



# House of Representatives

General Assembly

**File No. 802**

January Session, 2025

Substitute House Bill No. 6971

*House of Representatives, April 29, 2025*

The Committee on Judiciary reported through REP. STAFSTROM of the 129th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## ***AN ACT ADOPTING THE CONNECTICUT UNIFORM MEDIATION ACT.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2025*) Sections 1 to 16, inclusive,  
2 of this act may be cited as the "Connecticut Uniform Mediation Act".

3 Sec. 2. (NEW) (*Effective October 1, 2025*) As used in sections 1 to 16,  
4 inclusive, of this act:

5 (1) "Mediation" means a process in which a mediator facilitates  
6 communication and negotiation between parties to assist them in  
7 reaching a voluntary agreement regarding their dispute.

8 (2) "Mediation communication" means a statement, whether oral or  
9 in a record or verbal or nonverbal, that occurs during a mediation or is  
10 made for purposes of considering, conducting, participating in,  
11 initiating, continuing or reconvening a mediation or retaining a  
12 mediator.

13 (3) "Mediator" means an individual who conducts a mediation.

14 (4) "Nonparty participant" means a person, other than a party or  
15 mediator, that participates in a mediation.

16 (5) "Mediation party" means a person that participates in a mediation  
17 and whose agreement is necessary to resolve the dispute.

18 (6) "Person" means an individual, corporation, business trust, estate,  
19 trust, partnership, limited liability company, association, joint venture,  
20 government; governmental subdivision, agency, or instrumentality;  
21 public corporation or any other legal or commercial entity.

22 (7) "Proceeding" means:

23 (A) A judicial, administrative, arbitral or other adjudicative process,  
24 including related prehearing and posthearing motions, conferences and  
25 discovery; or

26 (B) A legislative hearing or similar process.

27 (8) "Record" means information that is inscribed on a tangible  
28 medium or that is stored in an electronic or other medium and is  
29 retrievable in perceivable form.

30 (9) "Sign" means:

31 (A) To execute or adopt a tangible symbol with the present intent to  
32 authenticate a record; or

33 (B) To attach or logically associate an electronic symbol, sound or  
34 process to or with a record with the present intent to authenticate a  
35 record.

36 Sec. 3. (NEW) (*Effective October 1, 2025*) (a) Except as otherwise  
37 provided in subsection (b) or (c) of this section and section 12 of this act,  
38 sections 1 to 16, inclusive, of this act apply to a mediation in which:

39 (1) The mediation parties are required to mediate by statute or court  
40 or administrative agency rule or referred to mediation by a court,  
41 administrative agency or arbitrator;

42 (2) The mediation parties and the mediator agree to mediate in a  
43 record that demonstrates an expectation that mediation  
44 communications will be privileged against disclosure; or

45 (3) The mediation parties use as a mediator an individual who holds  
46 himself or herself out as a mediator or the mediation is provided by a  
47 person that holds itself out as providing mediation.

48 (b) Sections 1 to 16, inclusive, of this act do not apply to a mediation:

49 (1) Relating to the establishment, negotiation, administration or  
50 termination of a collective bargaining relationship;

51 (2) Relating to a dispute that is pending under or is part of the  
52 processes established by a collective bargaining agreement, except that  
53 sections 1 to 16, inclusive, of this act apply to a mediation arising out of  
54 a dispute that has been filed with an administrative agency or a court;

55 (3) Conducted by a judge of the Superior Court or by any Judicial  
56 Branch employee who performs mediations in the course of such  
57 employee's employment;

58 (4) Arising from a proceeding governed by chapter 48, 68, 113 or 166  
59 of the general statutes;

60 (5) Commenced prior to October 1, 2025, which is subject to the  
61 provisions of section 52-235d of the general statutes;

62 (6) Commenced prior to October 1, 2025, which is administered under  
63 the auspices of section 46b-53a of the general statutes; or

64 (7) Conducted under the auspices of:

65 (A) A primary or secondary school if all the parties are students; or

66 (B) A correctional institution for youths if all the parties are residents  
67 of the institution.

