

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 SENATE BILL 1121

By: Sykes

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6 AS INTRODUCED

7 An Act relating to the Oklahoma Bar Association;
8 amending 12 O.S. 2001, Section 1825, which relates to
9 mediators; modifying certain training requirement;
10 amending 17 O.S. 2001, Section 517, which relates to
11 payment of proceeds; modifying applicability of
12 certain standards; amending 20 O.S. 2001, Section
13 1659, which relates to the Court on the Judiciary;
14 modifying entities authorized to file certain
15 petition; amending 63 O.S. 2001, Section 931, as
16 amended by Section 1, Chapter 410, O.S.L. 2005 (63
17 O.S. Supp. 2008, Section 931), which relates to the
18 Board of Medicolegal Investigations; modifying
19 membership of Board; and providing an effective date.

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25 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

26 SECTION 1. AMENDATORY 12 O.S. 2001, Section 1825, is
27 amended to read as follows:

28 Section 1825. A. A district court may maintain a list of
29 qualified mediators to assist the parties in selecting a mediator.
30 In order to be placed on any such list, an individual shall meet the
31 following minimum requirements:

- 32 1. Civil and commercial mediators shall:

1 a. be certified pursuant to the Dispute Resolution Act,
2 or

3 b. (1) complete a minimum of twenty-four (24) hours of
4 mediation training, ~~which training has been~~
5 ~~approved by the Mandatory Continuing Legal~~
6 ~~Education Commission of the Oklahoma Bar~~
7 ~~Association,~~

8 (2) observe a minimum of two (2) mediation
9 proceedings, and

10 (3) complete at least six (6) hours every other year
11 of continuing professional education in the area
12 of mediation, ~~which education has been approved~~
13 ~~by the Mandatory Continuing Legal Education~~
14 ~~Commission of the Oklahoma Bar Association; and~~

15 2. Divorce and Family Mediators shall:

16 a. be certified for family and divorce mediation pursuant
17 to the Dispute Resolution Act, or

18 b. (1) complete forty (40) hours of training in family
19 and divorce mediation, ~~which training has been~~
20 ~~approved by the Mandatory Continuing Legal~~
21 ~~Education Commission of the Oklahoma Bar~~
22 ~~Association,~~

23 (2) conduct at least twelve (12) hours of mediation
24 with three (3) separate families, and

1 (3) complete at least six (6) hours every other year
2 of professional education in the area of family
3 mediation, or

4 c. have been regularly engaged in the practice of family
5 and divorce mediation for at least four (4) years.

6 B. Nothing in this act shall preclude the parties from
7 agreeing:

8 1. To participate in any alternative dispute resolution
9 process, including mediation, independent of this act or any related
10 court order; or

11 2. To select a mediator not identified on any list of qualified
12 mediators maintained by the district court.

13 C. Mediators who are not certified pursuant to the Dispute
14 Resolution Act, upon request by the court, any party, or legal
15 counsel, shall provide information demonstrating the mediator's
16 compliance with the requirements of Section 4 of this act, and shall
17 agree to adhere to the Model Standards of Conduct for Mediators
18 approved by the Litigation and Dispute Resolution Sections of the
19 American Bar Association, the American Arbitration Association, and
20 the Society of Professionals in Dispute Resolution.

21 D. The following form shall be used to order mediation pursuant
22 to this act:

23 IN THE DISTRICT COURT OF _____ COUNTY

24 STATE OF OKLAHOMA

1 Order of Referral To Mediation

2 This case is ordered to mediation pursuant to the District Court
3 Mediation Act. Parties and legal counsel shall proceed in good
4 faith to resolve this case. The parties shall select and
5 contact a mediator or mediation program or service within five
6 (5) business days to make appropriate arrangements for the
7 mediation proceeding. Mediation shall be completed within _____
8 days from the date of this order.

9 Mediation shall be attended by persons with full settlement
10 authority. Both parties shall participate in mediation;
11 attorneys may participate as agreed by the parties and the
12 mediator. Named parties shall be present except for a named
13 party who has no interest in the outcome and no settlement
14 authority. Each party who is represented by legal counsel shall
15 be accompanied at mediation by an attorney who is fully familiar
16 with the case. In addition, any interested non-party, including
17 any insurance company or other entity that is contractually
18 required to defend or to pay damages, shall be represented by a
19 person with full settlement authority.

20 SECTION 2. AMENDATORY 17 O.S. 2001, Section 517, is
21 amended to read as follows:

22 Section 517. A. The proceeds derived from the sale of brine,
23 solution gas or brine and solution gas production shall be paid to
24 persons legally entitled thereto, commencing no later than six (6)

