

REFERENCE TITLE: probate; mediation; trials

State of Arizona
Senate
Fifty-sixth Legislature
First Regular Session
2023

SB 1699

Introduced by
Senator Wadsack

AN ACT

REPEALING SECTION 14-1306, ARIZONA REVISED STATUTES; AMENDING TITLE 14, CHAPTER 1, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 14-1306; RELATING TO THE PROBATE JURISDICTION OF COURTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Repeal

3 Section 14-1306, Arizona Revised Statutes, is repealed.

4 Sec. 2. Title 14, chapter 1, article 3, Arizona Revised Statutes,
5 is amended by adding a new section 14-1306, to read:

6 14-1306. Mediation; bench trial; jury trial; civil penalties

7 A. PURSUANT TO ARTICLE II, SECTION 23, CONSTITUTION OF ARIZONA, THE
8 RIGHT TO A JURY CANNOT BE VIOLATED. UNLESS A PARTY HAS PREVIOUSLY BEEN
9 INFORMED OF THE RIGHT TO A JURY AND HAS WAIVED THAT RIGHT PURSUANT TO A
10 WRITTEN AFFIRMATION, THE RIGHT TO A JURY STILL EXISTS. LITIGANTS ARE
11 ENCOURAGED TO ENGAGE IN MEDIATION AS THE INITIAL METHOD OF DISPUTE
12 RESOLUTION. EVIDENCE OF MEDIATION, INCLUDING REASONS WHY MEDIATION WAS
13 NOT PURSUED OR ACCOMPLISHED, SHALL BE PLACED IN THE COURT RECORD.

14 B. IF MEDIATION IS UNSUCCESSFUL OR NOT PURSUED, A BENCH TRIAL SHALL
15 PROCEED AND A JUDGE MAY ISSUE AN ORDER OR ORDERS ON THE MATTERS LITIGATED.

16 C. IF A LITIGANT BELIEVES THE LITIGANT'S RIGHTS HAVE BEEN
17 SUBSTANTIALLY VIOLATED BY THE ORDER OF A JUDGE FOLLOWING A BENCH TRIAL,
18 WITHIN THIRTY DAYS AFTER THE ORDER IS ISSUED, THE LITIGANT MAY DEMAND A
19 JURY TRIAL. A JURY TRIAL SHALL BE SCHEDULED WITHIN FORTY-FIVE DAYS AFTER
20 THE LITIGANT'S REQUEST.

21 D. THE STANDARD OF EVIDENCE FOR A JURY TRIAL UNDER THIS SECTION
22 SHALL BE CLEAR AND CONVINCING. A VERDICT MAY BE RENDERED BY A
23 THREE-FOURTHS VOTE OF THE JURY.

24 E. A LITIGANT MAY REQUEST THAT A JURY REEXAMINE PORTIONS OF THE
25 VERDICT FOLLOWING A BENCH TRIAL. IT IS NOT NECESSARY TO RELITIGATE THE
26 ENTIRE MATTER.

27 F. IF REQUESTED BY A LITIGANT, THE JURY MAY IMPOSE CIVIL PENALTIES
28 OF UP TO \$2,500 IF THE JURY DEEMS A LITIGANT HAS ABUSED THIS SECTION.
29 AWARDS MAY BE DIRECTED TO BE PAID BY ONE PARTY TO ANY OTHER SPECIFIED
30 PARTY.

31 G. FALSE OR WITHHELD EXCULPATORY EVIDENCE MAY BE CONSIDERED PERJURY
32 AND SHALL BE ENFORCED AS PRESCRIBED IN TITLE 13, CHAPTER 27.

33 H. THE COURT SHALL DISCLOSE THE PROVISIONS OF THIS SECTION TO ALL
34 LITIGANTS AT THE COMMENCEMENT OF LITIGATION. IF THE COURT FAILS TO MAKE
35 THE DISCLOSURE, ALL ORDERS OF THE COURT ARE VOID AND UNENFORCEABLE.
36 COPIES OF THIS STATUTE SHALL BE SIGNED BY THE PARTIES AND PLACED IN THE
37 COURT RECORD.

38 I. PREVIOUS MATTERS ADJUDICATED WITHOUT A JURY MAY BE REEXAMINED
39 USING THE PROCESS PRESCRIBED IN THIS SECTION.

40 J. A RIGHT TO A JURY CANNOT BE VIOLATED. UNLESS A PARTY HAS
41 PREVIOUSLY BEEN INFORMED OF THIS RIGHT TO A JURY AND WAIVED THAT RIGHT VIA
42 WRITTEN AFFIRMATION, THAT RIGHT STILL EXISTS.

43 K. THE RIGHT TO A JURY TRIAL PURSUANT TO THIS SECTION IS AVAILABLE
44 ONLY TO THE PEOPLE AND NOT TO ANY STATE AGENCY OR POLITICAL SUBDIVISION OF
45 THIS STATE.