68 (c) If the parties agree in advance in a signed record, or a record of

69 proceeding reflects agreement by the parties, that all or part of a  
70 mediation is not privileged, the privileges under sections 4 to 6,  
71 inclusive, of this act, do not apply to the mediation or part agreed upon,  
72 except that sections 4 to 6, inclusive, of this act apply to a mediation  
73 communication made by a person that has not received actual notice of  
74 the agreement before the communication is made.

75 Sec. 4. (NEW) (*Effective October 1, 2025*) (a) Except as otherwise  
76 provided in section 6 of this act, a mediation communication is  
77 privileged as provided in subsection (b) of this section and is not subject  
78 to discovery or admissible in evidence in a proceeding unless waived or  
79 precluded as provided by section 5 of this act.

80 (b) In a proceeding, the following privileges apply:

81 (1) A mediation party may refuse to disclose, and may prevent any  
82 other person from disclosing, a mediation communication.

83 (2) A mediator may refuse to disclose a mediation communication,  
84 and may prevent any other person from disclosing a mediation  
85 communication of the mediator.

86 (3) A nonparty participant may refuse to disclose, and may prevent  
87 any other person from disclosing, a mediation communication of the  
88 nonparty participant.

89 (c) Evidence or information that is otherwise admissible or subject to  
90 discovery does not become inadmissible or protected from discovery  
91 solely by reason of its disclosure or use in a mediation.

92 Sec. 5. (NEW) (*Effective October 1, 2025*) (a) A privilege under section  
93 4 of this act may be waived in a record or orally during a proceeding if  
94 it is expressly waived by all parties to the mediation and:

95 (1) In the case of the privilege of a mediator, it is expressly waived by  
96 the mediator; and

97 (2) In the case of the privilege of a nonparty participant, it is expressly

98 waived by the nonparty participant.

99 (b) A person that discloses or makes a representation about a  
100 mediation communication which prejudices another person in a  
101 proceeding is precluded from asserting a privilege under section 4 of  
102 this act, but only to the extent necessary for the person prejudiced to  
103 respond to the representation or disclosure.

104 (c) A person that intentionally uses a mediation to plan, attempt to  
105 commit or commit a crime, or to conceal an ongoing crime or ongoing  
106 criminal activity is precluded from asserting a privilege under section 4  
107 of this act.

108 Sec. 6. (NEW) (*Effective October 1, 2025*) (a) There is no privilege under  
109 section 4 of this act for a mediation communication that is:

110 (1) In an agreement evidenced by a record signed by all parties to the  
111 agreement;

112 (2) Available to the public under the Freedom of Information Act, as  
113 defined in section 1-200 of the general statutes, or made during a session  
114 of a mediation which is open, or is required by law to be open, to the  
115 public;

116 (3) A threat or statement of a plan to inflict bodily injury or commit a  
117 crime of violence;

118 (4) Intentionally used to plan a crime, attempt to commit or commit a  
119 crime, or to conceal an ongoing crime or ongoing criminal activity;

120 (5) Sought or offered to prove or disprove a claim or complaint of  
121 professional misconduct or malpractice filed against a mediator;

122 (6) Except as otherwise provided in subsection (c) of this section,  
123 sought or offered to prove or disprove a claim or complaint of  
124 professional misconduct or malpractice filed against a mediation party,  
125 nonparty participant, or representative of a party based on conduct  
126 occurring during a mediation; or

127 (7) Sought or offered to prove or disprove abuse, neglect,  
128 abandonment or exploitation in a proceeding in which a child or adult  
129 protective services agency is a party, unless the proceeding is referred  
130 by a court to mediation and the child or adult protective services agency  
131 participates in the mediation.

132 (b) There is no privilege under section 4 of this act if a court,  
133 administrative agency or arbitrator finds, after a hearing in camera, that  
134 the party seeking discovery or the proponent of the evidence has shown  
135 that the evidence is not otherwise available, that there is a need for the  
136 evidence that substantially outweighs the interest in protecting  
137 confidentiality, and that the mediation communication is sought or  
138 offered in:

139 (1) A court proceeding involving a felony or misdemeanor; or

140 (2) Except as otherwise provided in subsection (c) of this section, a  
141 proceeding to prove a claim to rescind or reform or a defense to avoid  
142 liability on a contract arising out of the mediation.

