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BILL ANALYSIS



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House Bill 4476 (Substitute S-1)
Sponsor: Representative Harvey Santana
House Committee: Criminal Justice
Senate Committee: Judiciary

Date Completed: 12-8-15

CONTENT

The bill would amend the Revised Judicature Act to do the following:

- **Prohibit a court from ordering mediation in a domestic relations action if a personal protection order (PPO) had been entered protecting one party and restraining the other, or if one or both parties were involved in a child abuse or neglect proceeding.**
- **Require a mediator in a domestic relations matter to screen for the history or presence of coercion or violence.**

The bill would take effect 90 days after its enactment.

Personal Protection Order

Except as provided below, the bill would prohibit a court from ordering mediation of a contested issue in a domestic relations action, including postjudgment proceedings, if either of the following applied:

- A PPO had been issued in a domestic relations matter or a stalking situation, or another order had been entered, protecting one party and restraining the other.
- One or both of the parties were involved in a child abuse or neglect proceeding.

The court, however, could order mediation if the party protected by a PPO requested mediation.

As used in the bill, "domestic relations action" would mean any of the following:

- An action for divorce, separate maintenance, annulment of marriage, affirmation of marriage, paternity, family support under the Family Support Act, the custody of minors under the Child Custody Act, or grandparenting time under the Child Custody Act.
- A proceeding that is ancillary or subsequent to an action listed above and that relates to the custody of a minor, parenting time with a minor, or the support of a minor, spouse, or former spouse.

Screening for Coercion or Violence

In a domestic relations mediation, the bill would require the mediator to make reasonable inquiry as to whether either party had a history of a coercive or violent relationship with the other party. A reasonable inquiry would include the use of the domestic violence screening

protocol for mediation provided by the State Court Administrative Office as directed by the Supreme Court.

A mediator also would have to make reasonable efforts throughout the domestic relations mediation process to screen for the presence of coercion or violence that would make mediation physically or emotionally unsafe for any participant, or that would impede the achievement of a voluntary and safe resolution of issues.

Proposed MCL 600.1035

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Ryan Bergan

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.