

ALTERNATIVE DISPUTE RESOLUTION COMPENDIUM

**DEMONSTRATING COST-EFFECTIVE AND EFFICIENT
RESOLUTION OF CONFLICTS**

**State Bar of Michigan
Alternative Dispute Resolution Section
Donna J. Craig, Chair**

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ALTERNATIVE DISPUTE RESOLUTION (“ADR”) COMPENDIUM

EXECUTIVE SUMMARY

Prepared by the Alternative Dispute Resolution Section of the State Bar of Michigan

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The Alternative Dispute Resolution Section set out to demonstrate through studies and reporting agencies what it already knew; that ADR processes, such as mediation, facilitation, arbitration and consensus building, along with the other processes discussed in Part I of the Compendium, indeed prevent and resolve conflicts and disputes in a cost-effective and efficient manner. These ADR processes can be adapted to the challenges facing private and public sectors, particularly as they operate in this strained economy.

Use of ADR in the Federal Government

- The Department of Defense reported its “ADR First” policy in contract disputes enabled it to avoid on average \$56.7 million in liability for fiscal years 2002-2006.
- The Department of Defense reported it saved on average \$20,000 per EEO case when the case was mediated.
- The Department of Justice reported for fiscal years 2005 and 2006, that mediation saved the Department almost \$18 million in litigation/discovery expenses, almost 67,000 hours of attorney/staff time and over 1,350 months of litigation/discovery time.
- In the Department of Justice’s 2007-2010 report, the cost-effectiveness and efficiency of using ADR proceedings are even more impressive.¹

Category	2010 Totals	2009 Totals	2008 Totals	2007 Totals
Funds Obligated for Mediation Services	\$1,547,874	\$1,141,102.97	\$1,362,320.40	\$1,049,890.76
Number of Cases Authorized for ADR Funding	718	528	522	505
Voluntary ADR Proceedings	80% Resolved	78% Resolved	79% Resolved	69% Resolved
Court-Ordered Proceedings	46% Resolved	42% Resolved	51% Resolved	50% Resolved
Litigation or Discovery Expenses Saved	\$11,662,500	\$5,940,287	\$3,387,750	\$3,001,000
Days of Attorney/Staff Time Saved	12,260	5,829	23,010	2,797
Months of Litigation Time Saved	930	849	661	429

¹ Available at <http://www.justice.gov/odr/doj-statistics.htm>

Use of ADR at the State Level

- In 2010, twenty non-profit Community Dispute Resolution Centers in the State of Michigan, which provide mediation services to their communities, reported a 66% resolution rate.²
- Between October 1, 2008 and March 31, 2010, the North Carolina Medicaid program saved \$25 million by mediating recipient appeals of decisions to reduce or terminate services. Between July 1, 2008 and March 31, 2010, 83% of those appeals were successfully resolved by mediation.³
- Between 1998 and 1999, Florida reported more than \$3 million in potential savings realized through the successful mediation of 31 of 36 administrative disputes selected from five state agencies and one environmental control district. Savings over anticipated litigation costs reported by participants ranged from \$2,250 to \$700,000.⁴
- In Massachusetts, 57% of agencies filing ADR reports and plans reported that ADR processes saved money over litigation or hearings; 81% reported savings in staff time.⁵

Conclusion

ADR processes such as mediation, facilitation and consensus building bring people together to prevent conflicts and resolve disputes. These ADR processes can be particularly effective when conflicts or impasse arise in the Executive, Judicial and Legislative Branches. The studies also demonstrate that public and private sectors can significantly reduce their costs when ADR processes are used in lieu of litigation. In this time of fiscal instability, the ADR Section of the State Bar of Michigan believes that the State of Michigan would realize dramatic cost savings and reduced budgetary constraints by adopting and implementing ADR processes in all areas of government.

² <http://courts.michigan.gov/scao/resources/publications/reports/CDRPAAnnualReport2010.pdf>

³ Medicaid Recipient Appeal Process, Report to the North Carolina General Assembly, April 2010, provided by Dispute Resolution Education Resources, March 2011

⁴ State Agency Administrative Dispute Resolution Pilot Program, Florida Conflict Resolution Consortium, 2000

⁵ Report on the Use of Alternative Dispute Resolution (ADR) in Massachusetts' Executive Branch Agencies: Data & Analysis of the FY02 ADR Reports & Plans, Massachusetts Office of Dispute Resolution, 2002

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Introduction

As the private and public sectors operate in a strained economy, there are heightened challenges to conducting day-to-day business. Two of the most significant resources adversely impacted by the current economy are time and money. This compendium undertakes to demonstrate the cost-effectiveness and efficiency of using alternative dispute resolution (“ADR”) processes to prevent and resolve conflicts in the public and private sectors.

Brief Statement of Methodology

This report focuses on locating available empirical, qualitative and quantitative data regarding cost and time savings realized by the use of ADR processes by federal, state, and local government units and users and providers of ADR processes. Sources of this information include professional journals, official public and private sector reports, statutes, nationally recognized ADR organizations websites, and treatises.

I. ALTERNATIVE DISPUTE RESOLUTION (“ADR”) PROCESSES

- ***Arbitration*** (other than labor union grievances)
 - An adjudicatory process that involves presenting a dispute to an impartial individual (or panel of three arbitrators) who issues a decision, either binding or non-binding per prior agreement of the parties.
- ***Conflict Coaching***
 - A person who assists others in identifying and exploring options, support risk taking, and if necessary, develop the skills necessary to move forward.
- ***Consensus Building***
 - Facilitating parties to reach consensus on shared norms and attitudes rather than finding specific solutions to specific issues, although the latter may be an outgrowth of consensus building.
- ***Consultation***
 - Process wherein a neutral third party explores the issues, positions, and interests of the parties in an effort to diagnose the issues and assess the situation. Generally viewed as a proactive method of preventing disputes, consultation can be used in the early stages after a dispute arises.
- ***Dispute Panels***
 - A process whereby a panel of more than one impartial individual hears arguments, receives evidence, and submits a recommendation to the appropriate deciding official. Panels usually consist of three members: a management official, a union official, and one member who are jointly selected by management and the union representatives.
- ***Early Neutral Evaluation***
 - This process provides parties with an early, honest, and independent evaluation of the merits of the case by an objective third party, hired by mutual agreement of the parties. The objective third party provides

the parties with a potential outcome as well as a reasonable settlement value.

- **Facilitation**
 - Process in which the facilitator, a neutral with no decision making authority, intervenes to help a group improve the way it identifies problems and makes decisions to increase effectiveness.
- **Fact-Finding**
 - Process wherein the neutral third party fact-finder studies the issues in dispute and reports a finding of substantial facts to the disputing parties.
- **Mediation**
 - Process where a third party neutral, acceptable to parties, assists parties in reaching a mutually acceptable resolution.
- **Negotiated Rule Making**
 - An ADR professional brings stakeholder representatives or interest groups together to negotiate the text of a proposed rule or legislation. A series of meetings with representatives from the public, public interest groups, state and local governments and other stakeholders are convened. The ADR professional provides for an ordered discussion of the responsibilities, rights, and interests of all stakeholders.
- **Ombudsperson**
 - An Ombudsperson facilitates fair and equitable resolution of concerns that arise within the workplace or organization. Essential characteristics of an ombudsperson are independence, impartiality in conducting inquiries and investigations, and confidentiality.
- **Partnering**
 - Process which allows stakeholders with divergent views to manage conflict and engage in a series of mutual consensus-building processes.
- **Settlement Judges**
 - A process in which a settlement judge employs various ADR approaches to facilitate settlement negotiations.
- **Team Building**
 - Type of facilitation process in which a third party neutral assists a team or group of individuals with interrelated roles and responsibilities. Team members operate within a set of norms and rules that define the goals and guidelines for the group to effectively achieve stated goals.

II. USE OF ADR IN THE FEDERAL GOVERNMENT

A. Use of ADR in the Executive Branch of the Federal Government

- In May 1998, the President issued a Memorandum directing the Attorney General to lead an Interagency Alternative Dispute Resolution Working Group (“Working Group”) to promote and facilitate ADR. The Workplace Group Steering Committee represented nearly sixty federal agencies.

- The Working Group established four Sections to represent the major substantive areas of ADR application. These Sections were divided into the Civil Enforcement and Regulatory Section, Claims Against the Government Section, Contracts and Procurement Section, and the Workplace Section
- Pursuant to the President’s Memorandum two reports were issued addressing the use of ADR by The Working Group Sections and the Federal Mediation and Conciliation Service.¹
- In the latest 2007 report, the Attorney General validated that the use of ADR in appropriate cases is both “cost effective and time-efficient.”
- The Report concluded the use of ADR resulted in:
 - Substantial cost savings;
 - Increased workplace productivity;
 - Increased workplace accountability;
 - Timely achievement of specific agency goals; and
 - Delivery of reliable, efficient, and high quality service.
- The following are highlights from this Report. A summary of specific cost-saving is presented in **Appendix A**.

The Alternative Dispute Resolution Working Group

Civil Enforcement and Regulatory Section²

- The Department of Justice (“DOJ”) in addressing blood supply issues under the Food and Drug Act utilized a combination of mediation and negotiation techniques, resulting in a revised consent decree saving three years of litigation time.
- In a consumer litigation case involving hazardous substances, ADR processes resulted in savings of four months of litigation time and \$400,000 in litigation expenses.
- The Federal Energy Regulatory Commission has reported a cost savings to the Commission as a result of 87% of all cases referred to settlement judges at the outset, prior to the initiation of hearings.

Claims Against the Government Section³

- Reports submitted by the DOJ for 2005 and 2006 estimate that mediation saved almost \$18 million in litigation/discovery expenses, almost 67,000 hours of attorney/staff time and over 1,350 months of litigation/discovery time.
- In 2005, in a major civil fraud accounting case, the government recovered \$62 million through the use of mediation and saved four months in trial preparation.

¹ The Federal Mediation and Conciliation Service’s results pertain to the agency’s role in the collective bargaining of U.S. businesses.

² Appendix A contains a comprehensive summary of the April 2007 Report For The President On The Use And Results of Alternative Dispute Resolution In The Executive Branch Of The Federal Government.

³ *Id.*

- In adversary proceedings in a bankruptcy case, mediation avoided a potential loss of \$22 million in litigation against the United States, saved years of litigation, and avoided bad precedent.
- Mediation in a Federal Tort Claims Act avoided a potential loss of \$6 million and saved 480 hours of attorney/staff time.
- In two complex aviation wrongful death cases, mediation saved \$3 million in litigation/discovery expenses, saved 2,800 hours of staff/attorney time and 10 months of litigation/discovery time.
- Mediation saved \$1,540,000 in nine tort cases in litigation/discovery expenses, 2,240 hours of attorney/staff time, and 31 months of litigation/discovery time.

Contracts and Procurement Section⁴

- Department of Defense/Department of the Air Force reports its “ADR First” policy in contract disputes enabled it to avoid on average of \$56.7 million in liability for fiscal years 2002-2006.
- For fiscal years 2000 through 2005, the Department of Defense demonstrated that on average, depending on the process used to resolve the matter, it took less than half the time to resolve a matter by using ADR processes than by litigating the case. Measurements were taken from the time the matter was docketed to the time the matter was resolved.
 - Trial and decision 37 months
 - Negotiated settlement 19.8 months
 - ADR 17.9 months
- Department of Defense/Department of the Navy estimates for fiscal years 2001-2005 ADR processes achieved significant savings over litigation with an estimated savings of \$1.8 million in expenses, the department also estimated, assuming the same outcome on the merits, the agency avoided \$1.1 million in potential interest because ADR was faster than the administrative process.
- The Department of Defense/Defense Logistics Agency reports in fiscal year 2005, 87% of matters taken to ADR were either entirely or partially resolved resulting in an estimated \$1.4 million in savings.