143 (c) A mediator may not be compelled to provide evidence of a  
144 mediation communication referred to in subdivision (6) of subsection  
145 (a) of this section or subdivision (2) of subsection (b) of this section.

146 (d) If a mediation communication is not privileged under subsection  
147 (a) or (b) of this section, only the portion of the communication  
148 necessary for the application of the exception from nondisclosure may  
149 be admitted. Admission of evidence under subsection (a) or (b) of this  
150 section does not render the evidence, or any other mediation  
151 communication, discoverable or admissible for any other purpose.

152 Sec. 7. (NEW) (*Effective October 1, 2025*) (a) Except as required in  
153 subsection (b) of this section, a mediator may not make a report,  
154 assessment, evaluation, recommendation, finding or other  
155 communication regarding a mediation to a court, administrative agency  
156 or other authority that may make a ruling on the dispute that is the  
157 subject of the mediation.

158 (b) A mediator may disclose:

159 (1) Whether the mediation occurred or has terminated, whether a  
160 settlement was reached, and attendance;

161 (2) A mediation communication as permitted under section 6 of this  
162 act; or

163 (3) A mediation communication evidencing abuse, neglect,  
164 abandonment or exploitation of an individual to a public agency  
165 responsible for protecting individuals against such mistreatment.

166 (c) A communication made in violation of subsection (a) of this  
167 section may not be considered by a court, administrative agency or  
168 arbitrator.

169 Sec. 8. (NEW) (*Effective October 1, 2025*) Unless subject to the Freedom  
170 of Information Act, as defined in section 1-200 of the general statutes,  
171 mediation communications are confidential to the extent agreed by the  
172 parties or provided by other law or rule of this state.

173 Sec. 9. (NEW) (*Effective October 1, 2025*) (a) Before accepting a  
174 mediation, an individual who is requested to serve as a mediator shall:

175 (1) Make an inquiry that is reasonable under the circumstances to  
176 determine whether there are any known facts that a reasonable  
177 individual would consider likely to affect the impartiality of the  
178 mediator, including a financial or personal interest in the outcome of the  
179 mediation and an existing or past relationship with a mediation party  
180 or foreseeable participant in the mediation; and

181 (2) Disclose any such known fact to the mediation parties as soon as  
182 is practical before accepting a mediation.

183 (b) If a mediator learns any fact described in subdivision (1) of  
184 subsection (a) of this section after accepting a mediation, the mediator  
185 shall disclose it as soon as is practicable.

186 (c) At the request of a mediation party, an individual who is

187 requested to serve as a mediator shall disclose the mediator's  
188 qualifications to mediate a dispute.

189 (d) A person that violates subsection (a), (b) or (g) of this section is  
190 precluded by the violation from asserting a privilege under section 4 of  
191 this act.

192 (e) Subsections (a), (b), (c) and (g) of this section do not apply to a  
193 judge acting as a mediator.

194 (f) Sections 1 to 16, inclusive, of this act do not require that a mediator  
195 have a special qualification by background or profession.

196 (g) A mediator must be impartial, unless after disclosure of the facts  
197 required in subsections (a) and (b) of this section to be disclosed, the  
198 parties agree otherwise.

199 (h) Mediation is deemed to have commenced when the referral or  
200 agreement to mediate is made.

201 Sec. 10. (NEW) (*Effective October 1, 2025*) An attorney or other  
202 individual designated by a party may accompany the party to, and  
203 participate in, a mediation, provided an accompanying individual who  
204 is not an attorney shall not be allowed or authorized to practice law  
205 without a license, or attempt to practice law without a license by  
206 attempting to provide legal advice to any mediation participant. A  
207 waiver of participation given before the mediation may be rescinded.

