

Amendment No.1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	_____	(Y/N)
ADOPTED AS AMENDED	_____	(Y/N)
ADOPTED W/O OBJECTION	_____	(Y/N)
FAILED TO ADOPT	_____	(Y/N)
WITHDRAWN	_____	(Y/N)
OTHER		

1 Committee/Subcommittee hearing bill: Civil Justice & Claims
 2 Subcommittee

3 Representative Partington offered the following:

4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 **Section 1. Section 44.104, Florida Statutes, is amended to**
 8 **read:**

9 44.104 Voluntary binding arbitration ~~and voluntary trial~~
 10 ~~resolution.~~

11 (1) Two or more opposing parties who are involved in a
 12 civil dispute may agree in writing to submit the controversy to
 13 voluntary binding arbitration, ~~or voluntary trial resolution,~~ in
 14 lieu of litigation of the issues involved before, ~~prior to~~ or
 15 after a lawsuit has been filed, provided no constitutional issue
 16 is involved.

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17 (2) If the parties have entered into an agreement that
18 ~~which~~ provides in voluntary binding arbitration for a method for
19 appointing of one or more arbitrators, ~~or which provides in~~
20 ~~voluntary trial resolution a method for appointing a member of~~
21 ~~The Florida Bar in good standing for more than 5 years to act as~~
22 ~~trial resolution judge,~~ the court shall proceed with the
23 appointment as prescribed. However, in voluntary binding
24 arbitration at least one of the arbitrators, who shall serve as
25 the chief arbitrator, shall meet the qualifications and training
26 requirements adopted pursuant to s. 44.106. In the absence of an
27 agreement, or if the agreement method fails or for any reason
28 cannot be followed, the court, on application of a party, shall
29 appoint one or more qualified arbitrators, ~~or the trial~~
30 ~~resolution judge,~~ as the case requires.

31 (3) The arbitrators must ~~or trial resolution judge~~ shall
32 be compensated by the parties according to their agreement.

33 (4) Within 10 days after the submission of the request for
34 binding arbitration, ~~or voluntary trial resolution,~~ the court
35 shall provide for the appointment of the arbitrator or
36 arbitrators, ~~or trial resolution judge,~~ as the case requires.
37 Once appointed, the arbitrators ~~or trial resolution judge~~ shall
38 notify the parties of the time and place for the hearing.

39 (5) Application for voluntary binding arbitration must ~~or~~
40 ~~voluntary trial resolution~~ shall be filed and fees paid to the
41 clerk of court as if for complaints initiating civil actions.

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42 The clerk of the court shall handle and account for these
43 matters in all respects as if they were civil actions, except
44 that the clerk of court shall keep separate the records of the
45 applications for voluntary binding arbitration ~~and the records~~
46 ~~of the applications for voluntary trial resolution~~ from all
47 other civil actions.

48 (6) Filing of the application for binding arbitration
49 tolls ~~or voluntary trial resolution will toll~~ the running of the
50 applicable statutes of limitation.

51 (7) The chief arbitrator ~~or trial resolution judge~~ may
52 administer oaths or affirmations and conduct the proceedings as
53 the rules of court shall provide. At the request of any party,
54 the chief arbitrator ~~or trial resolution judge~~ shall issue
55 subpoenas for the attendance of witnesses and for the production
56 of books, records, documents, and other evidence and may apply
57 to the court for orders compelling attendance and production.
58 Subpoenas shall be served and shall be enforceable in the manner
59 provided by law.

60 (8) A voluntary binding arbitration hearing shall be
61 conducted by all of the arbitrators, but a majority may
62 determine any question and render a final decision. ~~A trial~~
63 ~~resolution judge shall conduct a voluntary trial resolution~~
64 ~~hearing. The trial resolution judge may determine any question~~
65 ~~and render a final decision.~~

66 (9) The Florida Evidence Code applies ~~shall apply~~ to all

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67 proceedings under this section.

68 (10) An appeal of a voluntary binding arbitration decision
69 shall be taken to the circuit court and shall be limited to
70 review on the record and not de novo, of:

71 (a) Any alleged failure of the arbitrators to comply with
72 the applicable rules of procedure or evidence.