Workplace Conflict Section⁵

- The DOJ/FBI reported for fiscal year 2004, their costs for each EEO investigation was \$2,684 as compared to an average cost of \$1,800 for mediation.
- The Department of Defense/Washington Headquarters Service reported the use of ADR in fiscal year 2004 saved it \$42,000 and approximately a total savings of \$210,000 since the inception of ADR in March 2001.
- The Social Security Administration calculated the average cost of processing a complaint through the traditional EEO process at \$40,000 per case compared to \$50 per case for cases that were handled by a shared neutral source, and \$1,500 per case when an outside vendor was utilized.

⁴ *Id.*

⁵ *Id.*

- The Department of Defense/Defense Logistics Agency reported it saved on average \$20,000 per EEO case when the case was mediated.
- The Department of the Treasury/IRS reported that the use of mediation to resolve EEO complaints reduced case proceeding costs from \$1,000 per case to \$500 per case.
- The Department of Defense/Department of the Air Force reported that workplace conflict was eliminated 13 times faster using ADR than traditional processes, given that ADR was used to resolved nearly one-third of all complaints. Use of mediation took an average of 27-40 days to resolve compared to an average of 390 days for EEO cases that proceeded through the formal administrative phase.
- The Department of Housing and Urban Development reported a reduction from 802 days in formal EEO cases to 53 days when mediation was used to resolve the complaints.

B. Federal Mediation and Conciliation Service

- A six year study, conducted by the Federal Mediation and Conciliation Service determined that mediation saved \$9 billion in workers’ wages and company profits between fiscal years 1999 and 2004.
- The savings resulted from the agency’s role in preventing or shortening work stoppages.
 - The average annual savings included \$80.7 million in retained company profits, \$640.5 in retained union members’ wages, and \$781.8 million in retained workers’ wages among workers in ancillary industries.
 - Where mediation was initiated before the contract expired, work stoppage duration was reduced by an average 46%, which resulted in an average annual benefit of \$217.9 million.

C. Use of ADR at The Department of Justice (2007-2010)⁶

Category	2010 Totals	2009 Totals	2008 Totals	2007 Totals
Funds Obligated for Mediation Services	\$1,547,874	\$1,141,102.97	\$1,362,320.40	\$1,049,890.76
Number of Cases Authorized for ADR Funding	718	528	522	505
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Months of Litigation Time Saved	930	849	661	429

⁶ Available at <http://www.justice.gov/odr/doj-statistics.htm>.

D. ADR in The Federal District Courts⁷

- ADR is one of the six civil case management principles recommended by the passage of the Civil Justice Reform Act (“CJRA”), requiring all district courts to develop a district-specific plan to reduce cost and delay in civil litigation. (28 U.S. §§ 471-482).
- Ninety-four federal districts have authorized or established at least one court-wide ADR program.
- Types of interventions utilized include arbitration, mediation, early neutral evaluation, settlement week, case valuation, and summary jury trial.
- A summary of the U.S. District Court, Western District of Michigan’s experience with ADR processes is set forth in **Appendix B**.
- A summary of the ADR interventions used in federal district courts is set forth in **Appendix C**.

E. ADR in the Federal Courts of Appeals⁸

- Under Federal Rule of Appellate Procedure, Rule 33, all thirteen federal courts of appeals have implemented either appellate mediation or settlement programs.
- Amended Rule 33 permits courts to require parties to attend mediation sessions with their attorneys, authorizes settlement as a topic during Rule 33 conferences, and recognizes the possibility of telephone conferences.
- Chief circuit mediators and conference attorneys in the Second, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, and Tenth Circuits report they conduct 50-95% of their Rule 33 conference sessions by telephone.

III. USE OF ADR AT THE STATE LEVEL

A. Michigan’s Office of Dispute Resolution: Community Dispute Resolution Programs⁹

There are twenty non-profit Community Dispute Resolution Centers in the State of Michigan. They provide a valuable service in providing mediation services to their communities. In the Community Dispute Resolution Program 2010 Annual Report, the Office of Dispute Resolution reported a 66% resolution rate. For more details regarding the efficiency and cost effectiveness of the Community Dispute Resolution Programs, see **Appendix D**.

B. A Michigan Caseflow Study of Mediating Cases Evaluated Under \$25,000¹⁰

In February 2011 the Michigan State Court Administration Office published a caseflow study for three counties in the State of Michigan. The study examined the effect of ordering mediation

⁷ See ADR and Settlement in Federal District Court, A Sourcebook for Judges and Lawyers, 1996, available at http://www.fjc.gov/public/home.nsf//autoframe?openform&url_l=/public/home.nsf/inavgeneral?openpage&url_r=/public/home.nsf/pages/119.

⁸ Robert J. Niemic, Mediation & Conference Programs in the Federal Courts of Appeals: A Sourcebook for Judges & Lawyers (Federal Judicial Center 2006), available at [http://www.fjc.gov/public/pdf.nsf/lookup/MediCon2.pdf/\\$file/MediCon2.pdf](http://www.fjc.gov/public/pdf.nsf/lookup/MediCon2.pdf/$file/MediCon2.pdf).

⁹ <http://courts.michigan.gov/scao/resources/publications/reports/CDRPAnnualReport2010.pdf>

¹⁰ State Court Administrative Office, Office of Dispute Resolution, Michelle Hilliker, Financial and Statistical Management Analyst, February 2011, <http://courts.michigan.gov/scoa/resources/publications/reports/statistics/htm>

immediately after one or more of the parties rejected a case evaluation valued under \$25,000. Ninety-three randomly selected civil cases were submitted by the participating circuit courts. Each of the three circuit courts selected thirty-one civil cases and sent them to the Center for Dispute Resolution Center Program in their respective jurisdictions. The courts were the 6th Judicial Circuit of Oakland County; the 16th Judicial Circuit of Macomb County; and the 17th Judicial Circuit of Kent County. The study revealed:

- 55% of the cases in the study were mediated (51 of 93).
- 71% (36 of 51) of the cases mediated were settled within an average of 78 days from the order to mediate.
- Type of cases most frequently mediated were contract, personal injury, auto negligence and no-fault auto cases.

C. Survey of Various State Programs

Michigan

- A recent survey of Michigan statutes providing for the use of ADR yielded seventy-nine statutes with some form of ADR provisions. **Appendix E** contains a comprehensive description of State of Michigan ADR statutes that incorporate ADR processes as a means of resolving disputes.
- A State statute provides for the Community Dispute Resolution Program (“CDRP”). The CDRP is a statewide network of twenty non-profit organizations that provide mediation and dispute resolution services including participation in court referral process.¹¹
- Fiscal year 2010 CDRP performance measurements¹²
 - \$2,481,302 is the estimated value of volunteer contributions
 - 22 days is the average number of days from commencement to resolution of the case
 - 14,656 cases disposed of in 2010
 - 7,070 cases were resolved, with a 66% resolution rate

Oregon

- Mediation determined to be the least expensive of seven dispute resolution options used in over 500 civil cases involving the State of Oregon that were closed between 1998-2000.¹³

Process	Mediation	Dispositive Motion	Settlement Negotiations	Arbitration	Trial-Settlement	Judicial Settlement	Trial Verdict
Monthly Cost	\$9,537	\$9,558	\$10,334	\$14,290	\$19,876	\$21,865	\$60,557

¹¹ MCR 2.410. This statute applies to general civil mediation for all civil cases, except for domestic relations cases at the district, probate, and circuit court level.

¹² Community Dispute Resolution Program 2010 Annual Report; Published by Michigan Supreme Court State Court Administrative Office, Office of Dispute Resolution; <http://courts.michigan.gov/scoa/resources/publications/reports/CDRPAAnnualReport2010.pdf>

¹³ Collaborative Dispute Resolution Pilot Project Report, The Department of Justice, State of Oregon, 2001, provided by Dispute Resolution Education Resources, March 2011.

- For a comprehensive listing of ADR processes used in the State of Oregon, see **Appendix F**.

North Carolina

- \$25 million was saved by the Medicaid program between October 2008 and March 2010 by mediating recipient appeals of decisions to reduce or terminate services. The number of requests for hearings successfully resolved by mediation from July 1, 2008 to March 31, 2010 was 83%. The number referred to the hearing office was 17%.¹⁴

Arizona

- Since 1991, \$35 million was saved in the execution of 1,140 construction contracts through collaborative partnering and dispute resolution processes employed at the start of the agency projects and as issues arose. Construction engineering savings totaled \$27.6 million. Since 1996, three cases have been arbitrated and none litigated.¹⁵

Florida

- Between 1998 and 1999, more than \$3 million in potential savings was realized through the successful mediation of 31 of 36 administrative disputes selected from five state agencies and one environmental control district. Savings over anticipated litigation costs reported by participants ranged from \$2,250 to \$700,000.¹⁶
- The average cost of case resolution was slashed from \$1,125 to \$211 by the Florida Department of Business and Professional Regulation mediation program, resulting in savings of nearly \$400,000.¹⁷

Massachusetts

- 57 % of agencies that filed ADR reports and plans, as required by Executive Order, reported that ADR processes saved money over litigation or hearings. 81% reported savings in staff time.¹⁸

Texas

- A cost comparison of special education complaints over two school years (1998-2000) demonstrated an average cost (direct and indirect costs) per case as follows: hearings, \$16,692; local resolution, \$9,226; mediation, \$4,167.¹⁹

¹⁴ Medicaid Recipient Appeal Process, Report to the North Carolina General Assembly, April 2010, provided by Dispute Resolution Education Resources, March 2011.

¹⁵ Arizona Department of Transportation Partnering Program, "Partnering Program Saves ADOT Millions" The Policy Consensus Initiative Newsletter, June 2002, provided by Dispute Resolution Education Resources, March 2011.

¹⁶ State Agency Administrative Dispute Resolution Pilot Program, Florida Conflict Resolution Consortium, 2000.

¹⁷ Governing Tools for the 21st Century, How State Leaders Are Using Collaborative Problem Solving and Dispute Resolution, Policy Consensus Initiative, 2002.

¹⁸ Report on the Use of Alternative Dispute Resolution (ADR) in Massachusetts' Executive Branch Agencies: Data & Analysis of the FY02 ADR Reports & Plans, Massachusetts Office of Dispute Resolution, 2002

- For a comprehensive listing of ADR processes use in the State of Texas see **Appendix G.**

New York

- The New York Supreme Court’s Eighth Judicial District is credited for pioneering the use of summary jury trials in New York State. This ADR process has significantly reduced the district’s case load and because summary judgment trials are designed to last one day, the cost to parties is \$2,000 or less compared to \$12,000 to \$18,000 for a one to three-week trial. Estimates on statewide savings in juror costs realized by the State range from \$1.1 to \$2.2 million.²⁰

IV. USE OF ADR IN THE PRIVATE SECTOR

A. American Arbitration Association – California Study

A recent study published in the *Journal of Empirical Studies* compared employment arbitration and litigation from data compiled by the American Arbitration Association (AAA) for the State of California from 2003 to 2007.²¹

AAA Employment Cases in California

	<i>Employment Arbitration</i>	<i>Federal Court Employment Discrimination</i>	<i>State Court Non-Civil Rights</i>	<i>California State Court Common-Law Discharge</i>
<i>Employee Win Rate</i>	21.4%	36.4%	57%	59%
<i>Median damages</i>	\$36,500	\$150,000	\$68,737	\$296,991
<i>Mean damages</i>	\$109,858	\$336,291	\$462,307	
<i>Mean time to trial (days)</i>	361.5	709	723	

B. Special Education Study

ADR in Special Education Cases revealed, over a two year period, that the average cost of mediation was between \$8,000 and \$12,000 per case, compared to \$95,000 for litigation per case.²²

¹⁹ A Study of Issues and Costs to Districts Related to Special Education Complaints, Mediation and Due Process Hearings in the State of Texas, Texas A & M, 2000, provided by Dispute Resolution Education Resources, March 2011.