208 Sec. 11. (NEW) (*Effective October 1, 2025*) (a) In this section, "Model  
209 Law" means the Model Law on International Commercial Conciliation  
210 adopted by the United Nations Commission on International Trade Law  
211 on June 28, 2002, and recommended by the United Nations General  
212 Assembly in a resolution (A/RES/57/18) dated November 19, 2002, and  
213 "international commercial mediation" means an international  
214 commercial conciliation as defined in Article 1 of the Model Law.

215 (b) Except as otherwise provided in subsections (c) and (d) of this  
216 section, if a mediation is an international commercial mediation, the



217 mediation is governed by the Model Law.

218 (c) Unless the parties agree in accordance with subsection (c) of  
219 section 3 of this act that all or part of an international commercial  
220 mediation is not privileged, sections 4, 5 and 6 of this act and any  
221 applicable definitions in section 2 of this act also apply to the mediation  
222 and nothing in Article 10 of the Model Law derogates from sections 4, 5  
223 and 6 of this act.

224 (d) If the parties to an international commercial mediation agree  
225 under Article 1, subsection (7), of the Model Law that the Model Law  
226 does not apply, sections 1 to 16, inclusive, of this act apply.

227 Sec. 12. (NEW) (*Effective October 1, 2025*) Notwithstanding the  
228 provisions of sections 1 to 16, inclusive, of this act, any voluntary  
229 agreement to enter into mediation in a contested matter before the  
230 Probate Court shall be governed by the procedures and administrative  
231 requirements prescribed in the rules of said court.

232 Sec. 13. (NEW) (*Effective October 1, 2025*) Sections 1 to 16, inclusive, of  
233 this act modify, limit or supersede the federal Electronic Signatures in  
234 Global and National Commerce Act, 16 USC 7001 et seq., but sections 1  
235 to 16, inclusive, of this act do not modify, limit or supersede Section  
236 101(c) of said act or authorize electronic delivery of any of the notices  
237 described in Section 103(b) of said act.

238 Sec. 14. (NEW) (*Effective October 1, 2025*) In applying and construing  
239 the uniform provisions of sections 1 to 16, inclusive, of this act,  
240 consideration should be given to the need to promote uniformity of the  
241 law with respect to its subject matter among states that enact such  
242 uniform provisions.

243 Sec. 15. (NEW) (*Effective October 1, 2025*) If any provision of sections  
244 1 to 16, inclusive, of this act, or application of sections 1 to 16, inclusive,  
245 of this act, to any person or circumstance is held invalid, the invalidity  
246 does not affect other provisions or applications of sections 1 to 16,  
247 inclusive, of this act, which can be given effect without the invalid

248 provision or application, and to this end the provisions of sections 1 to  
249 16, inclusive, of this act are severable.

250 Sec. 16. (NEW) (*Effective October 1, 2025*) (a) Sections 1 to 16, inclusive,  
251 of this act govern a mediation pursuant to a referral or an agreement to  
252 mediate made on or after October 1, 2025.

253 (b) On and after October 1, 2026, sections 1 to 16, inclusive, of this act,  
254 govern an agreement to mediate whenever made.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2025</i>	New section
Sec. 2	<i>October 1, 2025</i>	New section
Sec. 3	<i>October 1, 2025</i>	New section
Sec. 4	<i>October 1, 2025</i>	New section
Sec. 5	<i>October 1, 2025</i>	New section
Sec. 6	<i>October 1, 2025</i>	New section
Sec. 7	<i>October 1, 2025</i>	New section
Sec. 8	<i>October 1, 2025</i>	New section
Sec. 9	<i>October 1, 2025</i>	New section
Sec. 10	<i>October 1, 2025</i>	New section
Sec. 11	<i>October 1, 2025</i>	New section
Sec. 12	<i>October 1, 2025</i>	New section
Sec. 13	<i>October 1, 2025</i>	New section
Sec. 14	<i>October 1, 2025</i>	New section
Sec. 15	<i>October 1, 2025</i>	New section
Sec. 16	<i>October 1, 2025</i>	New section

**JUD**      *Joint Favorable Subst.*

*The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.*

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### **OFA Fiscal Note**

**State Impact:** None

**Municipal Impact:** None

### **Explanation**

The bill, which sets mediation-related rules with exceptions for mediations involving judges, judicial branch employees, and various collective bargaining-related issues, is not anticipated to result in a fiscal impact to the state or to municipalities. These rules largely concern private parties.

