

SFA

BILL ANALYSIS

Senate Fiscal Agency

• Lansing, Michigan 48909 •

(517) 373-5383

RECEIVED
APR 17 1989

Mich. State Law Library

Senate Bill 13

Sponsor: Senator Nick Smith

Committee: Commerce and Technology

Date Completed: 2-14-89

SUMMARY OF SENATE BILL 13 as introduced 1-11-89:

Senate Bill 13 would amend Chapter 50 of the Revised Judicature Act (RJA), which permits and regulates arbitration agreements relating to health care, to specify the persons covered by an arbitration agreement; to specify that a person challenging the validity of an agreement would have the burden of proof; and to require that a joint legislative committee be established to review arbitration operations and experience.

The bill specifies that an arbitration agreement would apply to a patient and the patient's spouse and children, both born and in utero; in an issue arising out of the death of a patient, all persons to whom the patient, by law, owed a duty of support would be considered covered by the agreement. The Act requires an arbitration agreement to provide that a person receiving health care treatment or the person's legal representative can revoke the agreement within 60 days. The bill specifies that a minor's parent or legal guardian could revoke an agreement on behalf of the child. Also, it provides that if an adult who had executed an arbitration agreement died or became legally incapacitated within the revocation period, the period would have to be tolled until a legal representative was appointed for the person or the person's estate. ("Legal representative" would mean the personal representative of a deceased's estate or, in the case of an incapacitated adult, the person's guardian or the conservator of his or her estate.)

In addition, the bill specifies that if a party to an arbitration agreement challenged the validity of the agreement, that party would have the burden of proof. (This provision would not apply beyond four years after its effective date.)

Finally, the bill would require that a joint legislative committee be established to "review the operation and experience of arbitration" as practiced under Chapter 50 of the RJA. The review would have to be conducted in conjunction with the Insurance Commissioner, the Arbitration Advisory Committee established under the Insurance Code, and other interested parties. The committee would have to make recommendations for statutory changes and report

on the feasibility of continuing the Chapter. The report would have to be made within three years after the bill took effect, and this provision would not apply upon expiration of four years after its effective date.

MCL 600.5041, 600.5042, and 600.5065

Legislative Analyst: L. Burghardt

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: J. Walker

S8990\S13SA

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.