

## **The Georgia Court-Connected Alternative Dispute Resolution Act**

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### **CODE OF GEORGIA**

### **TITLE 15. COURTS**

### **CHAPTER 23. COURT-CONNECTED ALTERNATIVE DISPUTE RESOLUTION**

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**15-23-1** Short title.

This chapter shall be known and may be cited as the "Georgia Court-connected Alternative Dispute Resolution Act."

(Code 1981, §15-23-1, enacted by Ga. L. 1993, p. 1529, § 1; Ga. L. 1997, p. 874, § 1.)

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**15-23-2** Definitions.

Definitions.

As used in this chapter, the term:

(1) "Alternative dispute resolution" or "ADR" refers to any method other than litigation for resolution of disputes. Alternative dispute resolution methods include mediation, arbitration, early case evaluation or early neutral evaluation, summary jury trial, and minitrial.

(2) "Board" means the board of trustees of a Fund for the Administration of Alternative Dispute Resolution Programs created by Code Section 15-23-3.

(3) "Fund" means one or more funds created pursuant to Code Section 15-23-8.

(Code 1981, §15-23-2, enacted by Ga. L. 1993, p. 1529, § 1.)

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**15-23-3** Board of Trustees of County Fund for the Administration of Alternative Dispute Resolution Programs.

(a) There is created in each county in this state a board to be known as the Board of Trustees of the \_\_\_\_\_ County Fund for the Administration of Alternative Dispute Resolution Programs. The board shall consist of:

- (1) The chief judge of the superior court of the circuit in which the county is located, or the superior court judge with the longest service if there is no chief judge, or a superior court judge designated by the chief judge or the judge with the longest service;
- (2) The chief judge of the state court, if any, or the state court judge with the longest service if there is no chief judge, or a state court judge designated by the chief judge or the judge with the longest service;
- (3) The judge of the probate court;
- (4) The presiding judge of the juvenile court, if any, or a juvenile court judge designated by that judge;
- (5) The chief magistrate or a magistrate designated by the chief magistrate;
- (6) The clerk of the superior court; and
- (7) One practicing attorney appointed by other members of the board.

(b) The superior court judge on the board shall serve as chairperson of the board. The member who is the practicing attorney shall serve at the pleasure of the other members of the board. All members shall serve without compensation. A majority of the members of the board shall constitute a quorum for the transaction of all business that may come before the board.

(c) A member who represents a court which does not participate in the alternative dispute resolution program and against whose litigants the additional costs authorized by this chapter are not assessed may attend all meetings but will be a nonvoting member of the board. The presence of such a member shall not be counted in determining the constitution of a quorum.

(d) Members of any board of trustees of any county fund and other personnel acting in a policy-making capacity shall be immune from any action arising from any act, statement, decision, or omission relating to the implementation of the purposes of this chapter unless the act, statement, decision, or omission is:

- (1) Grossly negligent and made with malice; or
- (2) In willful disregard of the safety or property of any party to the alternative dispute process.

(Code 1981, § 15-23-3, enacted by Ga. L. 1993, p. 1529, § 1; Ga. L. 1997, p. 874, § 2.)

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**15-23-4** Secretary-treasurers of boards; creation of office; selection; duties.

There is created an office to be known as secretary-treasurer of the board of trustees of the County Fund for the Administration of Alternative Dispute Resolution Programs in each county. The secretary-treasurer shall be selected and appointed by the board and shall serve at the pleasure of the board. The board may appoint one of its own members as secretary-treasurer or, in its discretion, may designate some other person to act as secretary-treasurer of the board. The secretary-treasurer of the board shall perform the duties provided for the treasurer in this chapter.

(Code 1981, § 15-23-4, enacted by Ga. L. 1993, p. 1529, § 1.)

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**15-23-5** Secretary-treasurers of boards; surety bonds.