²⁰ *The Daily Record and the Daily City News-Press*, “Summary jury trials slowly catching on as form of alternative dispute resolution” Apr 27, 2005 by Nora Lockwood Tooher

²¹ Colvin, Alexander J.S. (2011) “An Empirical Study of Employment Arbitration: Case Outcomes and Processes,” 8(1) *J. of Empirical Studies* 5.

²² Education for All Handicapped Children Act (PL 94-142); 1990 Individuals with Disabilities Education Act (IDEA) (PL 102-119); 1997 and 2004 versions of IDEA (PL 105-17, PL 108-446).

C. Fortune 1,000 Survey of Corporate Counsel

The CPR Institute reported in a 2002 survey of corporate counsel from 43 Fortune 1,000 companies that the use of private mediation has resulted in an annual savings of \$500,000 or more.²³

D. Toro Company Report

Between 1992 and 2003, Toro Company reports it resolved 984 product liability claims of which 62% were resolved within 12 months. The average pre-claim costs and fees were reduced from a pre-1991 average of \$47,252 to \$9,074. The average verdict or settlement was reduced from a pre-1991 amount of \$68,368 to \$26,589.²⁴

E. Georgia-Pacific Corporation Cost Savings Report

Summary of ADR savings from 1995 to 2002 reported by Georgia-Pacific Corporation are reported in the table below:²⁵

Georgia-Pacific Corporation – Cost Savings

Year	No. of Cases	Estimated Savings
1995	15	1.00 million
1996	26	1.50 million
1997	84	6.50 million
1998	110	6.00 million
1999	94	2.50 million
2000	68	4.25 million
2001	43	2.97 million
2002	44	2.30 million

V. CONCLUSION

The findings in this compendium have demonstrated a widespread use of ADR processes at the federal, state, and local levels of government, as well as in the private sector. In cases where this valuable statistical information is monitored, such as in the use of ADR processes in the Executive Branch of the Government, the American Arbitration Association’s employment arbitrations in California, and within the private sector, the evidence supports that the implementation and practice of ADR processes results in cost and time savings compared to litigation.

Avoiding the costs associated with litigation is only one reason for utilizing ADR processes. ADR processes also facilitate communication between parties, and are for the most part non-adversarial. From a human standpoint, ADR processes such as mediation, facilitation and consensus building have the ability to bring people together for a common purpose. What better outcome to strive for than this, especially in the current economic environment.

²³ Stipanowich, Thomas (2004) “ADR and the “Vanishing Trial”: The Growth and Impact of “Alternative Dispute Resolution” 1(3) *J. of Empirical Studies* 855.

²⁴ *Id* at 887.

²⁵ *Id* at 888.

Appendix A

The Alternative Dispute Resolution Working Group Report

- ***Civil Enforcement and Regulatory Section***
 - Focus on ADR processes as alternatives to traditional litigation and settlement methods in civil enforcement and regulatory conflicts involving environmental, business and transactional disputes.
 - Issues addressed include development of resource management plans; energy and mineral development; water management; resource conservation; and environmental protection.
 - Stakeholders included representatives of federal, tribal, state and local governments; local communities; local, regional and national interest groups; the general public, licensees, and commercial enterprises.
 - **Cost and Time Savings**
 - Affirmative case handled by DOJ under the Food and Drug Act involving blood supply to the public. The combination of mediation and negotiation resulted in a revised consent decree saving three years of litigation time.
 - In a consumer litigation case involving hazardous substances, ADR resulted in savings of four months of litigation time and \$400,000 in litigation expenses.
 - Federal Energy Regulatory Commission reported costs savings as a result of 87% of all cases referred to settlement judges at the outset, resulted in settlement.
- ***Claims Against the Government***
 - Cases range from civil actions such as aviation and admiralty, medical malpractice cases, class action workplace discrimination cases, water rights, and Native American land disputes.
 - **Cost and Time Savings**
 - Reports submitted by the DOJ for 2005 and 2006 estimates that mediation saved almost \$18 million in litigation/discovery expenses, almost 67,000 hours of attorney/staff time and over 1,350 months of litigation/discovery time.
 - In fiscal year 2005, in a major civil fraud accounting case, the government recovered \$62 million through the use of mediation and saved four months in trial preparation.
 - In another civil fraud case use of ADR saved 2,000 hours of discovery time, resolved the case two years sooner than litigation would have done, and prevented other similar disputes.
 - Mediation of an environmental defense case saved \$150,000 in litigation/discovery expenses, saved 2,500 hours of attorney/staff time and six months of litigation/discovery time.

The conclusion was that use of mediation produced a better settlement and avoided an adverse precedent.

- In an environmental natural resources case mediation saved \$200,000 in litigation/discovery expenses and 18 months of litigation/litigation time.
- In two complex aviation wrongful death cases, mediation saved \$3 million in litigation/discovery expenses, saved 2,800 hours of staff/attorney time and 10 months of litigation/discovery time.
- In a maritime personal injury case mediation saved \$150,000 in litigation/discovery expenses.
- Mediation saved \$1,540,000 in litigation/discovery expenses in nine tort cases, along with a savings of 2,240 hours of attorney/staff time and 31 months of litigation/discovery time.
- Use of mediation in a Federal Tort Claims Act avoided a potential loss of \$6 million and saved 480 hours of attorney/staff time.
- In an employment discrimination case, use of mediation saved \$350,000 in litigation/discovery expenses and 9 months of litigation and discovery time, and avoided an adverse precedent.
- Mediation in a Fair Labor Standards Act collection saved over \$100,000 in expert witness and deposition costs.
- In a bankruptcy case involving the United States, mediation avoided a potential loss of \$22 million in litigation costs, saved years of litigation, and avoided an adverse precedent.

○ ***Contracts and Procurement***

- Focuses on alternative to traditional litigation processes for resolving contractual and procurement disputes of agencies and private sector companies.
- **Cost and Time Savings**
 - ***Department of Defense/Department of the Navy*** estimates for fiscal years 2001-2005, ADR achieved significant savings over litigation with an estimated savings of \$1.8 million in expenses. The Department also estimated that assuming the same outcome on the merits the agency avoided \$1.1 million in potential interest because ADR was faster than the administrative process.
 - ***The Department of Defense/Defense Logistics Agency*** reports in fiscal year 2005, 87% of matters submitted to ADR were either entirely or partially resolved, resulting in an estimated \$1.4 million in savings.
 - ***Department of Defense/Department of the Air Force*** reports its “ADR First” policy in contract disputes enabled it to avoid

on average of \$56.7 million in liability from fiscal years 2002-2006

- For fiscal years 2000-2005 the average time it took to resolve contract disputes from docketing to resolution were as follows:
 - Trial and decision 37 months
 - Negotiated settlement 19.8 months
 - ADR 17.9 months
 - Of important note is that from the time the parties agreed to use ADR until the dispute was resolved, an average of 8.2 months elapsed
- ***The Department of Transportation/Federal Aviation Administration Office of Dispute Resolution for Acquisition*** reports that the use of ADR resulted in short resolution timeframes with bid protests being resolved on average in 24 calendar days and contract disputes on average in 67 calendar days.
- ***Workplace Conflict***
 - Focuses on assisting federal agencies with all types of employment-related disputes that include current employees, contractors, former employees and applicants for positions within the agency
 - **Cost and Time Savings**
 - ***The DOJ/FBI*** reported for fiscal year 2004, its cost for each EEO investigation was \$2,684 and over \$250,000 for a final agency decision compared to an average cost of \$1,800 with mediation.
 - ***The Social Security Administration*** calculated the average cost of processing a complaint through the traditional EEO process at \$40,000 per case compared to \$50 per case for those cases handled by a shared neutral source and \$1,500 per case when an outside vendor was utilized.
 - ***The Department of Defense/Defense Logistics Agency*** reported it saved on average \$20,000 per EEO case mediated.
 - ***The Department of Defense/Washington Headquarters Service*** reported the use of ADR in fiscal year 2004 saved the agency \$42,000. The Department reported approximately \$210,000 in savings since the inception of the use of ADR processes in March 2001.
 - ***The General Services Administration*** reported that every EEO case resolved by mediation saved it approximately \$3,500 to \$4,500 in investigation fees.
 - ***The Department of the Treasury/IRS*** reported that the use of mediation to resolve EEO complaints has reduced their case proceeding costs from \$1,000 per case to \$500 per case.

- *The Working Group Commission for Workplace Conflict* highlighted the fact that a typical case which proceeds to a hearing may linger for years compared to an ADR session which typically can be scheduled and resolved within a few weeks.
- *The Department of Defense/Department of the Air Force* reported that workplace conflict was eliminated 13 times faster using ADR than traditional processes. ADR processes were used to resolve nearly one-third of all complaints, took on average 27-40 days to resolve compared to an average of 390 days for EEO cases to proceed to the formal administrative phase.
- *The Department of Defense/Washington Headquarters Service* reported the average number of processing days for formal EEO complaints was 469 days in fiscal year 2004 compared to ADR processes which averaged 39 days.
 - Other benefits reported by the Department were that mediation fostered active problem solving, interest-based outcomes, and improved working relationships between the parties.
- *The Department of Housing and Urban Development* reported a reduction from 802 days in formal EEO cases to 53 days with the use of mediation.
- *The Department of Defense/Department of the Navy* reported an average time of 40 days between request for mediation and the first session. This represents a significant savings in time spent on cases that would have otherwise gone through a formal administrative process.

