

initial stage, a mandatory obligation on the two parties? We have two basic policies right now on the statutes with respect to mediation. One of them is a general mediation system we passed last year. One is the farm mediation issue that we passed a number of years ago. Both of those are consistent and they say the same line of argument and that is that this tool, mediation, is a tool available to parties who wish to talk about their issues outside of court allowing them not to work with the rules of legal evidence or legal relevance but allow them to get the issues off their chest that are important to them and that this process is a voluntary one. We had a big fight years ago on the farm mediation issue whether it should be voluntary or mandatory. We found that it became voluntary. Did cases dry up or did we have a body of farm mediation? The answer is we had a significant body of farm mediation. We are talking hundreds of cases of simply the area of farm mediation. Why? Because it was in both parties' interests to go there. Lenders wanted to resuscitate the broken relationship with their debtors and debtors wanted a chance to be able to talk about new and different terms in their lending arrangements. And if it was going to be broken they wanted to be able to discuss how and in what ways the relationship would be broken. Now what you have in the bill right now is the obligation for the parties to meet; not only that, but you have a very interesting section in here that says that while they're there each party shall, at a minimum, articulate a visitation schedule which would be acceptable if the other party is awarded custody of the minor child. In other words, you have to make a kind of offer, you have to make a kind of statement of your interests of what you would be able to accept. You have to meet and you have to negotiate and you have to make an offer. Negotiation and mediation is meant to be a voluntary system by willing parties and who have nothing to lose by going into it because they can't be forced into an agreement. I'm not comfortable with a system that says you have to come whether you're a willing party or not and you have to make an offer while you're there. Secondly, I'm not sure that by requiring parties to be there that you solve the issue of domestic violence in a sensitive manner. I'm not sure you've found a way of dealing with something that may be unspoken, an unspoken fear, one in which an allegation might not be made in an open setting or with a mediator rather, and yet the mediation would be...the party would be obligated to come forward because of the operation of the law. There are certain kinds of cases that should not be mediated and, unfortunately, I'm not sure that is recognized as it should be in 728. At its