The secretary-treasurer of the board shall give a good and sufficient surety bond, payable to the fund in such an amount as may be determined by the board, to account faithfully for all funds received and disbursed by him or her. The premium on the bond shall be paid out of the fund in such county. A secretary-treasurer who is designated by a combined board of several counties as provided by Code Section 15-23-12 may satisfy the bonding requirement with one bond. If the secretary-treasurer is already bonded by virtue of being a state employee, such a bond as a state employee will satisfy the bonding requirement.

(Code 1981, § 15-23-5, enacted by Ga. L. 1993, p. 1529, 1; Ga. L. 1997, p. 874, § 3.)

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**15-23-6** Powers and duties of boards.

(a) The board is given the following powers and duties:

- (1) To provide for the collection of all money provided for in this chapter;
- (2) To manage, control, and direct such fund and the expenditures made therefrom;
- (3) To distribute the moneys coming into the fund in such manner and subject to such terms and limitations as the board, in its discretion, shall determine will best meet the purpose of this chapter in promoting the alternative resolution of disputes and the efficient administration of justice;
- (4) To contract for the investment, pooling, and expenditure of funds;
- (5) To adopt such rules and regulations as may be necessary to manage such fund and provide for such programs;
- (6) To keep records of all its meetings and proceedings; and
- (7) To exercise all other powers necessary for the proper administration of the funding mechanism provided for in this chapter.

(b) In addition to the powers and duties listed in subsection (a) of this Code section, the board is authorized in its discretion to create a nonprofit corporation for the purpose of administering an alternative dispute resolution program and soliciting funding for such a program from any lawful source. The trustees or directors of any such nonprofit corporation shall be appointed by the board for terms not to exceed three years.

(Code 1981, § 15-23-6, enacted by Ga. L. 1993, p. 1529, § 1; Ga. L. 1997, p. 874, § 4.)

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**15-23-7** Collection of additional legal costs in civil actions for purposes of providing court-connected or court-referred alternative dispute resolution programs.

(a) For the purposes of providing court-connected or court-referred alternative dispute resolution programs, a sum not to exceed \$10.00, in addition to all other legal costs, may be charged and collected in each civil action or case filed in the superior, state, probate, and magistrate courts and other courts within the county that have the same powers and jurisdiction as state or magistrate courts.

(b) A case, within the meaning of this Code section, shall mean and be construed as any matter which is docketed upon the official dockets of the enumerated courts and to which a number is assigned, whether such matter is contested or not.

(c) The amount, if any, to be collected in each case shall be fixed in an amount not to exceed the applicable amount set out in subsection (a) of this Code section by the chief judge of the superior court or, if there is no chief judge, by the superior court judge with the longest service, who shall, after advising and notifying the chairperson of the county governing authority, order the clerk to collect said fees and remit them to the treasurer of the county fund for the administration of alternative dispute resolution programs. No such additional costs shall be charged and collected unless the chief judge of the superior court or such chief judge's designee, or if there is no chief judge, the superior court judge with the longest service or such judge's designee first determines that a need exists for an alternative dispute resolution program in one or more of the courts within the county. The chief judge of the superior court or the designee of the chief judge or, if there is no chief judge, the superior court judge with the longest service or the designee of such judge may

propose, as to a given court, the collection of an amount exceeding \$7.00, but in no event to exceed the applicable amount set out in subsection (a) of this Code section; provided, however, that approval of the board member representing the affected court is necessary before imposition upon litigants of that court of costs authorized by this chapter exceeding \$7.00.

(d) The clerk of each and every such court in such counties shall collect such fees and remit the same to the treasurer of the board of the county in which the case was brought, on the first day of each month. No change in the amount collected pursuant to this Code section may be made within a period of 12 months from the date of a previous change.

(e) Juvenile court supervision fees collected pursuant to Code Section 15-11-37 may be used for mediation services provided by court programs pursuant to this chapter.

(Code 1981, § 15-23-7, enacted by Ga. L. 1993, p. 1529, § 1; Ga. L. 1997, p. 874, § 4; Ga. L. 1998, p. 128, § 15; Ga. L. 2000, p. 20, § 4; Ga. L. 2013, p. 294, § 4-5/HB 242; Ga. L. 2014, p. 166, § 1/HB 438.)

