

**CHECKLIST FOR JUDGES AND MAGISTRATES
REFERRING CASES TO MEDIATION
O.R.C. 3109.052**

I. When no Temporary Protection Order, Civil Protection Order or Restraining Order Has Been Issued:

Step One:

- a. Inquire of attorneys, if applicable, and parties if either party has had a conviction of or pleaded guilty to domestic violence or any other offense involved physical harm to the other party and whether either parent has been determined to be the perpetrator of the abusive act that is the basis of an adjudication that a child is an abused child.
- b. Check all accessible records for the same information.

Step Two:

If none of the above, then proceed with a referral to mediation referral where each party will be individually screened by the mediator for appropriateness for mediation.

Step Three:

If either party had a conviction or pleaded guilty to any offense described in Step One, then:

- a. Determine if it is in the best interests of the parties to order mediation (see Step Four) and if so,
- b. Make a specific written findings of fact to support this determination (see sample order below) pursuant to O.R.C. 3109.052 (A) and provide a copy to the mediator including any other pertinent information.

Step Four:

To determine if mediation is appropriate, consider the following:

- a. Whether each party wants to participate in mediation.
- b. Whether each party is able to negotiate directly with the other.
- c. Assess whether each party can negotiate in their own best interest and the best interest of their children without fear of harm or repercussion.
- d. Whether mediation should occur if attorneys or support persons were present.
- e. Whether a civil protection order or restraining order would assist the parties with mediation, if one has not already been issued.
- f. Gather all pertinent information relative to any child abuse convictions.

II. When Temporary Order, Civil Protection Order or Restraining Order Has Been Issued:

Step One: Complete all steps outlined above.

Step Two: Modify or have the issuing court modify the order narrowly and specifically allowing for mediation. Consider naming mediation program or mediator that is to provide the service and give a deadline for the waiver for mediation.

IN THE COURT OF COMMON PLEAS OF _____ COUNTY, OHIO

Jane Doe,

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Plaintiff,

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Case No. 01 DV 001

-Vs-

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**JUDGMENT ENTRY/MAGISTRATE'S ORDER
ORDERING MEDIATION**

John Doe,

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Defendant,

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The above captioned matter comes before the Court on a request to have this matter submitted to the court's Mediation Program. Pursuant to Section 3109.052 the Court makes the following findings of fact:

- ____ That the parties are presently appearing before the Court in an action for the allocation of parental right and responsibilities for;
- ____ The parties' minor child(ren) _____, date(s) or birth _____;
- ____ That Defendant _____ has been convicted of a violation of Section 2919.25 of the Ohio Revised Code in a case entitled State of Ohio -vs- _____, Case No. _____ in the Court. Further, that _____ was the victim of the offense alleged in this matter;
- ____ That Defendant has completed a counseling program pursuant to his probation in Case No. _____;
- ____ That both Plaintiff and Defendant have consented to this matter being referred to mediation and have consented to attend the mediation program screening process;
- ____ That both parties believe it would be in their best interest and their child's best interest if they could attempt to resolve their dispute in mediation;
- ____ That the parties' attorneys have indicated they believe it is in the parties' best interest to mediate the dispute;

- That [Insert other reasons considered to determine that mediation is appropriate for this case];
- That the Court, based upon the above facts, finds that it would be in the best interest of the parties and their child(ren) to attempt to resolve their disputes through mediation.

It is therefore **ORDERED, ADJUDGED** and **DECreed** that the above matter be and hereby is referred to the Court Mediation Program for mediation of the disputes arising in this matter, and that upon conclusion the Mediator provide the appropriate status report to the Court.

It is further **ORDERED** that the parties in this matter shall attend all mediation screenings requested by the program as well as all mediation sessions scheduled in this matter.

It is **SO ORDERED.**

Name Judge/Magistrate