### **The Out Years**

**State Impact:** None

**Municipal Impact:** None

**OLR Bill Analysis****sHB 6971*****AN ACT ADOPTING THE CONNECTICUT UNIFORM MEDIATION ACT.*****SUMMARY**

This bill adopts the Connecticut Uniform Mediation Act. The bill sets mediation-related rules, principally on the confidentiality of mediation communications. It generally applies to both voluntary mediations and those required by law or a court. But it does not apply in certain contexts, such as mediations (1) done by a judge or judicial branch employee or (2) involving various collective bargaining-related issues.

Among other things, the bill:

1. generally makes mediation communications privileged and not subject to discovery or admissible in a proceeding (such as a court or legislative hearing);
2. sets out certain exceptions to this privilege, such as if all mediation parties agree in a record that communications will not be privileged or the communication was a threat to physically hurt someone;
3. limits the information that mediators can disclose to courts or similar authorities when the privilege applies;
4. requires someone, before agreeing to mediate a dispute, to make a reasonable inquiry about potential conflicts of interests and disclose these matters to the parties; and
5. specifically allows a mediation party to bring an attorney or other person to join them and participate in the mediation.

Under the bill, a “mediation” is a process in which a mediator facilitates communication and negotiation between parties to help them reach a voluntary agreement about their dispute. A “mediation party” is a person who participates in a mediation and whose agreement is needed to resolve the dispute.

Existing law generally makes communications privileged in mediations that are not ordered by a court (see BACKGROUND). The bill does not repeal this law, and the bill does not apply to mediations under this law that began before October 1, 2025.

EFFECTIVE DATE: October 1, 2025

## **CONNECTICUT UNIFORM MEDIATION ACT**

### **Scope (§§ 3 & 12)**

**General Applicability.** Excepted as provided below, the bill applies to mediations when:

1. a statute or court or administrative agency rule require the parties to mediate,
2. a court or an administrative agency or arbitrator refer the parties to mediation,
3. the parties and mediator agree to mediate in a record showing an expectation that mediation communications will be privileged against disclosure, or
4. the mediation is done by an individual holding himself or herself out as a mediator or an entity holding itself out as providing mediation.

**Exceptions.** But the bill does not apply to mediations that:

1. relate to creating, negotiating, administering, or ending a collective bargaining relationship;
2. relate to pending disputes under a collective bargaining

agreement or that are part of a process created by the agreement (unless the mediation arose from a dispute filed with an administrative agency or a court);

3. are conducted by a Superior Court judge or by any judicial branch employee who performs mediations as part of his or her employment;
4. arise from proceedings (see below) governed by the laws on the organization of state agencies (chapter 48 of the general statutes), state employee collective bargaining (chapter 68), municipal employees (chapter 113), or teachers and superintendents (chapter 166);
5. began before October 1, 2025, and are subject to an existing law on privileged communications in certain mediations (CGS § 52-235d, see BACKGROUND);
6. began before October 1, 2025, and are administered under an existing law on judicial branch mediations in divorces and related privileged communications (CGS § 46b-53a);
7. are done through a primary or secondary school, if all the parties are students; or
8. are done through a youth correctional institution, if all the parties are institution residents.

In addition, the bill specifies that despite its other provisions, a voluntary agreement to mediate in a contested probate court matter is governed by the procedures and administrative requirements in probate court rules.

Under the bill, a “proceeding” is a (1) judicial, administrative, arbitral, or other adjudicative process, including related pre- and post-hearing motions, conferences, and discovery or (2) legislative hearing or similar process.

**Alternative of Non-Privileged Mediation.** The bill allows the parties to agree in advance that the mediation, or a part of it, will not be a privileged mediation (in which case, §§ 4-6 of the bill would not apply). The parties can agree to this (in a signed record) before the mediation begins, or the proceeding's records can reflect this agreement. But the privilege continues to apply to a person's communications that were made before he or she had actual notice of the agreement.

