

NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS

31ST CONSTITUTIONAL REGULAR SESSION, 2010

BILL NO.: 78ND1

P.L. 2010-47

1 AN
2 ACT

3
4 to amend the Judiciary Act 1983.

5 **BE IT ENACTED BY THE NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS:**

6 **Section 1. Short Title.**

7 This Act may be cited as the Judiciary (Amendment) Act, 2010.

8 **Section 2. Amendment.**

9 Part IX - Conciliation Jurisdiction of the Judiciary Act is amended to read as follows:

10 **PART IX - ALTERNATIVE DISPUTE RESOLUTION JURISDICTION**

11 **§ 261. Court-Connected Alternative Dispute Resolution.**

12 (1) This Section does not apply to matters referred to in Section
13 211(l)(b)-(e) of this Chapter, in which jurisdiction is vested by the Constitution of
14 the Marshall Islands in the High Court, or to criminal proceedings (although it
15 applies to any civil dispute consequent on an offense).

16 (2) For the purposes of this section "Alternative Dispute Resolution"
17 or "ADR" means a non-litigation dispute resolution including, but not limited to
18 counseling, negotiation, mediation, early neutral evaluation, conciliation,
19 settlement conferences, and arbitration. ADR processes can be conducted
20 privately outside of the judicial system or can be court-connected, which is
21 ordered by the Court. The High Court may make or adopt rules for court-

1 connected ADR processes, particularly mediation.

2 (3) "Mediation" means an ADR process in which a neutral third-party,
3 the mediator, encourages and assists the disputing parties resolve their dispute. A
4 mediator's authority shall include, but not limited to assisting the parties in
5 identifying issues, fostering joint problem solving, and exploring settlement
6 alternatives. A mediator does not have the authority to impose a resolution of the
7 dispute on the parties. A Court-connected mediation shall be conducted in
8 compliance with a court order and by Rules of Court.

9 (a) The High Court may make or adopt Rules of Court
10 regulating the court-connected mediation, including rules
11 regarding: mediator qualifications and training, and compensation;
12 the mediation process and, with respect to conduct or statements
13 made in mediation, confidentiality, privilege against disclosure,
14 admissibility, and discovery.

15 (b) A judge of the High Court, District Court, or a
16 Community Court, may, by order, refer proceedings before the
17 judge, or any part thereof or any matter arising therefrom, to a
18 mediator for mediation in accordance with the said Rules of Court.

19 (c) Referrals under paragraph (b) may be made with or
20 without the consent of the parties to the proceedings.

1 (d) A mediator shall, in any mediation referred to under
2 paragraph (b), have such protection and immunity as a judge is
3 entitled to under common law.

4 (4) Subject to any other Act, the High Court may make or adopt Rules of
5 Courts regulating other court-connected ADR processes conducted by a third-
6 party (for example, counseling, early neutral evaluation, conciliation, settlement
7 conferences, and, with the consent of the parties, arbitration), including rules
8 regarding: qualifications and training; compensation; the process; and, with
9 respect to conduct or statements made in the ADR process, confidentiality,
0 privilege against disclosure, admissibility, and discovery. The third-party shall, in
1 any ADR process referred under court order, have such protection and immunity
2 as a judge is entitled to under common law.

3 **Section 3. Effective Date.**

4 This Act shall take effect on the date of certification in accordance with Article IV,
5 Section 21 of the Constitution and the Rules of Procedures of the Nitijela.
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CERTIFICATE

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I hereby certify:

- 1. That Nitijela Bill No: 78ND1 was passed by the Nitijela of the Republic of the Marshall Islands on the 15th day of October, 2010; and
- 2. That I am satisfied that Nitijela Bill No: 78ND1 was passed in accordance with the relevant provisions of the Constitution of the Republic of the Marshall Islands and the Rules of Procedures of the Nitijela.

I hereby place my signature before the Clerk this 26th day of October, 2010

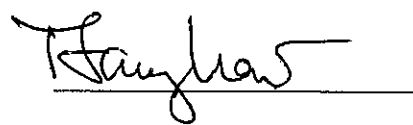
Attest:



Hon. Alvin T. Jacklick

Speaker

Nitijela of the Marshall Islands



Gary Ueno

Clerk

Nitijela of the Marshall Islands