

1                   A bill to be entitled  
2           An act relating to voluntary trial resolution;  
3           amending s. 44.104, F.S.; deleting provisions relating  
4           to voluntary trial resolution; creating s. 44.1045,  
5           F.S.; defining the term "presiding judge"; authorizing  
6           parties to civil cases, family law cases, or probate  
7           cases to agree to or stipulate the appointment of a  
8           voluntary trial resolution judge; providing  
9           eligibility requirements; authorizing the parties to  
10          file such agreement or stipulation with the clerk of  
11          the court and to file a joint motion requesting such  
12          appointment; requiring the joint motion to be  
13          accompanied by a certain form; requiring the parties  
14          to promptly serve a copy of the joint motion and form  
15          on the presiding judge; requiring the presiding judge  
16          to enter a specified order within a certain time  
17          period; requiring an appointed voluntary trial  
18          resolution judge to take and subscribe to a specified  
19          oath; providing an exception; requiring a voluntary  
20          trial resolution judge to adjudicate a case until a  
21          final determination of the case; requiring the case to  
22          be returned to the presiding judge under certain  
23          circumstances; requiring immediate disclosure by a  
24          voluntary trial resolution judge to the parties of  
25          circumstances requiring disqualification; authorizing

26 waiver of disqualification; providing construction and  
27 applicability; providing for compensation of a  
28 voluntary trial resolution judge; requiring the  
29 presiding judge to retain jurisdiction for a specified  
30 purpose; requiring the clerk of the court to treat  
31 cases referred to voluntary trial resolution in a  
32 specified manner; requiring the chief judge or his or  
33 her designee to make available public facilities and  
34 personnel in proceedings assigned to a voluntary trial  
35 resolution judge in a specified manner; requiring the  
36 chief judge and the clerk to coordinate the provision  
37 of jurors with a voluntary trial resolution judge for  
38 certain actions; authorizing the parties to agree to  
39 use certain facilities for other specified matters;  
40 specifying that the parties are responsible for  
41 certain costs; providing the scope of judicial  
42 functions of a voluntary trial resolution judge;  
43 requiring the presiding judge to maintain jurisdiction  
44 to perform certain judicial functions; requiring a  
45 voluntary trial resolution judge to conduct  
46 proceedings under specified rules of court; requiring  
47 voluntary trial resolution proceedings to be noticed  
48 and open to the public; providing for judicial review;  
49 providing applicability; amending s. 44.107, F.S.;

50 conforming provisions to changes made by the act;

51 providing an effective date.

52  
53 Be It Enacted by the Legislature of the State of Florida:

54  
55 **Section 1. Section 44.104, Florida Statutes, is amended to**  
56 **read:**

57 44.104 Voluntary binding arbitration ~~and voluntary trial~~  
58 ~~resolution.~~—

59 (1) Two or more opposing parties who are involved in a  
60 civil dispute may agree in writing to submit the controversy to  
61 voluntary binding arbitration, ~~or voluntary trial resolution,~~ in  
62 lieu of litigation of the issues involved before, ~~prior to~~ or  
63 after a lawsuit has been filed, provided no constitutional issue  
64 is involved.

65 (2) If the parties have entered into an agreement that  
66 ~~which~~ provides in voluntary binding arbitration for a method for  
67 appointing of one or more arbitrators, ~~or which provides in~~  
68 ~~voluntary trial resolution a method for appointing a member of~~  
69 ~~The Florida Bar in good standing for more than 5 years to act as~~  
70 ~~trial resolution judge,~~ the court shall proceed with the  
71 appointment as prescribed. However, in voluntary binding  
72 arbitration at least one of the arbitrators, who shall serve as  
73 the chief arbitrator, shall meet the qualifications and training  
74 requirements adopted pursuant to s. 44.106. In the absence of an  
75 agreement, or if the agreement method fails or for any reason

76 cannot be followed, the court, on application of a party, shall  
77 appoint one or more qualified arbitrators, ~~or the trial~~  
78 ~~resolution judge,~~ as the case requires.

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

81 (4) Within 10 days after the submission of the request for  
82 binding arbitration, ~~or voluntary trial resolution,~~ the court  
83 shall provide for the appointment of the arbitrator or  
84 arbitrators, ~~or trial resolution judge,~~ as the case requires.  
85 Once appointed, the arbitrators ~~or trial resolution judge~~ shall  
86 notify the parties of the time and place for the hearing.

87 (5) Application for voluntary binding arbitration must ~~or~~  
88 ~~voluntary trial resolution~~ shall be filed and fees paid to the  
89 clerk of court as if for complaints initiating civil actions.  
90 The clerk of the court shall handle and account for these  
91 matters in all respects as if they were civil actions, except  
92 that the clerk of court shall keep separate the records of the  
93 applications for voluntary binding arbitration ~~and the records~~  
94 ~~of the applications for voluntary trial resolution~~ from all  
95 other civil actions.

96 (6) Filing of the application for binding arbitration  
97 tolls ~~or voluntary trial resolution~~ will toll the running of the  
98 applicable statutes of limitation.