Appendix B

U.S. District Court, Western District of Michigan

Program Description	Alternative Dispute Resolution Program
Program Users	Litigants voluntarily participating in Voluntary Facilitative Mediation (VFM), Case Evaluation, Arbitration, Early Neutral Evaluation, or Summary Jury Trials
Where Applied	Civil Cases
Type of Intervention	<p><i>Voluntary Facilitative Mediation (VFM)</i></p> <ul style="list-style-type: none"> • Flexible, nonbinding dispute resolution process in which an impartial neutral third party, the mediator, facilitates negotiations among the parties to help them reach settlement <p><i>Case Evaluation</i></p> <ul style="list-style-type: none"> • An ADR process patterned after the case evaluation process used in the State Courts of Michigan. See MICH. COMP. LAWS §§ 600.4951-.4969; MICH. Court Rule. 2.403. • Involves establishment of the settlement value of a case by a panel of three attorneys <p><i>Arbitration</i></p> <ul style="list-style-type: none"> • Authorized for certain cases by 28 U.S.C. §§ 651-658 • An arbitrator hears evidence in a formal hearing, at which rules of evidence apply, and issues an award reflecting the merits of the case, as opposed to its settlement value <p><i>Early Neutral Evaluation</i></p> <ul style="list-style-type: none"> • Conducted by an experienced, objective and neutral attorney, who meets with the parties early in their case to evaluate its strengths, weaknesses and value, and who also attempts to negotiate a settlement • W.D. Mich. LCivR 16.4 <p><i>Settlement Conferences</i></p> <ul style="list-style-type: none"> • Conducted by the judge in an attempt to negotiate a settlement <p><i>Summary Jury Trials</i></p> <ul style="list-style-type: none"> • See W.D. Mich. LCivR 16.7
Program Performance	<p><i>2010 ADR Statistical Report</i></p> <ul style="list-style-type: none"> • Referrals to ADR <ul style="list-style-type: none"> ○ 45% of Eligible Cases Referred to ADR (440 of 974) <ul style="list-style-type: none"> • Type of Intervention Used by Cases Referred to ADR <ul style="list-style-type: none"> • 36.6% VFM • 6.8% Case Evaluation • 0% Early Neutral Evaluation • 57% Settlement Conferences • Disposition of Cases Referred to ADR <ul style="list-style-type: none"> ○ 50% of Total Cases Sent to ADR Settled <ul style="list-style-type: none"> • 59% of Cases Using VFM Settled • 26% of Cases Using Case Evaluation Settled • 46% of Cases Using Settlement Conferences Settled
Time Statistics	Not Available
Cost Statistics	Not Available
Citation	http://www.miwd.uscourts.gov/adr.htm

Appendix C

ADR in the Federal District Courts

District	Arbitration	Mediation	Early Neutral Evaluation	Settlement Week	Case Valuation	Summary by Jury Trial
Middle District of Alabama						
Northern District of Alabama	X	X				
Southern District of Alabama		X				X
District of Alaska						
District of Arizona	X					
Eastern District of Arkansas						
Western District of Arkansas						
Central District of California						
Eastern District of California		X				
Northern District of California	X	X	X			X
Southern District of California	X	X	X			X
District of Colorado		X				X
District of Connecticut						X
District of Delaware		X				
District of Columbia		X				
Middle District of Florida	X	X				
Northern District of Florida		X				
Southern District of Florida		X				X
Middle District of Georgia	X					
Northern District of Georgia						
Southern District of Georgia						
District of Guam						

District	Arbitration	Mediation	Early Neutral Evaluation	Settlement Week	Case Evaluation	Summary by Jury Trial
District of Hawaii						
District of Idaho	X	X				
Central District of Illinois						X
Northern District of Illinois						X
Southern District of Illinois						X
Northern District of Indiana		X				
Southern District of Indiana		X				X
Northern District of Iowa		X				X
Southern District of Iowa		X				X
District of Kansas		X				X
Eastern District of Kentucky						
Western District of Kentucky		X				X
Eastern District of Louisiana						X
Middle District of Louisiana		X				X
Western District of Louisiana						X
District of Maine						X
District of Maryland						X
District of Massachusetts						X
Eastern District of Michigan					X	
Western District of Michigan	X	X	X		X	X
District of Minnesota		X				X
Northern District of Mississippi						X
Southern District of Mississippi						
Eastern District of Missouri		X	X			

District	Arbitration	Mediation	Early Neutral Evaluation	Settlement Week	Case Valuation	Summary by Jury Trial
Western District of Missouri	X	X	X			X
District of Montana						
District of Nebraska	X					
District of Nevada			X			X
District of New Hampshire						X
District of New Jersey	X	X				X
District of New Mexico						X
Eastern District of New York	X	X	X			X
Northern District of New York	X					X
Southern District of New York		X				
Western District of New York				X		
Eastern District of North Carolina		X				X
Middle District of North Carolina		X				
Western District of North Carolina		X				X
District of North Dakota						
District of Northern Mariana Islands						X
Northern District of Ohio	X	X	X			X
Southern District of Ohio						
Eastern District of Oklahoma				X		X
Northern District of Oklahoma		X				X
Western District of Oklahoma	X	X				X
District of Oregon		X				X
Eastern District of Pennsylvania	X	X				

District	Arbitration	Mediation	Early Neutral Evaluation	Settlement Week	Case Valuation	Summary by Jury Trial
Middle District of Pennsylvania		X				X
Western District of Pennsylvania	X		X			
District of Puerto Rico		X				
District of Rhode Island	X	X	X			X
District of South Carolina		X				X
District of South Dakota						
Eastern District of Tennessee		X				
Middle District of Tennessee		X				
Western District of Tennessee						X
Eastern District of Texas		X				
Northern District of Texas		X				X
Southern District of Texas		X	X			X
Western District of Texas	X	X				
District of Utah	X	X				
District of Vermont			X			
District of the Virgin Islands		X				
Eastern District of Virginia						
Western District of Virginia						
Eastern District of Washington	X	X				
Western District of Washington	X	X				
Northern District of West Virginia				X		X
Southern District of West Virginia		X				
Eastern District of Wisconsin		X				X
Western District of Wisconsin		X	X			X

District	Arbitration	Mediation	Early Neutral Evaluation	Settlement Week	Case Valuation	Summary by Jury Trial
District of Wyoming						X

Appendix D

The Office of Dispute Resolution: Community Dispute Resolution Program

<p>Program Description</p>	<p>State-wide network of twenty non-profit organizations providing mediation and dispute resolution services to include participation in court referral process provided for in Michigan Court Rule 2.410 (Alternative Dispute Resolution) Michigan Court Rule 2.411 (Mediation)</p> <ul style="list-style-type: none"> • Applies to general civil mediation for all civil cases, except for domestic relations cases, at the District, Probate, and Circuit Court level <p>Michigan Court Rule 3.216 (Domestic Relations Mediation)</p>
<p>Program Users & Referral Sources</p>	<ul style="list-style-type: none"> • State Courts • Schools and intermediate school districts • Self-referrals • Michigan Education Association • United States Postal Service • Association of Realtors, Rental Property Owners Association, Homebuilders Association • Businesses/Corporations • Community Organization (Community Mental Health, Farm Service Agency) • Government Agencies (Department of Human Services, MI Department of Civil Rights, U.S. Forestry Service, Housing Commission, Area Department in Aging, USDA Agencies, Department of Natural Resources, Department of Environmental Quality) • Legal Organizations, Local Attorneys, Friends of the Court • Prosecutors, Law Enforcement • 211 Program for the Upper Peninsula • Disability Connection • Third Level Crisis and Intervention • Grand Traverse Band of Ottawa and Chippewa Indians • Blue Water Center for Independent Living • Foreclosure Prevention Program
<p>Where Applied</p>	<ul style="list-style-type: none"> • Small Claims • General Civil District & General Civil Circuit • Domestic, post-judgment domestic, Access and Visitation Domestic Relations • Probate • Employment, Labor/Management, Employment Discrimination • Americans with Disabilities Act • Disability Recipient Rights • Special Education • Civil Rights • Real Estate, Housing • Foreclosure (pending) • Land Use • Agriculture • Discrimination • Juvenile Justice, Juvenile Victim Offender • Child Protection • Criminal • Breach of Contract • Anti-Trust, Franchising and Trade Regulation • No-Fault Auto Insurance • Medical Malpractice

	<ul style="list-style-type: none"> • Divorce no children, divorce children • Guardianship adult, guardianship children • Landlord/tenant • Neighbor • Ordinance Violations • Personal Injury, Auto Negligence • Personal Protection Order • Product Liability • Public Administration, Public Policy • IEP Facilitation • Professional/Client • Permanency Planning • Wills and Trusts
Type of Intervention	Mediation, Conciliation and Facilitation
Program Performance	<p>2010</p> <ul style="list-style-type: none"> • 14,656 Cases Disposed <ul style="list-style-type: none"> ○ 81% were court referrals ○ 68.5% represent contract, land-lord tenant, and domestic relations matters • 7,070 Resolutions (Complete or Partial Resolution) <ul style="list-style-type: none"> ○ 66% Resolution Rate
Time Statistics	<p>2010</p> <ul style="list-style-type: none"> • 22 Average Days to Resolution • 1.5 hours Average Time of Mediation Session
Cost Statistics	<p>2009 ((2009 statistics, as the Supplement Report has yet to be published for 2010)</p> <ul style="list-style-type: none"> • \$58.74 Estimated Cost per Hearing <ul style="list-style-type: none"> ○ 12% decrease from 2008 <p>2010</p> <ul style="list-style-type: none"> • \$2,481,302 Value of Volunteer Contribution <ul style="list-style-type: none"> ○ Volunteered time spent mediating, training, conducting outreach and administrative work, facilitating workshops and serving as office assistants
Citation	<p>Community Dispute Resolution Program 2010 Annual Report Published by: Michigan Supreme Court State Court Administrative Office, Office of Dispute Resolution http://courts.michigan.gov/scao/resources/publications/reports/CDRPAnnualReport2010.pdf</p>

Appendix E

Summary of Michigan Statutes Providing for ADR

	Act	Section	Type of ADR Provided
1.	<p>Interstate Compact for Adult Offender Supervision Act 40 of 2002</p> <p>Summary of Act: This Act enters into the interstate compact for the supervision of adult offenders.</p>	<p>MCL 3.1012 Interstate compact for supervision of adult offenders</p> <p>This section of the Interstate Compact for Adult Offender Supervision requires the interstate commission to enact a bylaw or promulgation of a rule providing for mediation and binding dispute resolution for disputes among compacting states.</p>	<p>Mediation</p> <p>Dispute resolution</p>
2.	<p>Interstate Compact on Educational Opportunity for Military Children Act 160 of 2008</p> <p>Summary: This Act enters into the interstate compact on educational opportunity for military children.</p>	<p>MCL 3.1041 Interstate compact on educational opportunity for military children, etc.</p> <p>This section of the Interstate Compact on Educational Opportunity for Military Children requires the Interstate Commission to promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.</p>	<p>Mediation</p> <p>Dispute resolution</p>
3.	<p>Interstate Compact for Juveniles Act 56 of 2003</p> <p>Summary: This Act enters into the interstate compact for the supervision or return of certain juveniles, delinquents, and status offenders and for related purposes.</p>	<p>MCL 3.692 Supervision or return of juveniles, delinquents, and status offenders; interstate compact, etc.</p> <p>This section of the Compact for Juveniles requires the commission to promulgate a rule for both mediation and binding dispute resolution for compacting states.</p>	<p>Mediation</p> <p>Binding dispute resolution</p>
4.	<p>Legislative Corrections Ombudsman Act 46 of 1975</p>	<p>MCL 4.354 Commencement of investigation; procedures as</p>	<p>Ombudsman</p>

	<p>Summary: This Act creates the office of the legislative corrections ombudsman; prescribes the powers and duties of the office, the ombudsman, the legislative council, and the department of corrections; and provides remedies from administrative acts.</p>	<p>to complaints, investigations, hearings, and reports.</p> <p>This section of the Legislative Corrections Ombudsman act empowers the ombudsman to commence an investigation upon the complaint of a prisoner or legislator concerning an administrative act, which is alleged to be contrary to law or departmental policy. The ombudsman, with approval from the council, is required to establish procedures for and receiving complaints, conducting investigations, holding hearings, and reporting findings resulting from the investigations.</p>	
5.	<p>Legislative Corrections Ombudsman Act 46 of 1975</p>	<p>MCL 4.356 Administrative process; investigation or hearing discretionary.</p> <p>This section of the Legislative Corrections Ombudsman act requires the ombudsman to advise a complainant of all available remedies and establishes that ombudsman are not required to conduct an investigation on all matters brought before him.</p>	Ombudsman
6.	<p>The General Law Village Act Act 3 of 1895</p> <p>Summary: This Act provides for the government of certain villages.</p>	<p>MCL 74.23e Disincorporation plan, elements to be included; findings.</p> <p>This section of The General Law Village Act requires disincorporation plans include a process for the resolution of any dispute arising over the implementation of the plan and the procedure that a party to such a dispute may utilize for the process.</p>	Process for resolution of disputes