**Privilege Against Disclosure, Admissibility, or Discovery (§ 4)**

Under the bill, a mediation communication is privileged and not subject to discovery or admissible in evidence in a proceeding unless it is waived, precluded (see § 5 below), or an exception applies (see § 6 below). A "mediation communication" is a statement made during a mediation or made to consider, conduct, participate in, initiate, continue, or reconvene a mediation, or to retain a mediator. The statement can be oral or in a record, and can be verbal or nonverbal.

Specifically, the following privileges apply in a proceeding:

1. a mediation party may refuse to disclose a mediation communication and may prevent anyone else from disclosing it;
2. a mediator may refuse to disclose a mediation communication, and may prevent anyone else from disclosing one of the mediator's communications; and
3. a nonparty participant may refuse to disclose one of his or her communications, and may prevent anyone else from disclosing it.

Under the bill, evidence or information that is otherwise admissible or subject to discovery does not become inadmissible or protected from discovery solely because it was disclosed or used in a mediation.

**Waiver and Preclusion of Privilege (§ 5)**

Under the bill, all parties to the mediation may waive the privilege by expressly doing so in a record or orally during a proceeding. If it is

the mediator's or a nonparty participant's privilege, that person must also expressly waive the privilege for the waiver to apply.

Someone that discloses or makes a representation about a mediation communication that prejudices another person in a proceeding cannot assert the bill's privilege, but they are blocked from asserting it only to the extent needed to allow the other person to respond to the disclosure or representation.

The bill also prevents someone from asserting a privilege under it if the person intentionally uses a mediation to (1) plan, attempt, or commit a crime or (2) conceal an ongoing crime or criminal activity.

***Exceptions to Privilege (§ 6)***

The bill's privilege does not apply to a mediation communication that is:

1. in an agreement signed by all parties in a record;
2. publicly available under the Freedom of Information Act (FOIA), or made during a mediation session which is open to the public or required by law to be open;
3. a threat or stated plan to inflict bodily injury or commit a violent crime; or
4. intentionally used to plan, attempt, or commit a crime or to hide an ongoing crime or criminal activity.

The privilege also does not apply to a mediation communication that is sought or offered to prove or disprove the following:

1. a claim or complaint against the mediator for professional misconduct or malpractice;
2. a claim or complaint of professional misconduct or malpractice against a mediation party, nonparty participant, or party representative based on conduct during a mediation (but a



mediator cannot be forced to provide evidence about the communication); or

3. abuse, neglect, abandonment, or exploitation in a proceeding in which a child or adult protective services agency is a party, unless a court referred the proceeding to mediation and the agency participates in the mediation.

There is also no privilege if a court, administrative agency, or arbitrator, after an in camera hearing (in chambers and not in public), finds that the party seeking discovery or the proponent of the evidence has shown that the (1) evidence is not otherwise available, (2) need for it substantially outweighs the interest in protecting confidentiality, and (3) mediation communication is sought or offered in certain types of proceedings. Specifically, this applies to a court proceeding involving a felony or misdemeanor. It also applies to a proceeding to prove a claim to rescind or reform or a defense to avoid liability on a contract arising from the mediation (e.g., a settlement agreement), but a mediator cannot be forced to provide evidence about the communication.

If a mediation communication is not privileged under these provisions, only the part necessary for the exception to apply may be admitted. Also, the admission of evidence under these provisions does not make the evidence (or any other mediation communication) discoverable or admissible for any other purpose.

### ***Prohibited Mediator Reports (§ 7)***

The bill prohibits communications by mediators in certain circumstances. Generally, it prohibits a mediator from making a report, assessment, evaluation, recommendation, finding, or other communication about a mediation to a court, administrative agency, or other authority that may rule on the underlying dispute. It correspondingly bars courts, administrative agencies, or arbitrators from considering these prohibited communications.

But it allows mediators to disclose the following:

1. whether the mediation occurred or has ended, whether a settlement was reached, and attendance at the mediation;
2. a mediation communication allowed under the bill's exceptions from privilege (see § 6); or
3. a mediation communication showing that someone was abused, neglected, abandoned, or exploited, if the disclosure is to a public agency responsible for protecting people against this mistreatment.