73 (b) Any alleged partiality or misconduct by an arbitrator
74 prejudicing the rights of any party.

75 (c) Whether the decision reaches a result contrary to the
76 Constitution of the United States or the State Constitution.

77 ~~(11) Any party may enforce a final decision rendered in a~~
78 ~~voluntary trial by filing a petition for final judgment in the~~
79 ~~circuit court in the circuit in which the voluntary trial took~~
80 ~~place. Upon entry of final judgment by the circuit court, any~~
81 ~~party may appeal to the appropriate appellate court. Factual~~
82 ~~findings determined in the voluntary trial are not subject to~~
83 ~~appeal.~~

84 ~~(11)-(12)~~ The harmless error doctrine applies ~~shall apply~~
85 in all appeals. ~~No~~ Further review is not ~~shall be~~ permitted
86 unless a constitutional issue is raised.

87 ~~(12)-(13)~~ If no appeal is taken within the time provided by
88 rules promulgated by the Supreme Court, then the decision shall
89 be referred to the presiding judge in the case, or if one has
90 not been assigned, then to the chief judge of the circuit for
91 assignment to a circuit judge, who shall enter such orders and

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92 judgments as are required to carry out the terms of the
93 decision, which orders shall be enforceable by the contempt
94 powers of the court and for which judgments execution shall
95 issue on request of a party.

96 ~~(13)-(14)~~ This section does ~~shall~~ not apply to any dispute
97 involving child custody, visitation, or child support, or to any
98 dispute that ~~which~~ involves the rights of a third party not a
99 party to the arbitration ~~or voluntary trial resolution~~ when the
100 third party would be an indispensable party if the dispute were
101 resolved in court or when the third party notifies the chief
102 arbitrator ~~or the trial resolution judge~~ that the third party
103 would be a proper party if the dispute were resolved in court,
104 that the third party intends to intervene in the action in
105 court, and that the third party does not agree to proceed under
106 this section.

107 **Section 2. Section 44.1045, Florida Statutes, is created**
108 **to read:**

109 44.1045 Voluntary trial resolution.-

110 (1) As used in this section, the term "presiding judge"
111 means the judge assigned to the case.

112 (2) (a) The parties to a civil case, a family law case, or
113 a probate case may by written agreement or stipulation agree to
114 the appointment of an individual to serve as a voluntary trial
115 resolution judge to adjudicate all of the remaining issues in
116 the case, subject to the exceptions set forth in subsection

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117 (12).

118 (b) To be eligible to be appointed to serve as a voluntary
119 trial resolution judge, the individual selected by the parties
120 must be a member of The Florida Bar in good standing for more
121 than 5 years.

122 (c) Any time after an action is filed, the parties may
123 file a written agreement or stipulation to appoint a voluntary
124 trial resolution judge with the clerk of the court in which the
125 action is pending and a joint motion requesting appointment of a
126 voluntary trial resolution judge, selecting the individual whom
127 the parties wish to have appointed. The joint motion shall be
128 accompanied by a form signed by the selected voluntary trial
129 resolution judge consenting to the appointment. The parties
130 shall promptly serve a copy of the joint motion and form on the
131 presiding judge.

132 (d) Within 10 days after the submission of the request for
133 appointment of a voluntary trial resolution judge, the presiding
134 judge shall enter an order appointing the voluntary trial
135 resolution judge selected by the parties. The order designating
136 the voluntary trial resolution judge shall be signed by the
137 presiding judge, refer to the parties' written agreement or
138 stipulation, and provide that the voluntary trial resolution
139 judge shall be compensated by the parties in accordance with the
140 terms of the parties' agreement or stipulation.

141 (e) A voluntary trial resolution judge appointed under

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142 this subsection must take and subscribe to an oath of office,
143 swearing or affirming that he or she has read and will conform
144 with Canons 1, 2A, and 3, and any other provisions of the
145 Florida Code of Judicial Conduct which might reasonably be
146 applicable depending on the nature of the judicial function
147 performed, except as modified by this section.