7.	<p>Joint Garbage And Rubbish Disposal Act 179 of 1947</p> <p>Summary: This Act provides for the incorporation of certain municipal authorities for the collection or disposal, or both, of garbage or rubbish, or both, and for the operation of a dog pound.</p>	<p>MCL 123.311 Sale or transfer of property, etc.</p> <p>This section of the Joint Garbage and Rubbish Disposal act requires disputes involving the sale or transfer of real property to be resolved by an independent arbitrator.</p>	Arbitration
8.	<p>Construction Contracts With Certain Public Agencies Act 524 of 1980</p> <p>Summary: This Act provides for the terms of certain construction contracts with certain public agencies; regulates the payment and retainage of payments on construction contracts with certain public agencies; and provides for the resolution of certain disputes.</p>	<p>MCL 125.1564 Dispute resolution processes, etc.</p> <p>This section of the Construction Contracts With Certain Public Agencies act authorizes the designation of an agent who has background, training, and experience in the construction of facilities similar to that which is the subject the contract to assist in the resolution of disputes.</p>	Dispute resolution process
9.	<p>Contracts for Improvement to Real Property Act Act 57 of 1998</p> <p>Summary: This Act requires contractors to provide certain notices to governmental entities concerning improvements on real property and allows for the modification of contracts for improvement to real property.</p>	<p>MCL 125.1593 Contract completion; arbitration, etc.</p> <p>This section of the Contracts for Improvement to Real Property Act authorizes governmental entities and contractors to utilize arbitration to resolve contractors' entitlement to recover the actual increases in contract time and costs incurred because of the physical condition of the improvement site.</p>	Arbitration
10.	<p>Revenue Division of Department of Treasury Act 122 of 1941</p> <p>Summary: This Act establishes the revenue collection duties of the department of treasury.</p>	<p>MCL 205.30c Voluntary disclosure agreement.</p> <p>This section of the Revenue Division of Department of Treasury act authorizes a tribal agreement to include a provision for dispute</p>	Provision for dispute resolution

		resolution between the state and the tribe, which may include a nonjudicial forum.	
11.	<p>Tax Tribunal Act Act 186 of 1973</p> <p>Summary: This Act creates the tax tribunal.</p>	<p>MCL 205.731 Tax tribunal; jurisdiction.</p> <p>This section of the Tax Tribunal Act provides the tribunal with jurisdiction of mediation of proceedings for direct review of a final decision, finding, ruling, determination, or order of an agency relating to assessment, valuation, rates, special assessments, allocation, or equalization, under the property tax laws of this state. Additionally, this section provides for mediation of proceedings for refunds or redeterminations of a tax levied under the property tax laws of the state.</p>	Mediation
12.	<p>The General Property Tax Act Act 206 of 1893</p> <p>Summary: This Act provides for the assessment of rights and interests, including leasehold interests, in property and the levy and collection of taxes on property, and for the collection of taxes levied.</p>	<p>MCL 211.34c Arbitration, etc.</p> <p>This section of The General Property Tax Act requires the arbitration of disputes between owners of any assessable property disputing the classification of the parcel and the state tax commission.</p>	Arbitration
13.	<p>The Uniform Condemnation Procedures Act Act 87 of 1980</p> <p>Summary: This Act provides for the condemnation, acquisition, or exercise of eminent domain of real or personal property by public or private agencies; provides for an agency's entry upon land for certain purposes; etc.</p>	<p>MCL 213.61 Scheduling order; exchange of appraisal reports, etc.</p> <p>This section of The Uniform Condemnation Procedures Act requires upon the motion of either party for the court to issue a scheduling order to assure that the appraisal reports are exchanged and parties are afforded a reasonable opportunity for discovery before a case is submitted to mediation,</p>	<p>Mediation</p> <p>Alternative dispute resolution</p>

		alternative dispute resolution, or trial.	
14.	<p>Driver Education Provider and Instruction Act Act 384 of 2006</p> <p>Summary: This Act provides for the certification of driver education providers.</p>	<p>MCL 256.685 Investigation; complaint; mediation; conditions for probation.</p> <p>This section of the Driver Education Provider and Instruction Act permits the secretary of state to mediate disputes between a driver education provider or driver education instructor and a student or the student's parents or legal guardian when a dispute arises from a violation or attempted violation of the Act.</p>	Mediation
15.	<p>Motor Vehicle Service and Repair Act Act 300 of 1974</p> <p>Summary: This Act regulates the practice of servicing and repairing motor vehicles.</p>	<p>MCL 257.1326 Public or private investigation by administrator, etc.</p> <p>This section of the Motor Vehicle Service and Repair Act provides for the administrator to mediate disputes between parties arising from violations of this act or an administrative rule.</p>	Mediation
16.	<p>New Motor Vehicle Warranties Act 87 of 1986</p> <p>Summary: This Act regards warranties on new motor vehicles; requires certain repairs to new motor vehicles; and provides remedies for the failure to repair such vehicles.</p>	<p>MCL 257.1408 Written statement to be included with title or documentation, etc.</p> <p>This section of the New Motor Vehicle Warranties act requires the secretary of state to include with any title for new motor vehicles and documents for purchased or leased new motor vehicles written statements notifying the public it may be required to arbitrate manufacturing defects for which state law statutes provide replacement or refunds of the purchase price.</p>	Arbitration

17.	<p>Agricultural Marketing and Bargaining Act Act 344 of 1972</p> <p>Summary: This Act permits producers of agriculture commodities to be represented by associations; creates an agricultural marketing and bargaining board; provides for arbitration.</p>	<p>MCL 290.714 Mediation of issues, etc.</p> <p>This section of the Agricultural Marketing and Bargaining Act requires the board to provide mediation of an issue in dispute upon the request of an accredited association or upon the request of a handler.</p>	Mediation
18.	<p>Agricultural Marketing and Bargaining Act Act 344 of 1972</p>	<p>MCL 290.716 Arbitration, etc.</p> <p>This section of the Agricultural Marketing and Bargaining Act requires arbitration of all issues in dispute to include the failure to exercise the election provided in section 15 by the association or the handler involved in negotiations and for issues in dispute that are not agreed upon through good faith bargaining by the first day of the marketing period for the agricultural commodity.</p>	Arbitration
19.	<p>Natural Resources And Environmental Protection Act Act 451 of 1994</p> <p>Summary: This Act protects the environment and natural resources of the state.</p>	<p>MCL 324.5704 Office of ombudsman; responsibilities and duties.</p> <p>This section of the Natural Resources And Environmental Protection Act specifies that among the duties and responsibilities of the office of small business clean air ombudsman is facilitating and promoting the participation of small businesses in the development of rules that impact small businesses and aiding in investigating and</p>	Ombudsman

		resolving complaints and disputes from small businesses against the state or local air pollution control authorities, or both.	
20.	<p>Natural Resources And Environmental Protection Act Act 451 of 1994</p> <p>Summary: This Act protects the environment and natural resources of the state.</p>	<p>MCL 324.20114e Response activity review panel.</p> <p>This section of the Natural Resources and Environmental Protection Act requires the director to establish a response activity review panel to advise him or her on technical or scientific disputes, including disputes regarding risk, response activity plans and no further action reports.</p>	Response activity review panel
21.	<p>Natural Resources And Environmental Protection Act Act 451 of 1994</p>	<p>MCL 324.34201 Great Lakes-St. Lawrence River Basin Water Resources Compact.</p> <p>This section of the Great Lakes-St. Lawrence River Basin Water Resources Compact requires disputes between Parties to the Compact regarding interpretation, application and implementation of the Compact to resolve disputes using alternative dispute resolution.</p>	Alternative dispute resolution process
22.	<p>Mental Health Code Act 258 of 1974</p> <p>Summary: This Act codifies, revises, consolidates, and classifies the laws to mental health.</p>	<p>MCL 330.1754 State office of recipient rights; etc.</p> <p>This section of the Mental Health Code requires the state office upon receipt of a complaint to advise the complainant of the mediation option.</p>	Mediation
23.	<p>Mental Health Code Act 258 of 1974</p>	<p>MCL 330.1776 Rights complaint, etc.</p> <p>This section of the Mental Health Code requires the</p>	Mediation

		office to inform recipients or other individuals in behalf of the recipient of the option of mediation under section 786.	
24.	Mental Health Code Act 258 of 1974	MCL 330.1784 Summary report; appeal. This section of the Mental Health Code requires the office to inform complainants of the option of mediation for appeals of claims.	Mediation
25.	Mental Health Code Act 258 of 1974	MCL 330.1788 Mediation. This section of the Mental Health Code allows for parties to mediate disputes upon completion of the office's investigative report.	Mediation
26.	Mental Health Code Act 258 of 1974	MCL 330.1919 Contracts for services of agencies located in bordering states. This section of the Mental Health Code requires for the arbitration of disputes arising out of the contract that cannot be settled through discussion between the contracting parties.	Arbitration
27.	Mental Health Code Act 258 of 1974	MCL 330.1924 Arbitration of disputed questions of residence; etc. This section of the Mental Health Code enables the department to enter into agreements with authorities of other states for the arbitration of disputed questions between those states and the state of Michigan respecting the residence of mentally ill and mentally deficient persons and their return to their place of settlement.	Arbitration

28.	<p>Public Health Code Act 368 of 1978</p>	<p>MCL 333.2612 Non-profit corporation, etc.</p> <p>This section of the Public Health Code allows for establishment of nonprofit corporation to establish and operate a center for rural health. The corporation under this section is mandated to designate a certificate of need ombudsman to provide technical assistance and consultation to rural health care providers and rural communities regarding certificate of need proposals and applications under part 222. The ombudsman also acts as advocate for rural health concerns.</p>	Ombudsman
29.	<p>Public Health Code Act 368 of 1978</p> <p>Summary: An Act to protect and promote the public health</p>	<p>MCL 333.20155 Visits to health facilities and agencies; reports, etc.</p> <p>This section of the Public Health Code requires the department to report annually to the standing committee in appropriations and the standing committees involving senior citizens in the senate and the house of representatives on statistics of nursing home citations appealed and amended through the informal deficiency dispute resolution process.²⁶</p>	Informal Dispute Resolution Process
30.	<p>Low Level Radioactive Waste Authority Act Act 204 of 1987</p> <p>Summary: This Act provides for matters pertaining to a low-level radioactive waste disposal site in this state.</p>	<p>MCL 333.26214 Local Monitoring Committee, etc.</p> <p>This section of the Low-Level Radioactive Waste Authority Act enables the local monitoring committee of the</p>	Arbitration

²⁶ The Michigan Department of Community Health (MDCH), Bureau of Health Systems (BHS), has established the Informal Deficiency Review (IDR) process for the purpose of resolving disputes with Long Term Care (LTC) facilities over deficiencies cited by survey staff.

