

Introduced by Senator Wieckowski

February 19, 2016

An act to amend Section 1125 of the Evidence Code, relating to mediation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1372, as introduced, Wieckowski. Mediation: confidentiality.

Under existing law, when a person consults a mediator or mediation service for the purpose of retaining mediation services, or when persons agree to conduct and participate in a mediation for the purpose of compromising, settling, or resolving a civil dispute, anything said in the course of a consultation for mediation services or in the course of the mediation is not admissible in evidence or subject to discovery, and all communications, negotiations, and settlement discussions by and between participants or mediators are confidential, except as specified. For purposes of confidentiality, existing law provides that a mediation ends when one of several specified conditions is satisfied, including if there is no communication between the mediator and any of the parties to the mediation relating to the dispute for 10 calendar days.

This bill would provide that a mediation ends if there is no communication between the mediator and any of the parties to the mediation relating to the dispute for 14 calendar days.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1125 of the Evidence Code is amended
2 to read:

1 1125. (a) For purposes of confidentiality under this chapter,
2 a mediation ends when any one of the following conditions is
3 satisfied:

4 (1) The parties execute a written settlement agreement that fully
5 resolves the dispute.

6 (2) An oral agreement that fully resolves the dispute is reached
7 in accordance with Section 1118.

8 (3) The mediator provides the mediation participants with a
9 writing signed by the mediator that states that the mediation is
10 terminated, or words to that effect, which shall be consistent with
11 Section 1121.

12 (4) A party provides the mediator and the other mediation
13 participants with a writing stating that the mediation is terminated,
14 or words to that effect, which shall be consistent with Section
15 1121. In a mediation involving more than two parties, the mediation
16 may continue as to the remaining parties or be terminated in
17 accordance with this section.

18 (5) For ~~10~~ 14 calendar days, there is no communication between
19 the mediator and any of the parties to the mediation relating to the
20 dispute. The mediator and the parties may shorten or extend this
21 time by agreement.

22 (b) For purposes of confidentiality under this chapter, if a
23 mediation partially resolves a dispute, mediation ends when either
24 of the following conditions is satisfied:

25 (1) The parties execute a written settlement agreement that
26 partially resolves the dispute.

27 (2) An oral agreement that partially resolves the dispute is
28 reached in accordance with Section 1118.

29 (c) This section does not preclude a party from ending a
30 mediation without reaching an agreement. This section does not
31 otherwise affect the extent to which a party may terminate a
32 mediation.