

SENATE BILL 1049

D3, P1

9lr3342

By: **Senator Waldstreicher**

Constitutional Requirements Complied with for Introduction in the last 35 Days of Session

Introduced and read first time: March 21, 2019

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Civil Actions – Office of Asbestos Case Mediation and Resolution**

3 FOR the purpose of establishing the Office of Asbestos Case Mediation and Resolution in
4 the Executive Department; providing that the head of the Office is the Director of
5 the Office; providing for the appointment and salary of the Director; authorizing the
6 Director to employ a staff and adopt certain regulations; requiring the Director to
7 perform certain duties; providing for the qualifications of certain mediators;
8 requiring certain civil suits involving asbestos claims to be referred to the Office for
9 mediation; providing for the priority of certain civil suits in the mediation process;
10 authorizing a certain plaintiff to forego the mediation process by providing certain
11 notice; requiring a court to schedule a trial for an asbestos case under certain
12 circumstances; providing that mediation costs shall be paid from funds provided for
13 in the State budget; defining certain terms; making the provisions of this Act
14 severable; and generally relating to the Office of Asbestos Case Mediation and
15 Resolution.

16 BY adding to

17 Article – Courts and Judicial Proceedings

18 Section 3–18A–01 through 3–18A–03 to be under the new subtitle “Subtitle 18A.
19 Asbestos Case Mediation and Resolution”

20 Annotated Code of Maryland

21 (2013 Replacement Volume and 2018 Supplement)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
23 That the Laws of Maryland read as follows:

24 **Article – Courts and Judicial Proceedings**

25 **SUBTITLE 18A. ASBESTOS CASE MEDIATION AND RESOLUTION.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **3-18A-01.**

2 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
3 INDICATED.

4 (B) "ASBESTOS CASE" MEANS A CIVIL CASE PENDING ON THE DOCKET OF
5 TRACK 5 OF THE DIFFERENTIATED CASE MANAGEMENT PLAN OF THE CIRCUIT
6 COURT FOR BALTIMORE CITY.

7 (C) "DIRECTOR" MEANS THE DIRECTOR OF THE OFFICE OF ASBESTOS
8 CASE MEDIATION AND RESOLUTION.

9 (D) "MEDIATION" HAS THE MEANING STATED IN TITLE 17 OF THE
10 MARYLAND RULES.

11 (E) "OFFICE" MEANS THE OFFICE OF ASBESTOS CASE MEDIATION AND
12 RESOLUTION ESTABLISHED UNDER § 3-18A-02 OF THIS SUBTITLE.

13 **3-18A-02.**

14 (A) THERE IS AN OFFICE OF ASBESTOS CASE MEDIATION AND
15 RESOLUTION IN THE EXECUTIVE DEPARTMENT.

16 (B) (1) THE HEAD OF THE OFFICE IS THE DIRECTOR.

17 (2) THE DIRECTOR IS APPOINTED BY THE GOVERNOR WITH THE
18 ADVICE AND CONSENT OF THE SENATE.

19 (3) THE DIRECTOR SHALL HAVE A SALARY PROVIDED IN THE STATE
20 BUDGET THAT IS EQUIVALENT TO THE ANNUAL SALARY PAYABLE TO A JUDGE OF THE
21 CIRCUIT COURT.

22 (C) THE DIRECTOR MAY:

23 (1) EMPLOY STAFF IN ACCORDANCE WITH THE STATE BUDGET; AND

24 (2) ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

25 (D) (1) THE DIRECTOR SHALL PREPARE A LIST OF QUALIFIED
26 INDIVIDUALS WILLING TO SERVE AS MEDIATORS OF ASBESTOS CASES UNDER THIS
27 SUBTITLE.

1 **(2) AN INDIVIDUAL IS QUALIFIED TO SERVE AS A MEDIATOR OF**
2 **ASBESTOS CASES UNDER THIS SUBTITLE IF THE INDIVIDUAL MEETS:**

3 **(I) THE QUALIFICATIONS TO BE A COURT-APPOINTED**
4 **MEDIATOR UNDER MARYLAND RULE 17-205; AND**

5 **(II) ANY OTHER REQUIREMENTS ESTABLISHED BY THE**
6 **DIRECTOR.**

7 **3-18A-03.**

8 **(A) EACH ACTIVE ASBESTOS CASE, INCLUDING EACH FORMERLY INACTIVE**
9 **ASBESTOS CASE THAT BECOMES ACTIVE, SHALL BE REFERRED BY THE COURT TO**
10 **THE OFFICE FOR POSSIBLE MEDIATION.**

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

14 **(C) THE DIRECTOR SHALL ESTABLISH PROCEDURES FOR THE EFFECTIVE**
15 **MEDIATION OF ASBESTOS CASES INCLUDING PROCEDURES FOR THE USE OF**
16 **NEUTRAL EXPERTS AND DISCOVERY.**

17 **(D) (1) AN INDIVIDUAL PLAINTIFF MAY ELECT TO FOREGO THE**
18 **MEDIATION PROCESS AT ANY TIME BY NOTIFYING THE COURT AND THE DIRECTOR**
19 **IN WRITING.**

20 **(2) ON RECEIPT OF WRITTEN NOTICE OF AN ELECTION UNDER**
21 **PARAGRAPH (1) OF THIS SUBSECTION, THE COURT SHALL SCHEDULE A TRIAL**
22 **UNDER APPENDIX 5 OF TRACK 5 OF THE DIFFERENTIATED CASE MANAGEMENT**
23 **PLAN OF THE CIRCUIT COURT FOR BALTIMORE CITY.**

24 **(E) IF THE PARTIES TO AN ASBESTOS CASE ARE UNABLE TO REACH AN**
25 **AGREEMENT THROUGH THE MEDIATION PROCESS UNDER THIS SUBTITLE, THE**
26 **DIRECTOR SHALL NOTIFY THE COURT, AND THE COURT SHALL SCHEDULE A TRIAL**
27 **UNDER APPENDIX 5 OF TRACK 5 OF THE DIFFERENTIATED CASE MANAGEMENT**
28 **PLAN OF THE CIRCUIT COURT FOR BALTIMORE CITY.**

29 **(F) THE COSTS OF MEDIATION UNDER THIS SUBTITLE SHALL BE PAID FROM**
30 **FUNDS PROVIDED IN THE STATE BUDGET.**

31 SECTION 2. AND BE IT FURTHER ENACTED, That, if any provision of this Act or
32 the application thereof to any person or circumstance is held invalid for any reason in a
33 court of competent jurisdiction, the invalidity does not affect other provisions or any other

1 application of this Act that can be given effect without the invalid provision or application,
2 and for this purpose the provisions of this Act are declared severable.

3 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
4 1, 2019.