		host site to negotiate and enter into arbitration.	
31.	Low Level Radioactive Waste Authority Act Act 204 of 1987	MCL 333.26216 Appointment of arbitration committee; arbitration and resolution of issues; etc. This section of the Low-Level Radioactive Waste Authority Act (Act 204 of 1987) provides for the appointment of an arbitration committee to arbitrate disputes between the local monitoring committee that were unresolved during negotiations between the two entities.	Arbitration
32.	Low Level Radioactive Waste Authority Act Act 204 of 1987	MCL 333.26217 International low-level radioactive waste research and education institute, etc. This section of the Low-Level Radioactive Waste Authority Act enables the institute to use mediation to facilitate positive interaction between the operators of the disposal site and the public.	Mediation
33.	Occupational Code Act Act 299 of 1980	MCL 339.605 Action in name of state; action by department; standing. This section of the Occupational Code allows the department to bring any action, including mediation or other alternative dispute resolution, in the name of the state of Michigan to carry out the Occupational Code Act and enforce it.	Mediation Other Alternative Dispute Resolution
34.	Occupational Code Act Act 299 of 1980	MCL 339.2411 Complaint; review; etc. ADR Procedures This section of the Occupational Code allows for a licensee to contractually	ADR Procedures

		provide for an alternative dispute resolution procedure to resolve complaints filed with the department.	
35.	<p>The Social Welfare Act Act 280 of 1939</p> <p>Summary: This Act protects the welfare of the people of this state.</p>	<p>MCL 400.14 Additional powers and duties of department, etc.</p> <p>This section of The Social Welfare Act empowers the state department to arbitrate and decide disputed or contested claims between two or more counties relative to the settlement or domicile of a person or family in need of any form of public aid or relief.</p>	Arbitration
36.	<p>The Social Welfare Act Act 280 of 1939</p>	<p>MCL 400.66b Arbitration of payment disputes, etc.</p> <p>This section of The Social Welfare Act requires the state department arbitrate and decide disputes arising from disputes arising under inter-county payments for individuals hospitalized in counties other than their place of domicile.</p>	Arbitration
37.	<p>Older Michiganians Act Act 180 of 1981</p> <p>Summary: This Act creates a commission on services to the aging within the executive office of the governor.</p>	<p>MCL 400.586g State long-term care ombudsman; etc.</p> <p>This section of the Older Michiganians Act requires the state long-term care ombudsman to establish and implement confidential complaint and investigatory programs.</p>	Ombudsman
38.	<p>Older Michiganians Act Act 180 of 1981</p>	<p>MCL 400.568h Local or regional long-term care ombudsman programs; requirements.</p> <p>This section of the Older Michiganians Act requires local or regional long-term</p>	Ombudsman

		care ombudsman to accept, investigate, verify, and work to resolve complaints relating to any action that may adversely affect the health, safety, welfare, and rights of a resident of a long-term care facility.	
39.	<p>Workers Compensation Disability Act of 1969 Act 317 of 1969</p> <p>Summary: This Act revises and consolidates the laws relating to worker's disability compensation and increases the administrative efficiency of the adjudicative processes of the worker's compensation system.</p>	<p>MCL 418.223 Mediation of claim; circumstances; scheduling mediation conference; recommendations by mediator; etc.</p> <p>(1) Mandates mediation of worker's compensation claims under the following circumstances:²⁷</p> <ul style="list-style-type: none"> a) Claims for a definite period of time and the employee has returned to work b) Claims for medical benefits only c) When claimant is not represented by an attorney d) The determination of the bureau that the claim may be settled by mediation <p>(2) Mandates mediation of all other claims by parties unless a party refuses in writing to mediate the claim.</p>	Mediation
40.	<p>Workers Compensation Disability Act of 1969 MCL Act 317 of 1969</p>	<p>MCL 418.864 Hearing by arbitrator; qualifications of arbitrator; voluntary arbitration; etc.</p> <p>Allows for voluntary arbitration upon mutual agreement by the parties.</p>	Arbitration
41.	<p>Employment Relation Commission Act 176 of 1939</p>	<p>MCL 423.9 Prerequisites for strike or lockout; notice of dispute and</p>	Mediation

²⁷ Claims concerning a petition to stop or reduce the payment of compensation or involving a carrier terminating the payment of benefits, which had been voluntarily paid are exempted from mandatory mediation under this section.

	Summary: This Act creates a commission relative to labor disputes.	statement of issues; mediation. Requires that before a strike or lockout take place or are put into effect that the parties to the dispute actively and in good faith participate in mediation.	
42.	Employment Relation Commission Act 176 of 1939	MCL 423.9d Voluntary arbitration; agreement to arbitrate; opinion and award; enforcement of award, etc. Allows for the submission of voluntary arbitration of any labor dispute.	Arbitration
43.	Employment Relation Commission Act 176 of 1939	MCL 423.10 Steps by commission to effect settlement. Allows for mediation of specialized categories of disputes and grievances that have been delegated by the commission in carrying out its work under the Employment Relations Commission Act.	Mediation
44.	Public Employment Relations Act 336 of 1947 Summary: This Act prohibits strikes by certain public employees; provides review from disciplinary action with respect thereto; and provides for the mediation of grievances and the holding of elections.	MCL 423.207 Request for mediation of grievances; powers of commission; appointment of mediator, etc. Requires the mediation of grievances set forth in petition or notice of a collective bargaining representative or public employees. ²⁸	Mediation
45.	Public Employment Relations Act 336 of 1947	MCL 423.207a Additional mediation. Allows for additional mediation to be conducted between a public school employer and bargaining	Mediation

²⁸ A majority of public employees must sign a petition to be recognized under this section.

		representative of a bargaining unit upon a mutual agreement that an impasse has been reached in a collective bargaining between the parties.	
46.	<p>Compulsory Arbitration Of Labor Disputes In Police And Fire Departments Act 312 of 1969</p> <p>Summary: This Act provides for compulsory arbitration of labor disputes in municipal police and fire departments.</p>	<p>MCL 423.233 Compulsory arbitration in police and fire departments; policy.</p> <p>This section of the Compulsory Arbitration Of Labor Disputes In Police And Fire Departments act provides public police or fire department employees the option to initiate arbitrate to resolve a dispute that was not able to be resolved through mediation.</p>	Arbitration
47.	<p>Compulsory Arbitration Of Labor Disputes Of State Police Troopers And Sergeants Act 17 of 1980</p> <p>Summary: This Act provides for compulsory arbitration of labor disputes of state police troopers and sergeants.²⁹</p>	<p>MCL 423.273 Initiation of binding arbitration proceedings; conditions; request.</p> <p>This section of the Compulsory Arbitration Of Labor Disputes Of State Police Troopers And Sergeants act provides public state troopers and sergeants the option to initiate arbitrate to resolve a dispute that was not able to be resolved through mediation.</p>	Arbitration
48.	<p>Michigan Liquor Control Code of 1998 Act 58 of 1998</p> <p>Summary: This Act creates a commission for the control of the alcoholic beverage traffic within this state.</p>	<p>MCL 436.1403 Arbitration, etc.</p> <p>This section of the Michigan Liquor Control Code authorizes wholesalers and suppliers who mutually agree they cannot agree on an amount of reasonable compensation to submit the dispute to a five-member arbitration panel.</p>	Arbitration

²⁹ MCL 423.271 stipulates providing for compulsory arbitration “shall be liberally construed.”

49.	<p>Watercraft and Outboard Motor Manufacturers, Distributors, And Dealers Act 88 of 1989</p> <p>Summary: This Act regulates watercraft and outboard motor manufacturers, distributors, dealers, and their representatives.</p>	<p>MCL 445.544 Contents of dealer agreement.</p> <p>MCL 445.544 Contents of dealer agreement. <i>Type of ADR Provided:</i> Dispute resolution procedures. This section of the Watercraft and Outboard Motor Manufacturers, Distributors, And Dealers Act requires that dealer agreements contain dispute resolution procedures.</p>	Dispute resolution procedures
50.	<p>Recreational Vehicle Franchise Act Act 33 of 2009</p> <p>Summary: This Act regulates recreational vehicle dealers, manufacturers, wholesalers, warrantors, and their representatives.</p>	<p>MCL 445.1947 Violation of act; civil action; mediation; selection of mediator; etc.</p> <p>This section of the Recreational Vehicle Franchise Act requires that before a bringing a civil action under the section that the party alleging the violation serve a written demand for mediation on the alleged offending party.</p>	Mediation
51.	<p>Executive Reorganization Order E.R.O. No. 2005-1</p> <p>Summary: Creation of state office of administrative hearings (SOAHR) as type I agency within department of labor and economic growth; hearings; etc.</p>	<p>MCL 445.2021</p> <p>This section of E.R.O No. 2005-1 enables the Executive Director to retain, hire contractors, sub-contractors, advisors, consultants or agents to provide arbitration and mediation services.</p>	Mediation Arbitration
52.	<p>Nonprofit Corporation Act Act 162 of 1982</p> <p>Summary: This Act revises, consolidates, and classifies the laws relating to the organization and regulation of certain nonprofit corporations.</p>	<p>MCL 450.3147 Dispute resolution body.</p> <p>This section of the Nonprofit Corporation Act authorizes cooperatives to authorize in its bylaws or articles the establishment of a neutral dispute resolution body.</p>	Establishment of a neutral dispute resolution body
53.	<p>Michigan Public Service Commission Act 3 of 1939</p>	<p>MCL 460.10p Rules, etc.</p> <p>This section of the Michigan</p>	Dispute resolution mechanism culminating in a final and binding decision

	<p>Summary: This Act provides for the regulation and control of public and certain private utilities and other services affected with a public interest within the state.</p>	<p>Public Service Commission requires acquiring entities or persons of sales, purchases, or any other transfers of ownership of one or more or generating stations or generating units, of an electric utility to have a dispute resolution mechanism culminating in a final and binding decision by a neutral third party for resolving employee complaints or disputes over wages, fringe benefits, and working conditions.</p>	<p>by a neutral third party</p>
54.	<p>Michigan Telecommunications Act Act 179 of 1991</p> <p>Summary: This act regulates and insures the availability of certain telecommunication services.</p>	<p>MCL 484.1602 Disagreement on terms; appointment of mediator; etc. This section of the Michigan Telecommunications Act requires the committee to develop a voluntary informal dispute resolution process that can be utilized by any party in resolving any dispute involving the formulation, implementation, delivery, and funding of the 9-1-1 services in the state.</p>	<p>Voluntary information dispute resolution process</p>
55.	<p>Michigan Telecommunications Act Act 179 of 1991</p>	<p>MCL 484.2203a Resolution of complaint by alternative means.</p> <p>This section of the Michigan Telecommunications Act requires complaints under section 203(14) and other complaints which both parties have given consent involving disputes of \$1,000 or less to be attempted to attempt alternative means of resolving the complaint. Alternative means of dispute resolution include settlement conferences, mediation, and other informal dispute resolution methods. If parties are unable to agree on an</p>	<p>Settlement conferences, mediation</p> <p>Other informal dispute resolution methods</p>