***Confidentiality (§ 8)***

Under the bill, unless mediation communications are subject to FOIA, they are confidential to the extent agreed to by the parties or provided by other state laws or rules.

***Mediator's Disclosure of Conflicts of Interest and Background (§ 9)***

***Conflicts Check and Disclosure.*** Under the bill, before accepting a mediation, an individual asked to serve as a mediator must make a reasonable inquiry to determine whether there are any known facts that a reasonable individual would consider likely to affect a mediator's impartiality. This includes (1) a financial or personal interest in the outcome and (2) an existing or past relationship with a party or foreseeable participant in the mediation.

If the individual determines that there are any such facts, he or she must disclose them to the parties as soon as is practical before accepting a mediation. After accepting the role, if a mediator learns of any such facts, he or she must disclose them as soon as is practicable.

The bill also requires a mediator to be impartial, unless the parties agree otherwise after the mediator has told them about these known facts likely affecting his or her impartiality.

The bill prohibits anyone who violates these provisions from asserting a privilege under it (see § 4).

These provisions on conflict checks and impartiality do not apply to judges acting as mediators (as judges remain bound by standards of impartiality in the Code of Judicial Conduct).

The bill also specifies that a mediation is deemed to have begun when the referral or agreement to mediate is made.

***Mediator's Qualifications.*** The bill does not require a mediator to have special qualifications by background or profession. But if a party requests it, a prospective mediator (except a judge) must disclose his or her qualifications to mediate a dispute.

### ***Participation in Mediation (§ 10)***

The bill allows an attorney, or someone else a party designates, to accompany the party to the mediation and participate in it. But non-attorney participants accompanying a party are not allowed to practice law without a license, and they must not attempt to provide legal advice to participants.

The bill also specifies that parties have the right to rescind a pre-mediation participation waiver (in other words, a waiver of the right to be accompanied by a lawyer or someone else).

### ***International Commercial Mediation (§ 11)***

Generally, under the bill, international commercial mediations are governed by the United Nations Commission on International Trade Law's 2002 Model Law on International Commercial Conciliation. But the parties can instead agree that the bill applies.

Also, the bill generally makes its provisions on the communication privilege, waiver, exceptions, and related matters (§§ 4-6), and applicable definitions (§ 2), apply to an international commercial mediation, and nothing in article 10 of the model law (on admissibility of evidence in other proceedings) takes away from that. But the parties can agree otherwise as to all or part of the mediation (see *Alternative of Non-Privileged Mediation* above).

***Relationship to E-SIGN Act (§ 13)***

The bill's provisions generally modify, limit, or supersede the federal Electronic Signatures in Global and National Commerce (E-SIGN) Act, which regulates the use of electronic records and signatures in interstate and foreign commerce. But the bill does not (1) modify, limit, or supersede E-SIGN's provisions on consumer disclosures or (2) authorize electronic delivery of specified notices not subject to E-SIGN (e.g., court orders or notices).

***Uniform Construction; Severability (§§ 14 & 15)***

The bill directs that, in applying and construing this uniform act, consideration be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Additionally, the bill's provisions are severable (that is, if a provision or its application is held invalid, other provisions or applications are not affected).

***Application to Existing Agreements or Referrals (§ 16)***

The bill governs mediations under referrals or agreements to mediate made on or after October 1, 2025 (the bill's effective date). Starting October 1, 2026, it governs agreements to mediate whenever made.

**BACKGROUND*****Existing Law on Privileged Communications in Certain Mediations***

Existing law generally prevents the voluntary disclosure, or disclosure through discovery or compulsory process, of oral or written communications received or obtained by any participant during a mediation that was not ordered by a court. Disclosure is allowed when the parties agree to it, it furthers settlement discussions, or certain conditions are met.

Disclosures in violation of these provisions are not admissible in any proceeding, but communications that are otherwise discoverable are not protected merely because they were presented during a mediation (CGS § 52-235d).

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea     39     Nay   0     (04/10/2025)