

**ADOPTED**

Senators Harp of the 16th and Adelman of the 42nd offered the following amendment to the substitute to HB 1028:

By inserting between lines 27 and 28 of page 16 the following:

“31-46-54.

(a) In all medical malpractice actions, the judge to whom the civil action is assigned shall refer the action to mediation within 14 days of the last responsive pleading being filed. Prior to the court referring the action to mediation, the parties may agree to a private mediation and shall advise the court of the agreement by a consent order specifying the terms and details of the mediation. If the parties do not agree to a private mediation, the court shall refer the case to mediation as is available or otherwise in accordance with the Georgia Supreme Court’s Uniform Rule for Alternative Dispute Resolution Programs.

(b) The private or court referred mediation shall occur no sooner than 60 days but not more than 90 days after the order for mediation is entered.

(c) If the mediation does not result in a settlement of the civil action, the defendant or defendant’s last settlement offer shall be memorialized as an offer of settlement in accordance with the provisions of Code Section 31-46-55.

31-46-55.

(a) At any time more than ten days before the trial of a medical malpractice action begins, a party may serve upon the adverse party, by registered or certified mail or statutory overnight delivery, an offer for judgment for the money or property or to the effect specified in the offer, with costs then accrued. If within ten days after the service of the offer the adverse party serves written notice by registered or certified mail or statutory overnight delivery that the offer is accepted, either party may then file the offer and notice of acceptance together with proof of service of the offer and acceptance and the clerk shall enter judgment. An offer not accepted shall be deemed withdrawn and evidence of the offer shall not be admissible except in a proceeding to determine costs. If the judgment finally obtained by the offeree is not more favorable than the offer, the offeree shall pay the costs incurred after the making of the offer. The fact that an offer is made but not accepted does not preclude a subsequent offer. When the liability of one party to another has been determined by verdict, order, or judgment, but the amount or extent of the liability remains to be determined by further proceedings, the party adjudged liable may make an offer of judgment, which shall have the same effect as an offer made before trial if it is served within a reasonable time not less than ten days prior to the commencement of hearings to determine the amount or extent of liability.

(b) For purposes of this Code section, costs shall include attorney’s fees and expenses of litigation.

(c) The procedure available pursuant to this Code section shall not affect a claimant’s rights pursuant to Code Section 51-12-14, the 'Unliquidated Damages Interest Act'."