99 (7) The chief arbitrator ~~or trial resolution judge~~ may  
100 administer oaths or affirmations and conduct the proceedings as

101 the rules of court shall provide. At the request of any party,  
102 the chief arbitrator ~~or trial resolution judge~~ shall issue  
103 subpoenas for the attendance of witnesses and for the production  
104 of books, records, documents, and other evidence and may apply  
105 to the court for orders compelling attendance and production.  
106 Subpoenas shall be served and shall be enforceable in the manner  
107 provided by law.

108 (8) A voluntary binding arbitration hearing shall be  
109 conducted by all of the arbitrators, but a majority may  
110 determine any question and render a final decision. ~~A trial  
111 resolution judge shall conduct a voluntary trial resolution  
112 hearing. The trial resolution judge may determine any question  
113 and render a final decision.~~

114 (9) The Florida Evidence Code applies ~~shall apply~~ to all  
115 proceedings under this section.

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

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

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

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

125 ~~(11) Any party may enforce a final decision rendered in a~~

126 ~~voluntary trial by filing a petition for final judgment in the~~  
127 ~~circuit court in the circuit in which the voluntary trial took~~  
128 ~~place. Upon entry of final judgment by the circuit court, any~~  
129 ~~party may appeal to the appropriate appellate court. Factual~~  
130 ~~findings determined in the voluntary trial are not subject to~~  
131 ~~appeal.~~

132 (11)~~(12)~~ The harmless error doctrine applies ~~shall apply~~  
133 in all appeals. ~~No~~ Further review is not ~~shall be~~ permitted  
134 unless a constitutional issue is raised.

135 (12)~~(13)~~ If no appeal is taken within the time provided by  
136 rules promulgated by the Supreme Court, then the decision shall  
137 be referred to the presiding judge in the case, or if one has  
138 not been assigned, then to the chief judge of the circuit for  
139 assignment to a circuit judge, who shall enter such orders and  
140 judgments as are required to carry out the terms of the  
141 decision, which orders shall be enforceable by the contempt  
142 powers of the court and for which judgments execution shall  
143 issue on request of a party.

144 (13)~~(14)~~ This section does ~~shall~~ not apply to any dispute  
145 involving child custody, visitation, or child support, or to any  
146 dispute that ~~which~~ involves the rights of a third party not a  
147 party to the arbitration ~~or voluntary trial resolution~~ when the  
148 third party would be an indispensable party if the dispute were  
149 resolved in court or when the third party notifies the chief  
150 arbitrator ~~or the trial resolution judge~~ that the third party

151 would be a proper party if the dispute were resolved in court,  
152 that the third party intends to intervene in the action in  
153 court, and that the third party does not agree to proceed under  
154 this section.

155 **Section 2. Section 44.1045, Florida Statutes, is created**  
156 **to read:**

157 44.1045 Voluntary trial resolution.—

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

160 (2)(a) The parties to a civil case, a family law case, or  
161 a probate case may by written agreement or stipulation agree to  
162 the appointment of an individual to serve as a voluntary trial  
163 resolution judge to adjudicate all of the remaining issues in  
164 the case, subject to the exceptions set forth in subsection  
165 (12).

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

170 (c) Any time after an action is filed, the parties may  
171 file a written agreement or stipulation to appoint a voluntary  
172 trial resolution judge with the clerk of the court in which the  
173 action is pending and a joint motion requesting appointment of a  
174 voluntary trial resolution judge, selecting the individual whom  
175 the parties wish to have appointed. The joint motion shall be

176 accompanied by a form signed by the selected voluntary trial  
177 resolution judge consenting to the appointment. The parties  
178 shall promptly serve a copy of the joint motion and form on the  
179 presiding judge.

180 (d) Within 10 days after the submission of the request for  
181 appointment of a voluntary trial resolution judge, the presiding  
182 judge shall enter an order appointing the voluntary trial  
183 resolution judge selected by the parties. The order designating  
184 the voluntary trial resolution judge shall be signed by the  
185 presiding judge, refer to the parties' written agreement or  
186 stipulation, and provide that the voluntary trial resolution  
187 judge shall be compensated by the parties in accordance with the  
188 terms of the parties' agreement or stipulation.

189 (e) A voluntary trial resolution judge appointed under  
190 this subsection must take and subscribe to an oath of office,  
191 swearing or affirming that he or she has read and will conform  
192 with Canons 1, 2A, and 3, and any other provisions of the  
193 Florida Code of Judicial Conduct which might reasonably be  
194 applicable depending on the nature of the judicial function  
195 performed, except as modified by this section.

196 (f) Upon appointment by the presiding judge, a voluntary  
197 trial resolution judge shall adjudicate the case until the case  
198 is finally determined by adjudication, including posttrial  
199 motions and requests for attorney fees, dismissal, or other  
200 final disposition, unless disqualification or recusal is

201 required pursuant to subsection (3).

