

March 23, 2005

**S 805. CLERKS MAY ORDER MEDIATION. TO AUTHORIZE THE CLERK OF SUPERIOR COURT TO ORDER MEDIATION IN MATTERS WITHIN THE CLERK'S JURISDICTION.** Creates new GS 7A-38.3B to allow clerks to order mediation in any matter within the clerk's jurisdiction, except foreclosures (GS Chapter 45) and adoptions (GS Chapter 48), and matters in which the clerk's jurisdiction is ancillary to proceedings in other courts. Authorizes the Supreme Court to adopt rules to implement the act. Parties ordered to mediation have the opportunity to agree on a mediator. If parties do not agree, clerk must appoint mediator certified by the Dispute Resolution Commission. Cost of mediation generally assessed to parties. Requires Supreme Court to set out rules to allow participation by persons unable to pay costs. Requires that costs be assessed against an estate of a deceased person or an incompetent, or against a trust corpus or a fiduciary, only upon findings of fact justifying the cost. Matters of law may be resolved by mediation and are enforceable after they are reduced to writing and signed by the parties. Agreements relating to all other matters, including estate and guardianship matters, are delivered to the clerk for consideration in deciding the matter. Makes conforming changes. Applies to all matters pending before the clerk on, or filed with the clerk after, the date the Supreme Court adopts the rules implementing the statute.

**Intro. by Hartsell.**

Ref. to Judiciary II

GS 7A, 35A, 46