

SB1049/228179/1

BY: Judicial Proceedings Committee

AMENDMENTS TO SENATE BILL 1049

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 9, strike “providing for the priority of certain civil suits in the mediation process;”; strike beginning with “requiring” in line 11 down through “budget;” in line 13 and substitute “providing for the priority of certain civil suits in the mediation process; requiring all parties referred to the Office to participate in mediation subject to a certain condition; requiring the Director to notify the court if certain parties are unable to reach an agreement through mediation and requiring the court to proceed with the case in a certain manner; prohibiting the court from proceeding with a certain case before receiving a certain notice; providing that mediation costs shall be paid by the parties equally, unless otherwise agreed to by the parties, and specifying that the parties are not responsible for the Office’s operational costs; requiring the court to proceed with a certain case in a certain manner if a certain case management plan is changed, modified, eliminated, or rescinded; requiring the Director to submit an annual report to the General Assembly on the activities of the Office for the preceding calendar year;”; and in line 18, strike “3-18A-03” and substitute “3-18A-04”.

AMENDMENT NO. 2

On page 2, after line 12, insert:

“(F) “TRACK 5” MEANS APPENDIX 5 OF TRACK 5 OF THE DIFFERENTIATED CASE MANAGEMENT PLAN OF THE CIRCUIT COURT FOR BALTIMORE CITY.”

On page 3, after line 6, insert:

(Over)

“(E) THE DIRECTOR SHALL ESTABLISH PROCEDURES FOR THE EFFECTIVE MEDIATION OF ASBESTOS CASES, INCLUDING PROCEDURES FOR THE USE OF NEUTRAL EXPERTS AND DISCOVERY.”;

and strike in their entirety lines 8 through 30, inclusive, and substitute:

“(A) (1) BEFORE HOLDING OR SCHEDULING A STATUS CONFERENCE FOR AN ACTIVE ASBESTOS CASE, INCLUDING A FORMERLY INACTIVE ASBESTOS CASE THAT BECOMES ACTIVE, THE COURT SHALL REFER THE ASBESTOS CASE TO THE OFFICE FOR MEDIATION.

(2) (I) EITHER PARTY IN AN ASBESTOS CASE MAY SEEK MEDIATION UNDER THIS SUBTITLE BY SUBMITTING TO THE COURT A WRITTEN REQUEST TO PARTICIPATE IN MEDIATION.

(II) ON RECEIPT OF A WRITTEN REQUEST FOR MEDIATION, THE COURT SHALL REFER THE ASBESTOS CASE TO THE OFFICE FOR MEDIATION.

(B) (1) AN INDIVIDUAL PLAINTIFF WHO HAS BEEN DIAGNOSED WITH MESOTHELIOMA MAY ELECT TO FOREGO THE MEDIATION PROCESS AT ANY TIME BY NOTIFYING THE COURT AND THE DIRECTOR IN WRITING.

(2) SUBJECT TO SUBSECTION (H) OF THIS SECTION, ON RECEIPT OF WRITTEN NOTICE OF AN ELECTION UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COURT SHALL PROCEED WITH THE CASE IN ACCORDANCE WITH TRACK 5.

(C) PRIORITY FOR MEDIATION OF AN ASBESTOS CASE UNDER THIS SUBTITLE SHALL BE GIVEN TO CASES INVOLVING SERIOUS ILLNESS, INCLUDING MESOTHELIOMA, LUNG CANCER, AND ANY OTHER TYPE OF CANCER.

(D) SUBJECT TO SUBSECTION (B)(1) OF THIS SECTION, ALL PARTIES REFERRED TO THE OFFICE FOR MEDIATION SHALL PARTICIPATE IN THE MEDIATION PROCESS.

(E) SUBJECT TO SUBSECTION (H) OF THIS SECTION, IF THE PARTIES TO AN ASBESTOS CASE ARE UNABLE TO REACH AN AGREEMENT THROUGH THE MEDIATION PROCESS, THE DIRECTOR SHALL NOTIFY THE COURT OF THE CONCLUSION OF MEDIATION, AND THE COURT SHALL PROCEED WITH THE ASBESTOS CASE IN ACCORDANCE WITH TRACK 5.

(F) THE COURT MAY NOT PROCEED WITH AN ASBESTOS CASE REFERRED TO THE OFFICE FOR MEDIATION BEFORE RECEIVING NOTICE OF THE ELECTION TO FOREGO MEDIATION UNDER SUBSECTION (B) OF THIS SECTION OR THE CONCLUSION OF MEDIATION UNDER SUBSECTION (E) OF THIS SECTION.

(G) (1) UNLESS OTHERWISE AGREED TO BY THE PARTIES, THE COSTS OF MEDIATION SHALL BE DIVIDED EQUALLY BETWEEN THE PARTIES.

(2) THE PARTIES MAY NOT BE HELD RESPONSIBLE FOR THE OFFICE'S OPERATIONAL COSTS.

(H) IF TRACK 5 IS CHANGED, MODIFIED, ELIMINATED, OR RESCINDED, THE COURT SHALL PROCEED WITH THE ASBESTOS CASE IN ACCORDANCE WITH TRACK 5, AS IT EXISTED ON MARCH 29, 2019, AND, IF APPLICABLE, THE ORDER ESTABLISHING A RIGHT-OF-WAY TRIAL QUEUE FOR LIVING MESOTHELIOMA CASES, GRANTED AND FILED IN THE CIRCUIT COURT FOR BALTIMORE CITY ON FEBRUARY 27, 2013.

3-18A-04.

(Over)

ON OR BEFORE JANUARY 1 EACH YEAR, THE DIRECTOR SHALL REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON THE ACTIVITIES OF THE OFFICE FOR THE PRECEDING CALENDAR YEAR.”.