202 (g) If a voluntary trial resolution judge appointed under  
203 this subsection cannot serve in that capacity for any reason,  
204 absent further agreement or stipulation by the parties to  
205 appoint another individual to serve as voluntary trial  
206 resolution judge, the case shall be returned to the presiding  
207 judge.

208 (3) Where circumstances exist that require  
209 disqualification of a judge under Canon 3E of the Florida Code  
210 of Judicial Conduct, a voluntary trial resolution judge shall  
211 immediately disclose to the parties on the record the grounds  
212 for disqualification. The parties may waive the disqualification  
213 by filing a written waiver with the clerk of the court within 10  
214 days after such disclosure. This subsection does not limit the  
215 authority of a voluntary trial resolution judge to enter an  
216 order of recusal. Sections 38.02 and 38.10 and Florida Rules of  
217 General Practice and Judicial Administration 2.330 apply to any  
218 motion to disqualify a voluntary trial resolution judge. In the  
219 event of recusal, or if a motion to disqualify a voluntary trial  
220 resolution judge is granted, the case shall be returned to the  
221 presiding judge.

222 (4) A voluntary trial resolution judge shall be  
223 compensated by the parties in such amount, and subject to such  
224 terms and conditions, as provided by the parties in a written  
225 agreement or stipulation. A contract for the services of a

226 voluntary trial resolution judge must provide for payment of  
227 compensation by the parties to the voluntary trial resolution  
228 judge. The presiding judge may enforce the terms of a written  
229 agreement or stipulation against the parties and shall retain  
230 jurisdiction to enforce such agreement or stipulation after  
231 entry of any judgment therefrom.

232 (5) The clerk of the court shall treat cases referred to  
233 voluntary trial resolution the same as any other comparable  
234 action, except that the clerk of court shall keep separate the  
235 records of the applications for voluntary trial resolution from  
236 all other comparable actions. The chief judge, or his or her  
237 designee, shall, upon request of the parties, make available  
238 public facilities and personnel in proceedings assigned to a  
239 voluntary trial resolution judge to the same extent as for other  
240 comparable matters not assigned to a voluntary trial resolution  
241 judge. For jury matters, the chief judge and the clerk of the  
242 court shall coordinate the provision of jurors with the  
243 voluntary trial resolution judge. For all other matters, the  
244 parties may agree to use facilities other than facilities for  
245 circuit and county courts. The parties are responsible for any  
246 compensation to personnel and any costs in relation to the case,  
247 including, but not limited to, the costs associated with the use  
248 of such facilities and any materials that are not provided by  
249 the court.

250 (6) A voluntary trial resolution judge shall perform all

251 judicial functions from the time of appointment by the presiding  
252 judge until the case is finally determined by adjudication,  
253 including posttrial motions and requests for attorney fees,  
254 dismissal, or other final disposition, except for the  
255 disposition of a request that a party be held in contempt and  
256 the entry of an order with respect to any nonparty to the case.  
257 The presiding judge shall maintain jurisdiction to exercise  
258 contempt power and to enforce a subpoena issued to any nonparty  
259 to the case. The presiding judge shall enter the final judgment  
260 prepared by the voluntary trial resolution judge. The presiding  
261 judge shall have exclusive jurisdiction over enforcement of any  
262 judgment and any supplementary proceedings filed in the same  
263 action.

264 (7) A voluntary trial resolution judge shall conduct  
265 proceedings under this section pursuant to the Florida Rules of  
266 Civil Procedure, the Family Law Rules of Procedure, or the  
267 Probate Rules, as applicable.

268 (8) The Florida Evidence Code applies to all proceedings  
269 under this section.

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

273 (10) Upon entry of final judgment by the presiding judge,  
274 a party may appeal to the appropriate appellate court in the  
275 same manner and to the same extent as any other proceeding

276 before the court. The harmless error doctrine applies in any  
277 such review. A party may not seek to have an order or ruling of  
278 a voluntary trial resolution judge reviewed, modified, or  
279 overturned by the presiding judge during the voluntary trial  
280 resolution judge's appointment.

281 (11) Except as provided in subsection (12), voluntary  
282 trial resolution is available in all civil, family, and probate  
283 cases.

284 (12) This section does not apply to any dispute involving  
285 the constitutionality of a statute, child custody, visitation,  
286 or child support, or to any dispute involving the rights of a  
287 third party who is not a party to the voluntary trial resolution  
288 proceedings when the third party would be an indispensable party  
289 if the dispute were resolved in court or when the third party  
290 notifies the voluntary trial resolution judge that the third  
291 party would be a proper party if the dispute were resolved in  
292 court, that the third party intends to intervene in the action,  
293 and that the third party does not agree to proceed under this  
294 section.

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

297 44.107 Immunity for arbitrators, voluntary trial  
298 resolution judges, mediators, and mediator trainees.-

299 (1) Arbitrators serving under s. 44.103 or s. 44.104,  
300 voluntary trial resolution judges serving under s. 44.1045,

301 mediators serving under s. 44.102, and trainees fulfilling the  
302 mentorship requirements for certification by the Supreme Court  
303 as a mediator shall have judicial immunity in the same manner  
304 and to the same extent as a judge.

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