1 months after the date of first sale, and thereafter no later than
2 sixty (60) days after the end of the calendar month within which
3 proceeds are received for subsequent production. In those instances
4 where proceeds are not received for disposition of brine, solution
5 gas or brine and solution gas production due to venting, flaring,
6 use for operations, nonpayment from purchasers, or any other cause,
7 the time periods previously specified within which any required
8 payment shall be paid to the persons legally entitled thereto shall
9 be measured from the date on which such venting, flaring, use for
10 operations, nonpayment or other event occurred. Provided, proceeds
11 from the sale of brine and solution gas from lands covered by a
12 pending application for unitization pursuant to this act shall be
13 paid to persons legally entitled thereto within six (6) months from
14 the entry of a final order of unitization, together with interest
15 thereon at the rate of six percent (6%) per annum to be compounded
16 annually, calculated from the date of first sale after the filing of
17 the application for unitization. Such payment is to be made to
18 persons entitled thereto by the operator of such production.
19 Provided, such operator may remit to the persons entitled to such
20 proceeds from production semiannually for the aggregate of six (6)
21 months' accumulation of monthly proceeds of amounts less than
22 Twenty-five Dollars (\$25.00). Further provided, that any delay in
23 determining the persons legally entitled to an interest in such
24 proceeds from production caused by unmarketable title to such

1 interest shall not affect payments to persons whose title is
2 marketable. Provided, however, that in those instances where such
3 proceeds cannot be paid because the title thereto is not marketable,
4 the operator of such production shall cause all proceeds due such
5 interest to earn interest at the rate of six percent (6%) per annum
6 to be compounded annually, calculated from the last day of the
7 production month, until such time as the title to such interest has
8 been perfected. Marketability of title shall be determined in
9 accordance with the then current title examination standards ~~of the~~
10 ~~Oklahoma Bar Association.~~

11 B. The following information shall be included with each
12 payment made to a brine owner from the sale of brine:

13 1. Unit identification;

14 2. Month and year of sales included in the payment;

15 3. Total volume of production from the unit of brine, solution
16 gas and concentration of chemical substances contained therein and
17 volumes extracted therefrom;

18 4. Owner's interest, expressed as a decimal, in production from
19 the unit;

20 5. Total value of extracted chemical substances and solution
21 gas, including the price per unit of measurement at which the
22 products were sold;

23 6. Owner's share of the total value of sales prior to any
24 deductions;

1 7. Owner's share of the total value of sales after any
2 deductions; and

3 8. A specific detailed listing of the amount and purpose of any
4 deductions, including, but not limited to BTU adjustments and taxes,
5 from the gross proceeds due to the owner.

6 C. Any operator that violates this section shall be liable to
7 the persons legally entitled to the proceeds from production for the
8 unpaid amount of such proceeds with interest thereon at the rate of
9 twelve percent (12%) per annum to be compounded annually, calculated
10 from the last day of the production month.

11 D. The district court for the county in which the unit is
12 located shall have jurisdiction over all proceedings brought
13 pursuant to this section. The prevailing party in any proceeding
14 brought pursuant to this section shall be entitled to recover any
15 court costs and reasonable expert witness and attorney's fees.

16 SECTION 3. AMENDATORY 20 O.S. 2001, Section 1659, is
17 amended to read as follows:

18 Section 1659. In the event the Council on Judicial Complaints
19 finds that the complaint should be made the subject of proceedings
20 before the Court on the Judiciary, it shall forward all papers
21 concerning the same, together with its findings, to either the
22 Supreme Court or the Chief Justice thereof, the Governor, the
23 Attorney General, ~~the Executive Secretary of the Oklahoma Bar~~
24 ~~Association~~, or the House of Representatives, who shall promptly

1 file a petition invoking the jurisdiction of the trial division of
2 the Court on the Judiciary in accordance with subsection (a) of
3 Section 4 of Article 7-A of the Constitution of Oklahoma; ~~provided,~~
4 ~~however, filing by the Executive Secretary of the Oklahoma Bar~~
5 ~~Association shall be at the direction of the majority of the members~~
6 ~~of the Executive Council or by resolution of the House of Delegates~~
7 ~~of the Oklahoma Bar Association.~~ Thereafter, the matter shall
8 proceed in accordance with the applicable constitutional provisions,
9 statutes, and rules of the Court on the Judiciary.

10 SECTION 4. AMENDATORY 63 O.S. 2001, Section 931, as
11 amended by Section 1, Chapter 410, O.S.L. 2005 (63 O.S. Supp. 2008,
12 Section 931), is amended to read as follows:

13 Section 931. The Board of Medicolegal Investigations is hereby
14 re-created. The members of the Board shall be:

15 1. The Director of the State Bureau of Investigation, or a
16 designee;

17 2. The State Commissioner of Health, or a designee;

18 3. The Dean of the College of Medicine of the University of
19 Oklahoma, or a designee;

20 4. The President or Dean of the Oklahoma State University
21 Center for Health Sciences, or a designee;

22 5. ~~The President of the Oklahoma Bar Association, or a~~
23 ~~designee;~~

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1 ~~6.~~ The President of the Oklahoma Osteopathic Association, or a
2 designee;

3 ~~7.~~ 6. The President of the Oklahoma State Medical Association,
4 or a designee; and

5 ~~8.~~ 7. A funeral director, as provided by Section 396.3 of Title
6 59 of the Oklahoma Statutes, appointed by the Oklahoma State Board
7 of Embalmers and Funeral Directors.

8 The Chief Medical Examiner shall be an ex officio nonvoting member
9 of the Board. The Board shall elect one of its members as chair and
10 one of its members as vice-chair. Members of the Board shall
11 receive no compensation for their services on this Board. Regular
12 meetings of the Board shall be held at such times as determined by
13 its members, and special meetings may be called by the chair. Four
14 members shall constitute a quorum.

15 SECTION 5. This act shall become effective November 1, 2009.

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