148 (f) Upon appointment by the presiding judge, a voluntary
149 trial resolution judge shall adjudicate the case until the case
150 is finally determined by adjudication, including posttrial
151 motions and requests for attorney fees, dismissal, or other
152 final disposition, unless disqualification or recusal is
153 required pursuant to subsection (3).

154 (g) If a voluntary trial resolution judge appointed under
155 this subsection cannot serve in that capacity for any reason,
156 absent further agreement or stipulation by the parties to
157 appoint another individual to serve as voluntary trial
158 resolution judge, the case shall be returned to the presiding
159 judge.

160 (3) Where circumstances exist that require
161 disqualification of a judge under Canon 3E of the Florida Code
162 of Judicial Conduct, a voluntary trial resolution judge shall
163 immediately disclose to the parties on the record the grounds
164 for disqualification. The parties may waive the disqualification
165 by filing a written waiver with the clerk of the court within 10
166 days after such disclosure. This subsection does not limit the

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167 authority of a voluntary trial resolution judge to enter an
168 order of recusal. Sections 38.02 and 38.10 and Florida Rules of
169 General Practice and Judicial Administration 2.330 apply to any
170 motion to disqualify a voluntary trial resolution judge. In the
171 event of recusal, or if a motion to disqualify a voluntary trial
172 resolution judge is granted, the case shall be returned to the
173 presiding judge.

174 (4) A voluntary trial resolution judge shall be
175 compensated by the parties in such amount, and subject to such
176 terms and conditions, as provided by the parties in a written
177 agreement or stipulation. A contract for the services of a
178 voluntary trial resolution judge must provide for payment of
179 compensation by the parties to the voluntary trial resolution
180 judge. The presiding judge may enforce the terms of a written
181 agreement or stipulation against the parties and shall retain
182 jurisdiction to enforce such agreement or stipulation after
183 entry of any judgment therefrom.

184 (5) The clerk of the court shall treat cases referred to
185 voluntary trial resolution the same as any other comparable
186 action, except that the clerk of court shall keep separate the
187 records of the applications for voluntary trial resolution from
188 all other comparable actions. The chief judge, or his or her
189 designee, shall, upon request of the parties, make available
190 public facilities and personnel in proceedings assigned to a
191 voluntary trial resolution judge to the same extent as for other

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192 comparable matters not assigned to a voluntary trial resolution
193 judge. For jury matters, the chief judge and the clerk of the
194 court shall coordinate the provision of jurors with the
195 voluntary trial resolution judge. For all other matters, the
196 parties may agree to use facilities other than facilities for
197 circuit and county courts. The parties are responsible for any
198 compensation to personnel and any costs in relation to the case,
199 including, but not limited to, the costs associated with the use
200 of such facilities and any materials that are not provided by
201 the court.

202 (6) A voluntary trial resolution judge shall perform all
203 judicial functions from the time of appointment by the presiding
204 judge until the case is finally determined by adjudication,
205 including posttrial motions and requests for attorney fees,
206 dismissal, or other final disposition, except for the
207 disposition of a request that a party be held in contempt and
208 the entry of an order with respect to any nonparty to the case.
209 The presiding judge shall maintain jurisdiction to exercise
210 contempt power and to enforce a subpoena issued to any nonparty
211 to the case. The presiding judge shall enter the final judgment
212 prepared by the voluntary trial resolution judge. The presiding
213 judge shall have exclusive jurisdiction over enforcement of any
214 judgment and any supplementary proceedings filed in the same
215 action.

216 (7) A voluntary trial resolution judge shall conduct

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217 proceedings under this section pursuant to the Florida Rules of
218 Civil Procedure, the Family Law Rules of Procedure, or the
219 Probate Rules, as applicable.

220 (8) The Florida Evidence Code applies to all proceedings
221 under this section.

222 (9) Voluntary trial resolution proceedings shall be
223 noticed and open to the public to the same extent as if such
224 proceedings were before the presiding judge.