		alternative mean within ten days after filing the complaint, the commission is required to order mediation.	
56.	<p>Metropolitan Extension Telecommunications Rights-of-Way Oversight Act Act 48 of 2002</p> <p>Summary: The Act creates a telecommunication right-of-way oversight authority.</p>	<p>MCL 484.3106 Disagreement on terms; appointment of mediator; etc.</p> <p>This section of the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act requires the appointment of a mediator to facilitate resolution of disputes involving disagreement between parties regarding the requirement of additional information requested by the municipality and for the use of additional or different permit terms.</p>	Mediation
57.	<p>Uniform Video Services Local Franchise Act Act 480 of 2006</p> <p>Summary: The Act provides for uniform video service local franchises.</p>	<p>MCL 484.3310 Establishment of dispute resolution process; etc.</p> <p>Under this section of the Uniform Video Services Local Franchise Act providers are required to notify customers not less than annually of the dispute resolution process created under this section.</p> <p>Customers must first utilize the dispute resolution process and if the dispute cannot be resolved using this process the customer may file a complaint with the commission.</p> <p>Disputes between providers and a franchising entity or between two or more providers are required be resolved first using informal mediation. If the dispute is unable to be resolved using</p>	<p>Dispute Resolution Process</p> <p>Mediation</p>

		informal mediation, the commission shall order mediation. Disputes not resolved using mediation proceed to a contested case hearing.	
58.	The Insurance Code of 1956 Act 218 of 1956 Summary: This Act revises, consolidates, and classifies the laws relating to the insurance and surety business.	MCL 500.1010 Mediation or arbitration of disputes; etc. This section of the Insurance Code enables a qualified independent accountant to enter into agreement with an insurer to have disputes relating to an audit resolved by mediation or arbitration. It also provides if a delinquency proceeding is commenced against the insurer under Chapter 18, that the mediation or arbitration shall operate at the option of the statutory successor.	Mediation Arbitration
59.	The Insurance Code of 1956 Act 218 of 1956	MCL 500.2030 Hearing; procedure; intervention; independent hearing officer; etc. This section of the Insurance Code allows for the selection of an independent hearing officer from a list provided by the American Arbitration Association, should the person subject to proceedings so elects to have an independent hearing officer preside over the hearing.	Selection of an independent hearing officer for hearings from The American Arbitration Association roster
60.	The Insurance Code of 1956 Act 218 of 1956	MCL 500.2080 Life Insurance, accident insurance, sick or funeral benefit company, etc. This section of the Insurance Code enables a representative of the insured's estate to seek arbitration to resolve payment disputes against a funeral establishment, cemetery, or	Arbitration

		seller.	
61.	The Insurance Code of 1956 Act 218 of 1956	MCL 500.3817 Medicare select policies and certificates, etc. This section of the Insurance Code enables Medicare select insurers to utilize arbitration procedures for hearing complaints and resolving written grievances from subscribers.	Arbitration
62.	The Insurance Code of 1956 Act 218 of 1956	MCL 500.8141 Value of security, etc. This section of the Insurance Code allows for the value of security held by a secured creditor to be determined by arbitration.	Arbitration
63.	Friend of the Court Act Act 294 of 1982 Summary: This Act revises and consolidates the laws relating to the friend of the court.	MCL 552.513 Alternative dispute resolution; minimum qualifications of mediator, etc. This section of the Friends of the Court Act requires the office to provide parties of friend of the court cases, either directly or by contract, alternative dispute resolution to assist parties in settling voluntarily a dispute concerning a child custody or parenting time. The section allows for domestic relations mediators.	Alternative dispute resolution Mediation
64.	Revised Judicature Act of 1961 Act 236 of 1961 Summary: This Act revises and consolidates the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of the courts, and of the judges and other officers of the courts; the forms and attributes of civil claims and actions; provides for the powers and duties of certain state governmental officers and entities.	MCL 600.4903 Mediation of action alleging medical malpractice; time for referring action to mediation; hearing by mediation panel. This section of the Revised Judicature Act of 1961 requires mediation of an action alleging medical malpractice.	Mediation

65.	Revised Judicature Act of 1961 Act 236 of 1961	MCL 600.4951 This section of the Revised Judicature Act of 1961 requires the mediation of civil actions based on a tort in which it is claimed that damages exceed \$10,000. ³⁰	Mediation
66.	Revised Judicature Act of 1961 Act 236 of 1961	MCL 600.5001 Arbitration agreements; etc. This section of the Revised Judicature Act of 1961 allows all persons, except infants and persons of unsound minds to arbitrate any controversy existing between them, which might be the subject of a civil action.	Arbitration
67.	Revised Judicature Act of 1961 Act 236 of 1961	MCL 600.5005 Arbitration of claims to real estate. This section of the Revised Judicature Act of 1961 allows for the submission of arbitration claims to an interest for a term of years, or for 1 year or less, in real estate, and controversies respecting the partition of lands between joint tenants or tenants in common, concerning the boundaries of lands, or concerning the measurement of dower.	Arbitration
68.	Revised Judicature Act of 1961 Act 236 of 1961	Domestic Relations Arbitration (235-1961-50B) This section of the Revised Judicature Act of 1961 allows for parties to an action for divorce, annulment, separate maintenance, or child support, custody, or parenting time, or to a post-judgment proceeding related to an	Arbitration

³⁰ Medical malpractice actions are exempted from this requirement.

		<p>action to stipulate to arbitration for an award with respect to one or more of the following issues:</p> <ul style="list-style-type: none"> • Real and personal property • Child custody • Child support • Parenting time • Spousal support • Costs, expenses, and attorney fees • Enforceability of prenuptial and postnuptial agreements • Allocation of the parties' responsibility for debt between the parties • Other contested domestic relations matters 	
69.	<p>Revised Judicature Act of 1961 Act 236 of 1961</p>	<p>MCL 600.8001 Cyber court; creation; court of record; electronic communications; etc.</p> <p>This section of the Revised Judicature Act of 1961 permits ADR mechanisms to benefit from technology changes.</p>	Alternative Dispute Resolution Mechanisms
70.	<p>Revised Judicature Act of 1961 Act 236 of 1961</p>	<p>MCL 600.8023 Alternative dispute resolution.</p> <p>This section of the Revised Judicature Act of 1961 permits ADR for matters before the cyber court.</p>	Alternative Dispute Resolution
71.	<p>Community Dispute Resolution Act Act 260 of 1988</p> <p>Summary: This act creates the community dispute resolution program.</p>	<p>MCL 691.1553 Community dispute resolution program; creation; purpose.</p> <p>This section of the Community Dispute</p>	<p>Mediation</p> <p>Other forms and techniques of voluntary dispute resolution</p>

		Resolution Act stipulates it is the purpose of the act to provide conciliation, mediation, or other forms and techniques of voluntary dispute resolution to the judicial process.	
72.	Community Dispute Resolution Act Act 260 of 1988	MCL 691.1556 Participation in dispute resolution process. This section of the Community Dispute Resolution Act stipulates that participation in dispute resolution process shall be voluntary and shall be utilized upon mutual agreement of parties.	Alternative dispute resolution
73.	Estates And Protected Individuals Code Act 386 of 1998 Summary: This act codifies, revises, consolidates, and classifies aspects of the law relating to wills and intestacy, relating to the administration and distribution of estates of certain individuals, relating to trusts, and relating to the affairs of certain individuals under legal incapacity.	MCL 700.5305 Duties of guardian ad litem. This section of the Estates and Protected Individual Code empowers a guardian ad litem to decide whether a disagreement or dispute related to the guardianship petition might be resolved through court ordered mediation.	Court ordered mediation
74.	Estates And Protected Individuals Code Act 386 of 1998	MCL 700.5423 Powers of conservator in administration. This section of the Estates and Protected Individual Code a conservator to settle a claim by or against the estate or the protected individual by arbitration or otherwise (ADR).	Arbitration Other ADR processes
75.	Estates And Protected Individuals Code Act 386 of 1998	MCL 700.7817 Specific powers of trustee This section of the Estates and Protected Individual Code empowers a trustee to arbitrate an action, claim, or proceeding in any jurisdiction or under alternative dispute	Arbitration Alternative dispute resolution procedure

		resolution procedure. The section also empowers the trustee to resolve a dispute concerning the interpretation of the trust or its administration by mediation, arbitration, or other procedure for ADR.	
76.	<p>Child Care Organizations Act 116 of 1973</p> <p>Summary: This Act provides for the protection of children through the licensing and regulation of child-care organizations.</p>	<p>MCL 722.27b Order for grand parenting time; alternative dispute resolution; frequency of filing complaint or motion seeking order; etc.</p> <p>This section of the Child Care Organizations act allows the court upon determining that a grandparent has met the standard for rebutting the presumption described in section 4 to refer the complaint or motion to alternative dispute resolution as provided by supreme court rule.</p>	Alternative dispute resolution ordered by the supreme court rule
77.	<p>Child Care Organizations Act 116 of 1973</p>	<p>MCL 722.112c Use in child caring institution contracting with community mental health services program or prepaid inpatient health plan; education, training, and knowledge.</p> <p>This section of the Child Care Organizations act requires that staff of child care institutions have ongoing education, training, and demonstrated knowledge of mediation conflict resolution.</p>	Mediation conflict resolution
78.	<p>The Children's Ombudsman Act Act 204 of 1994</p> <p>Summary: This Act establishes the children's ombudsman office; and prescribes the powers and duties of the children's ombudsman, certain state departments and officers, and certain county and private agencies</p>	<p>MCL 722.923</p> <p>This section of The Children's Ombudsman Act established the children's ombudsman as an autonomous entity in the department of management and budget for the purposes</p>	Ombudsman

	<p>serving children.</p>	<p>of effecting changes in policy, procedure, and legislation, educating the public, investigating and reviewing actions of the department, child placing agencies, or child caring institutions, monitoring and ensuring compliance with relevant statutes, rules, and policies pertaining to children's protective services and the placement, supervision, treatment, and improving delivery of care of children in foster care and adoptive homes.</p>	
79.	<p>The Children's Ombudsman Act Act 204 of 1994</p>	<p>MCL 722.926 Children's ombudsman; authority.</p> <p>This section of The Children's Ombudsman Act establishes the authority of the children's ombudsman upon his own initiative or upon receipt of a complaint, investigate an administrative act that is alleged to be contrary to law or rule, contrary to public policy of the department or a child placing agency. The ombudsman may conduct a preliminary investigation to determine whether an adoption attorney may have committed an alleged administrative act that is contrary to law, rule, or the Michigan rules of professional conduct. Finally, the ombudsman may hold informal hearings and request individuals to appear before him and give testimony or produce evidence relevant to matters under investigation.</p>	Ombudsman

Appendix F

ADR Use in the State of Oregon

Collaborative Public Policy - Engaging the public in policy development.

- Agencies seeking agreement or consensus with affected stakeholders may employ an agreement-seeking/decision-making process.
- Processes involve the development of an agreement that binds the participants, usually making decisions by consensus.
 - The facilitator is usually expected to conduct an assessment, design the process and conduct meetings aimed at agreement or a consensus decision.
- These mediations and facilitations include the largest dollar amount contracts.
 - In a sampling of contracts for complex public policy mediations, the average of 19 contracts was \$68,750 with a range between \$3,900 and \$290,000.

