ENROLLED

SENATE BILL NO. 193

(By Senator Brown, et al.)

PASSED February 26, 1998
In Effect From Passage

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1998
ENROLLED

Senate Bill No. 193

(By Senators Bowman, Dittmar, Kessler, Snyder, White, Deem and Kimble)

[Passed February 26, 1998; in effect from passage.]

AN ACT to amend and reenact chapter fifty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article fifteen, relating to creating a commission to study the implementation of alternative dispute resolution programs.

Be it enacted by the Legislature of West Virginia:

That chapter fifty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article fifteen, to read as follows:

ARTICLE 15. ALTERNATIVE DISPUTE RESOLUTION COMMISSION.
§55-15-1. Legislative findings and purpose.
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(a) The Legislature hereby finds and declares:

(1) That due to growing concern with limits on access to justice arising from court case backlog, delays and costs, that it has been beneficial to implement an alternative dispute resolution program in various circuit courts of our state and in certain administrative proceedings;

(2) That since implementation, these procedures have proven to be a highly-effective method for resolving disputes without resorting to adjudicatory measures, thereby easing the burden of cases pending in the judicial system;

(3) That alternative dispute resolution is continually changing the perceptions regarding the appropriateness and effectiveness of court procedures, and that the continuation and growth of these procedures is important in enhancing the quality of life for the citizens of this state;

(4) That the effectiveness of the alternative dispute resolution programs implemented in the state and in other states has increased but more definition and synthesis is necessary to better serve the citizens; and

(5) That the purpose of this article is to create a commission, as hereinafter constituted and appointed, to study various facets of alternative dispute resolution including, but not limited to, defining the objectives and goals of the programs, the types of disputes to be resolved, the promulgation of a system to ensure appropriate uniformity of alternative dispute resolution programs statewide, certification or licensure of persons engaged in providing services in alternative methods of resolving disputes and the structuring and funding of such programs.

(b) The Legislature further declares that it recognizes that the provisions of section 1, article V of the constitution of West Virginia prohibit any person from exercising the powers of more than one branch or department of
government at the same time; however, it is the express
purpose, intent and finding of the Legislature that those
members of the commission who are members of the
Legislature are acting as such while serving on the
commission and in the furtherance of the Legislature's
inherent right and power to investigate and inquire into
and report on those matters which are legitimately within
its powers, and that since the commission's role and duties
are investigative and reportive in nature, the service upon
the commission by its legislative members is not violative
of nor inimical to the constitutional mandate with respect
to the separation of governmental powers.

§55-15-2. Alternative dispute resolution commission created;
composition; appointment of members; chair­
man.

The West Virginia alternative dispute resolution com­
mission is hereby created. The commission shall consist of
eleven members, who are designated or to be appointed as
follows:

(a) The chief justice of the supreme court of appeals of
West Virginia, or his or her designee, shall serve as the
chair of the commission, and shall appoint two additional
members, one of whom is currently serving as a circuit
court judge;

(b) The speaker of the House of Delegates and the
president of the Senate, or their respective designee, shall
be members, and the speaker of the House of Delegates
and the president of the Senate shall appoint one addi­
tional member;

c) Two members shall be appointed by the governor
who shall be representative private citizens;

(d) The dean of the West Virginia university college of
law shall appoint one faculty member to the commission
who possesses knowledge and experience unique in
alternative dispute resolution processes; and
(e) The executive director of the West Virginia state bar.


(a) Members of the commission shall be reimbursed for their reasonable and necessary travel and other expenses actually incurred in connection with the performance of their duties as members of the commission including, but not limited to, their attendance at meetings thereof.

(b) The expenses of the members of the commission shall be paid from legislative appropriations.

(c) Members of the commission shall receive no other compensation for their services on or with the commission other than the reimbursement of expenses as provided in this section.

(d) The president of the Senate and the speaker of the House of Delegates shall designate a member of the legislative staff to serve as counsel and reporter to the commission.


The commission shall have the following powers, duties and responsibilities:

(a) To conduct a thorough and comprehensive study into the various ways and means of financing and structuring the alternative dispute resolution programs, define the goals and objectives of alternative methods of resolving disputes in the state, determine types of disputes to be included within any alternative dispute resolution programs, evaluate the advantages of establishing certification or licensure of persons engaged in providing services in alternative methods of resolving disputes and propose a system to ensure appropriate uniformity of alternative dispute resolution programs statewide;

(b) To request such information and data from any state
officer or agency or from any political subdivision of the
state as the commission may deem necessary to assist it in
the performance of its duties and it shall be the duty of all
such officers and agencies to cooperate with and assist the
commission in and about the completion of its studies and
deliberations;

(c) To confer with representative citizens, the judiciary,
the legal profession and other groups of the private and
business sectors with respect to all matters deemed
relevant to the duties of the commission;

(d) To notify the chair of the commission on the future
of the judiciary so that the commission established herein
may share information with such commission on the
future of the judiciary;

(e) To perform every other act necessary or desirable to
carry out any of the other powers, duties or responsibili-
ties enumerated in this article; and

(f) To file its final report with respect to its findings and
conclusions, together with any legislation it deems appro-
priate to recommend and as it deems necessary to carry its
findings and conclusions into effect with the president of
the Senate and the speaker of the House of Delegates not
later than the thirtieth day of November, one thousand
nine hundred ninety-eight.

§55-15-5. Meetings of the commission; quorum.

The commission shall meet at such times and places as
its chair shall deem to be proper and expedient. Such
meetings shall be coordinated with and be in conjunction
with the monthly meeting of the joint committee on
government and finance insofar as the same may be
practicable. Nothing herein shall preclude the commis-
sion from meeting with such frequency or at such times
and places as it may determine. The presence of no less
than six members of the commission shall constitute a
quorum for the purposes of conducting any business.
§55-15-6. **Interpretation of article; termination of commission.**

1. (a) The provisions of this article shall be liberally construed in order to permit the commission sufficient latitude for the orderly completion of its studies and duties.

2. (b) The commission shall cease its existence on the thirty-first day of December, one thousand nine hundred ninety-eight.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within approved this the 10th day of March, 1998.

Governor