System. 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.

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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.