

1 A bill to be entitled
 2 An act relating to mediation; creating s. 44.407,
 3 F.S.; requiring an insurance carrier's representative
 4 attending circuit court mediation to have specified
 5 settlement authority; providing for sanctions for
 6 failure to comply in good faith; creating s. 44.408,
 7 F.S.; providing for third parties to be compelled to
 8 attend mediation in circuit court in certain
 9 circumstances; specifying that such persons may not be
 10 required to pay a mediator's fees or costs; providing
 11 requirements for such third parties ordered to attend;
 12 providing for sanctions for a failure to appear;
 13 creating s. 44.409, F.S.; providing requirements for
 14 the contents of a mediator's report; providing an
 15 effective date.

16
 17 Be It Enacted by the Legislature of the State of Florida:

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 19 Section 1. Section 44.407, Florida Statutes, is created to
 20 read:

21 44.407 Insurance carrier's settlement authority at circuit
 22 court mediation.-

23 (1) An insurance carrier representative attending a
 24 circuit court mediation must have:

25 (a) Full authority to settle up to the amount of the

26 insurance carrier's reserve on the claims subject to mediation;
 27 and

28 (b) The ability to immediately consult during the
 29 mediation by electronic or telephonic consultation with the
 30 person having authority to settle above the amount of the
 31 insurance carrier's reserve on the claims subject to mediation,
 32 up to the applicable insurance policy limit or the amount of the
 33 plaintiff's last demand, whichever is less.

34 (2) The person or persons consulted by the insurance
 35 carrier representative in attendance must be available to
 36 teleconference with the mediator at the mediator's request.

37 (3) An insurance carrier appearing for mediation that does
 38 not comply in good faith with this section is subject to
 39 sanctions in the same manner as a party that fails to appear
 40 with the required settlement authority.

41 Section 2. Section 44.408, Florida Statutes, is created to
 42 read:

43 44.408 Compelling interested third parties to attend
 44 circuit court mediation.—

45 (1) Upon motion of any party, a court may order a third
 46 party to attend a circuit court mediation and participate in
 47 good faith in the mediation process if:

48 (a) The third party claims a lien or other asserted
 49 interest in the proceeds of any funds that a party may receive
 50 as part of a mediated settlement agreement;

51 (b) The presence of the third party can be compelled by
52 service of an order to appear for mediation served in the same
53 manner as service of process according to law; and

54 (c) The presence of the party at the mediation will
55 facilitate the mediation process.

56 (2) A third party ordered to attend a mediation who
57 appears and participates in good faith may not be compelled to
58 pay any portion of the mediator's fees or costs.

59 (3) The designated representative of a third party ordered
60 to attend a mediation who appears on behalf of the third party
61 must have full authority to settle the amount of the third
62 party's lien or other asserted interest or have the ability to
63 immediately consult with the person having such authority by
64 electronic or telephonic consultation during the mediation
65 conference.

66 (4) The person or persons consulted by the third party
67 representative in attendance must be available to teleconference
68 with the mediator at the mediator's request.

69 (5) A third party ordered to attend a mediation conference
70 who fails to appear is subject to sanctions in the same manner
71 as a party who fails to appear.

72 Section 3. Section 44.409, Florida Statutes, is created to
73 read:

74 44.409 Mediator's report.—

75 (1) Subject to subsection (2), the mediator's report to

HB 1043

2018

76 | the court shall only state:

77 | (a) A complete agreement was reached;

78 | (b) A partial agreement was reached; or

79 | (c) No agreement was reached.

80 | (2) If a partial agreement was reached that eliminates
81 | claims or parties from the litigation, then a list of such
82 | claims and parties may be provided, but no other information may
83 | be disclosed.

84 | Section 4. This act shall take effect July 1, 2018.