

## Resolution in Support of Victim-Offender **Mediation Dialogue**

### *Summary*

Victim Offender **Mediation Dialogue** is a face-to-face meeting, in the presence of a trained mediator **facilitator**, between the victim of a crime and the person who committed that crime. ~~Used Mostly~~ When used in cases of low-level property offenses and first-time offenders, this method may allows the victim and the offender to settle their case out of court, thus saving taxpayers' money on court costs; In other cases, victim-offender dialogue may provide ~~provides~~ greater closure and restitution for the victim; and ~~reducing~~ reduce recidivism by instilling in the offender a strong sense of the actual harm they caused to another individual. This Resolution encourages states to establish victim-offender **mediation dialogue** policies or to promote the availability and utilization of such an option if it already exists.

### *Model Resolution*

~~WHEREAS, victim-offender mediation must be chosen over the traditional process by both the victim and the offender, since the offender is required to take responsibility for his conduct and waive his right to trial and appeal; and~~

WHEREAS, victim-offender dialogue must be voluntarily chosen by both the victim and the offender. Dialogue may be pursued as an alternative or in parallel to the traditional process.

~~WHEREAS, a written agreement is reached that typically requires restitution, community service, no further offenses, and counseling. The agreement is then ratified by the prosecutor or judge. Failure to comply may lead~~s to traditional prosecution, which can result in any of the penalties available for that offense up to and including incarceration; and

~~WHEREAS, victim-offender mediation dialogue~~ is different from mediating a civil dispute because one party has admittedly criminally wronged the other. The purpose in a victim-offender **mediation dialogue** is not to negotiate but to create a dialogue that allows the victim to discuss the impact of the crime, specify what is needed to make them whole, and obtain closure; and

~~WHEREAS, victim-offender mediation dialogue~~ is most commonly used for low level property offenses such as graffiti, shoplifting, and criminal mischief and in cases involving first-time offenders; and

**WHEREAS**, the U.S. Department of Justice and the American Bar Association have ~~has~~ recommended victim-offender ~~mediation~~ dialogue since the 1990s and have published guidelines for its successful implementation; and

**WHEREAS**, there are over 300 victim-offender ~~mediation~~ dialogue programs in North America and over 1,300 worldwide. In the U.S., ~~at least 35~~ 11 states have statutes that expressly provide for victim-offender ~~mediation~~ dialogue. Most programs are for juvenile offenders, but a significant number are for adults;

**WHEREAS**, many victims want ~~the mediation option~~ to engage in dialogue with their offender. In a British Crime Survey, 60 percent of property offense victims expressed interest in a ~~mediation~~ facilitated face-to-face meeting; and

**WHEREAS**, ~~mediation~~ victim-offender dialogue offers victims an expedited means of obtaining justice in contrast to protracted pretrial proceedings, jury selection, and the prospect of seemingly endless appeals; and

~~**WHEREAS**, according to a Texas Public Policy Foundation report, a study of victim-offender mediation programs serving adults and juveniles found that 89 percent of agreements were successfully completed. That means the restitution was fully paid in these cases, as that is part of over 90 percent of agreements. In contrast, the national restitution collection rate in the U.S. is 20 to 30 percent; and~~

~~**WHEREAS**, a multi-site study found that 79 percent of victims who participated in mediations were satisfied, compared with 57 percent of victims who went through the traditional court system; and~~

**WHEREAS**, research consistently finds that victims report higher levels of satisfaction with facilitated victim-offender dialogue than from the traditional prosecution process. Victim-offender dialogue may also have psychological benefits including reduced symptoms of post-traumatic stress.

~~**WHEREAS**, in mediation programs in the U.S. and Canada, victims who went through mediation were over 50 percent less likely to express fear of re-victimization than a sample of victims who did not go through mediation; and~~

~~**WHEREAS**, a meta-analysis that looked at of 27 studies examining victim-offender mediation programs in North America found that 72% of them lowered recidivism and that the average decline was 7 percent. Similarly, a comparison group study of four U.S. victim-offender mediation programs by Umbreit & Coates found that 18.1 percent of offenders who took part in mediation committed a new offense, compared to 26.9 percent of those who did not participate and that, of the re-offenders, 41 percent of~~

~~those in the mediation group committed less serious offenses than before but only 12 percent in the control group; and~~

WHEREAS, a meta-analysis of 10 randomized studies examining victim-offender dialogue programs found modest, but cost-effective reductions in reoffending among offenders who participated in facilitated dialogues.

WHEREAS, researchers believe victim-offender ~~mediation~~ dialogue works because an offender often realizes that their conduct did not merely violate the words of a government statute, but also inflicted real harm on an individual victim. In many offenders, this heightens their sense of empathy, instills accountability for their actions, and makes it more difficult for them to try to rationalize their conduct; and

WHEREAS, the ~~mediation~~ facilitated dialogue also allows the victim to get closure and ask questions often sought for closure that only the offender can answer, such as why the offender did it and why they were the chosen victim; and

WHEREAS, in many ~~mediations~~ dialogues, offenders have the incentive of not having a conviction on their record if they do everything that is required by the agreement to the satisfaction of the victim, prosecutor, and judge. Without a conviction, the offender is much more likely to be employable; and

WHEREAS, when pursued as an alternative to traditional prosecution, victim-offender ~~mediation~~ dialogue saves taxpayers' money on court and prosecutorial costs and avoids the significant taxpayer expense of court-appointed counsel for indigent defendants. Many programs use volunteers ~~such as attorneys and ministers~~ as ~~mediators~~ facilitators while others pay ~~mediators~~ facilitators approximately \$50. at considerably lower cost than ~~In contrast~~, trial court proceedings and appeals which can cost many thousands of dollars in the allocated time of prosecutors, judges, and lawyers; and

**THEREFORE, BE IT RESOLVED**, that the American Legislative Exchange Council (ALEC) supports giving victims the option to choose ~~mediation~~ dialogue in appropriate cases and urges state lawmakers and agency officials to implement policies that create the ~~mediation~~ option, or if it already exists, promote its availability and utilization.