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**15-23-8** Funds; deposit into special account; expenditure and investment.

(a) The board shall have control of the funds provided for in this chapter. All funds received shall be deposited in a special account to be known as the \_\_\_\_\_ County Fund for the Administration of Alternative Dispute Resolution Programs. The board shall have authority to expend the funds in accordance with this chapter and to invest any of the funds so received in any investments which are legal investments for fiduciaries in this state.

(b) Boards shall comply with and be subject to the audit requirements of Code Section 36-81-7.

(Code 1981, § 15-23-8, enacted by Ga. L. 1993, p. 1529, § 1; Ga. L. 1997, p. 874, § 4.)

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**15-23-9** Acceptance of things of value by board for holding or investment on behalf of program.

The board may take, by gift, grant, devise, or bequest, any money, real or personal property, or other thing of value and may hold or invest the same for the uses and purposes of the provision and operation of alternative dispute resolution programs.

(Code 1981, § 15-23-9, enacted by Ga. L. 1993, p. 1529, § 1.)

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**15-23-10** Determination of need as prerequisite to establishment of program.

No alternative dispute resolution program shall be established for any court unless the judge or a majority of the judges of such court determine that there is a need for such program in that court. The funding mechanism set forth in this chapter shall be available to any court, including the juvenile court, which, having determined that a court-annexed or court-referred alternative dispute resolution program would make a positive contribution to the ends of justice in that court, has developed a program meeting the standards of the Supreme Court of Georgia Alternative Dispute Resolution Rules and appendices. Pursuant to the standards set forth in the Supreme Court of Georgia Alternative Dispute Resolution Rules and appendices, the funding mechanism set forth in this chapter shall be available to court programs in which cases are screened by the judge or by the program director under the supervision of the judge on a case-by-case basis to determine whether:

(1) The case is appropriate for the process;

(2) The parties are able to compensate the neutral if compensation is required; and

(3) A need for emergency relief makes referral inappropriate until the request for relief is heard by the court.

(Code 1981, § 15-23-10, enacted by Ga. L. 1993, p. 1529, § 1; Ga. L. 1997, p. 874, § 5; Ga. L. 2013, p. 294, § 4-6/HB 242.)

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**15-23-11** Compensation of nonvolunteer neutrals by the parties.

(a) Under guidelines promulgated by the Georgia Commission on Dispute Resolution, a court may set an hourly rate for compensation of nonvolunteer neutrals by the parties. Such costs shall be predicated upon the complexity of the litigation, the skill level needed by the neutral, and the litigants' ability to pay.

(b) Under guidelines promulgated by the Georgia Commission on Dispute Resolution, a court may set a user's fee for alternative dispute resolution processes.

(Code 1981, § 15-23-11, enacted by Ga. L. 1993, p. 1529, § 1.)

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**15-23-12** Contracting by boards of several counties to combine funds; secretary-treasurer for combined fund; chairperson.

Notwithstanding any other provision of this chapter, the board of trustees of each county fund is authorized by contract to combine such fund with the fund of any other county or counties within the same judicial circuit, within the same administrative district, or in any other combination which would foster an efficient use of available resources. Any such combined fund created by any such contract shall be administered by a board of trustees which shall be composed of the judicial members and the clerks who are members of the boards of trustees of each participating county fund without the participating attorney members thereof but with one practicing attorney appointed by the members of the combined board. In the event two or more county funds are combined, the board of trustees of the combined fund may appoint a secretary-treasurer for the combined fund who shall perform such duties as may be provided by the combined board of trustees and who shall give bond in the same manner as provided by Code Section 15-23-5. The combined board shall be chaired by the chairperson of one of the constituent county boards elected by the combined board as provided by contract. In the event two or more boards combine as provided in this Code section, the judges of the courts within such combined territory are authorized to combine programs for such courts to provide for the most efficient use of available resources in providing alternative dispute resolution programs.

(Code 1981, § 15-23-12, enacted by Ga. L. 1993, p. 1529, § 1.)