225 (10) Upon entry of final judgment by the presiding judge,
226 a party may appeal to the appropriate appellate court in the
227 same manner and to the same extent as any other proceeding
228 before the court. The harmless error doctrine applies in any
229 such review. A party may not seek to have an order or ruling of
230 a voluntary trial resolution judge reviewed, modified, or
231 overturned by the presiding judge during the voluntary trial
232 resolution judge's appointment.

233 (11) Except as provided in subsection (12), voluntary
234 trial resolution is available in all civil, family, and probate
235 cases.

236 (12) This section does not apply to any dispute involving
237 the constitutionality of a statute, child custody, visitation,
238 or child support, or to any dispute involving the rights of a
239 third party who is not a party to the voluntary trial resolution
240 proceedings when the third party would be an indispensable party
241 if the dispute were resolved in court or when the third party

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242 notifies the voluntary trial resolution judge that the third
243 party would be a proper party if the dispute were resolved in
244 court, that the third party intends to intervene in the action,
245 and that the third party does not agree to proceed under this
246 section.

247 **Section 3. Subsection (1) of section 44.107, Florida**
248 **Statutes, is amended to read:**

249 44.107 Immunity for arbitrators, voluntary trial
250 resolution judges, mediators, and mediator trainees.-

251 (1) Arbitrators serving under s. 44.103 or s. 44.104,
252 voluntary trial resolution judges serving under s. 44.1045,
253 mediators serving under s. 44.102, and trainees fulfilling the
254 mentorship requirements for certification by the Supreme Court
255 as a mediator shall have judicial immunity in the same manner
256 and to the same extent as a judge.

257 **Section 4.** This act shall take effect July 1, 2026.

258 -----
259
260 **T I T L E A M E N D M E N T**

261 Remove everything before the enacting clause and insert:

262 A bill to be entitled

263 An act relating to voluntary trial resolution;

264 amending s. 44.104, F.S.; deleting provisions relating

265 to voluntary trial resolution; creating s. 44.1045,

266 F.S.; defining the term "presiding judge"; authorizing

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267 parties to civil cases, family law cases, or probate
268 cases to agree to or stipulate the appointment of a
269 voluntary trial resolution judge; providing
270 eligibility requirements; authorizing the parties to
271 file such agreement or stipulation with the clerk of
272 the court and to file a joint motion requesting such
273 appointment; requiring the joint motion to be
274 accompanied by a certain form; requiring the parties
275 to promptly serve a copy of the joint motion and form
276 on the presiding judge; requiring the presiding judge
277 to enter a specified order within a certain time
278 period; requiring an appointed voluntary trial
279 resolution judge to take and subscribe to a specified
280 oath; providing an exception; requiring a voluntary
281 trial resolution judge to adjudicate a case until a
282 final determination of the case; requiring the case to
283 be returned to the presiding judge under certain
284 circumstances; requiring immediate disclosure by a
285 voluntary trial resolution judge to the parties of
286 circumstances requiring disqualification; authorizing
287 waiver of disqualification; providing construction and
288 applicability; providing for compensation of a
289 voluntary trial resolution judge; requiring the
290 presiding judge to retain jurisdiction for a specified
291 purpose; requiring the clerk of the court to treat

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292 cases referred to voluntary trial resolution in a
293 specified manner; requiring the chief judge or his or
294 her designee to make available public facilities and
295 personnel in proceedings assigned to a voluntary trial
296 resolution judge in a specified manner; requiring the
297 chief judge and the clerk to coordinate the provision
298 of jurors with a voluntary trial resolution judge for
299 certain actions; authorizing the parties to agree to
300 use certain facilities for other specified matters;
301 specifying that the parties are responsible for
302 certain costs; providing the scope of judicial
303 functions of a voluntary trial resolution judge;
304 requiring the presiding judge to maintain jurisdiction
305 to perform certain judicial functions; requiring a
306 voluntary trial resolution judge to conduct
307 proceedings under specified rules of court; requiring
308 voluntary trial resolution proceedings to be noticed
309 and open to the public; providing for judicial review;
310 providing applicability; amending s. 44.107, F.S.;
311 conforming provisions to changes made by the act;
312 providing an effective date.