Workplace Dispute Resolution and Organizational Development

- ***The Workplace Dispute Resolution Project***
 - Project mediates workplace disputes using specialty trained, joint labor-management panels.
 - As with similar programs, 50% of cases do not proceed to mediation due to lack of trust in the other employee.
- ***AFSCME/OHSU Workplace Partnership***
 - The partnership is a combination of training and facilitation provided by the AFSCME (American Federation of State, County, and Municipal Employees) and OHSU (Oregon Health Services University) human resource staff to a department or work unit. The facilitator prepares members and supervisors to make decisions, solve problems and plan for the future together.
- ***The State Employee Mediator Program (SEMPR)***
 - Developed for state agencies seeking a fast and economical way to resolve interpersonal disputes and other conflicts.
- ***OD consultants and private workplace mediators***
 - Agencies hire consultants, mediators and facilitators to resolve conflicts in the workplace, debrief a challenging project, effect positive organizational change or build stronger teams.
- ***The Trial Division of the Department of Justice***
 - Defends the State, its agencies and officials in civil litigation brought in state and federal courts through use of dispositive motions, negotiated settlements, trials, or other dispute resolution procedures.
 - Cases assigned to the Trial Division include:
 - Negligence and other torts claims of money damages
 - Breach of contract and commercial actions
 - Suits for declaratory and injunctive relief
 - Employment-related claims
 - Taking of private lands for governmental purposes (condemnation)
 - Natural resources and environmental programs
 - Inmate civil rights and collateral challenges to criminal convictions (habeas

- corpus and post-conviction relief).
 - Trial Division also coordinates with the Risk Management Section of the Department of Administrative Services (DAS) in managing claims made against the State and defending the State in court.
 - Mediation is one of the options available to Risk Management
 - Between 1994 and 1999 the DAS resolved 13,356 claims without litigation; 2% or 1, 352 claims were litigated.
- ***Contract, Public Improvement and Highway Construction Disputes***
 - Most state agency contracts include terms and conditions that provide for the negotiated or mediated resolution of contract disputes (ORS 183.502(4)).
 - Dispute resolution clauses describe a process that escalates from low-level staff to high-level management negotiation, and eventually mediation before resorting to litigation.
- ***Oregon Department of Transportation Construction Dispute Resolution Program***
 - Dispute resolution programs include arbitration, mediation or neutral fact-finding.

The Agency As The Provider of Mediation Services (Non-Regulatory)

State agency programs that have authority to resolve disputes between members of the public in matters over which the agency does not have regulatory authority, contract for mediators or maintain their own lists of mediators

- ***Oregon Office of Community Dispute Resolution***
 - Provides state funding to 20 community programs in 25 Oregon counties
 - One million dollars is allocated to the community programs each biennium to support 900 volunteer mediators who respond to over 6,500 conflicts each year.
- ***Department of Consumer & Business Services, Regulatory Streamlining Roster***
 - The department encourages regulatory streamlining and making consultants/facilitators available in a timely and efficient manner in the areas of team building/retreats; conflict resolution; leadership/coaching; communications; facilitation; and internal investigations/assessments.
- ***Department of Corrections Serious & Violent Crime Dialogue Program***
 - Upon agreement of parties, facilitators meet with both the victim/survivor and offender to prepare for the joint meeting between the two parties.
- ***State Labor Mediator, Employment Relations Board***
 - Provides facilitation services to assist parties during their interest-based bargaining or problem solving process.
 - Services provided by facilitators include assisting in setting agendas; providing facilitation and/or recording services; providing facilitation and/or recording services to labor-management committees; assisting parties with the interest-based process; working with facilitators within the group to improve their skills; and other skills identified by the parties.
- ***The Oregon Department of Justice, Division of Child Support***
 - Provides grants to community dispute resolution programs for mediation services for parental access and visitation issues.
- ***Manufactured Communities Resources Center***
 - Administered by the Oregon Housing & Community Services and was created to

- encourage dispute resolution.
 - Funded by an annual assessment imposed on all owners of manufactured dwellings.
- ***Portland Oregon Consensus Program***
 - Provides a neutral forum and expert assessment, mediation and facilitation services to help public bodies and stakeholders resolve conflicts, make decisions, and develop public policy.
- ***The Oregon Department of Agriculture Farm Mediation Program***
 - Helps farmers and other parties address agriculture-related problems involving: contract disputes; employment issues; nuisance complaints; trespass; landlord-tenant disputes; family farm transfers; partnership workouts; and any other farm-related conflicts
- ***ODOT Right of Way, Eminent Domain Mediation***
 - Resolves disputes between ODOT and a property owner related to the acquisition of property by eminent domain.
 - Program utilizes private mediators with fees split between ODOT and the property owner (unless parties agree on another arrangement).
 - In 2008, ODOT had 309 acquisition files, of which 8% proceeded to condemnation. None of the 8% of condemnation programs proceeded to trial, but all were settled through direct negotiations or mediation

Disputes Involving Regulation of Professions and Industries

- ***Adoption & Child Welfare Mediation***
 - Part of the Department of Human Services program that was expanded to serve children, birth parents, and adoptive parents interested in open adoptions.
 - Under Oregon law (ORS 109.305), post-adoption communication agreements are legally enforceable.
 - Mediation services are available to birth parent(s) to come to agreement on the level of openness which best serves the needs of the child
- ***Construction Contractors Board, Dispute Resolution Program***
 - Instituted with the mission to safeguard consumer's rights related to real property while promoting a fair, equitable, and competitive environment in the construction industry
 - The Program handles 4,000 to 5,000 disputed claims annually. Through the use of various techniques, the Program serves as a means of educating the parties via notice provisions and warnings; settlement discussions in on-site meetings; settlement options through proposed orders; settlement discussions with hearing officers; contested case hearings; and binding arbitration
 - Approximately 75% of homeowner claims are settled between the homeowner and contractor by a mediator at the jobsite.
- ***Education Department, Special Education Mediation Services***
 - Established in part in response to recommendations from parents and educators.
- ***Employment Department***
 - Agency responsible for providing employment services, labor market information, unemployment insurance, childcare in Oregon and the Oregon Central Administrative Hearings Panel

- Follows a federally mandated process for resolving complaints over service equity; collaborative rulemaking and problem-solving (interagency); management involved workplace disputes; and a formal grievance and mediation program for internal disputes.
- ***Ombudsman for Injured Workers***
 - Serves as an independent advocate for injured workers.
 - Office investigates and attempts to resolve workers' compensation related complaints.
- ***Land Use Board of Appeals (LUBA) Mediation***
 - Parties to a LUBA appeal may, at any time, stipulate the appeal proceeding be stayed to allow parties to enter into mediation.
- ***Liquor Control Commission***
 - Provides dispute resolution services for problematic licensees in dispute with enforcement agencies or neighborhoods.
- ***Public Utilities Commission Hearings Section, Mediation***
 - The PUC encourages parties to resolve issues in contested cases and rulemaking through negotiation or mediation.
- ***Vocational Rehabilitation Services (OVRs)***
 - OVRs is a state and federally funded program that works in partnership with the community and business to develop employment opportunities for people with disabilities.
 - The Program has a dispute resolution program that includes formal mediation and an impartial fair hearing process for problems that cannot be resolved by talking with a counselor.
- ***Workers Comp, Vocational Assistance Dispute Resolution***
 - Primary purpose is to resolve vocational disputes between Oregon workers and insurers.
 - Consultants engage in a variety of processes to resolve disputes.
- ***Workers Comp, Premium Audit Mediation Program***
 - Workers' Compensation insurers are required to maintain a premium audit program to ensure the achievement and maintenance of equitable premium charges to Oregon employers.
 - The ADR program was developed in 1990 in response to backlog of audit cases.
 - In the first year of the Program, out of 237 cases there were 169 requests for mediation.
 - Since 1991, there have been more than 1,090 cases, with 893 requests for mediation. Of those 893 mediations, 727 cases were resolved (81%).
- ***Workers' Comp, Hearings Division, Mediation Program***
 - The Program mediates mental stress cases; complex occupational disease claims, cases with old dates of injury that have both accepted and denied conditions; cases that also include claims under ORS chapter 659; the ADA, other employment-related issues; cases with permanent total disability benefit claims; and any case the parties consider appropriate for settlement

Appendix G

Use of ADR by Texas State Agencies

- ADR promulgated by the Governmental Dispute Resolution Act (GDRA), Sh. 2009, Tex. Gov't Code provides that disputes before governmental bodies be resolved as fairly and expeditiously as possible, and that each government body support this policy by developing and using ADR procedures in appropriate cases.
- In the Summer 2002, Sunset Commission re-emphasized the policy set forth in GDRA by issuing an across-the-board recommendation applicable to agencies undergoing the Sunset review to include:
 - The development and implementation of a policy to encourage the use of negotiated rulemaking procedures for the adoption of agency rules under Chapter 2008, Tex. Gov't Code.
 - The development and implementation of appropriate ADR procedures under GDRA to assist in resolving internal and external disputes.
- Common Areas of ADR use in the State of Texas include Employees Disputes, Rulemaking, Contracts, Contested Cases, Office of Ombudsman, and Binding Arbitrations
- ***Employee Disputes***
 - Most common processes used in the public sector are mediation, ombudsmen and arbitration.
 - Texas Intergovernmental Shared Neutrals Program (TISNP)
 - TISNP is a pilot project providing mediators through a shared mediator pool who mediate employment disputes.
 - Current participants include:
 - Texas Department of Public Safety
 - State Office of Administrative Hearings
 - Center for Public Policy Dispute Resolution
 - City of Austin
 - Austin Independent School District
 - University of Texas
- ***Rulemaking***
 - ADR used in negotiated rulemaking and policy dialogue leading to agency rulemaking processes.
 - Agencies that have utilized negotiated rulemaking include:
 - Department of Agriculture and Department of Human Services
 - Office of the Attorney General, Office of the Comptroller, and Office of the Governor
 - Public Utility Commission
 - Texas Commission on Environmental Quality
 - Texas General Land Office
 - Texas Parks and Wildlife Department
 - Agency that has utilized policy dialogues:
 - Department of Protective and Regulatory Services Resources

- ***Contracts***
 - State of Texas has adopted a policy and process encouraging the use of negotiation and mediation to resolve contract claims against the State.
 - SOAH drafted model rules for the negotiation and mediation of contract claims against state entities under Chapter 2260, Tex. Gov't Code.
- ***Contested Cases***
 - Since 1995, SOAH has utilized ADR processes, primarily mediation, in its contested hearing process.
 - Other forms of ADR include mini-trials, early neutral case evaluation by an impartial third party, and fact-finding by an expert.
 - Agencies that have in-house mediation programs for contested cases include the Texas Commission on Environmental Quality and Texas Department of Insurance.
- ***Office of Ombudsman***
 - Ombudsmen perform a variety of functions, which includes receiving and investigating complaints, acting as an information resource, providing impartial guidance and assistance, and acting as non-legal advocates.
- ***Binding Arbitrations***
 - Binding arbitration is specifically excluded as an option for agencies under GDRA § 2009.005(c) due to sovereign immunity concerns.
 - Legislature may, and sometimes does, authorize binding arbitration for a specific program. For example, the Legislature provided for binding arbitration in nursing home enforcement actions brought by the State under Tex. Health and Safety Code, Ch. 242.
- **Texas Statutes Specifically Authorizing the Use of ADR in the State**
 - Texas Alternative Dispute Resolution Procedures Act, Chapter 154, Tex. Civ. Prac. & Rem. Code
 - Government Dispute Resolution Act, Chapter 2009, Tex. Gov't Code.
 - Texas Negotiated Rulemaking Act, Chapter 2008, Tex. Gov't Code.
 - Resolution of Certain Contract Claims Against the State, Chapter 2260, Tex. Gov't Code.
 - There are numerous State statutes that reference ADR use in specific agency functions that are not listed.