



HOUSE BILL No. 5791

September 14, 1994, Introduced by Rep Gubow and referred to the Committee on Judiciary

A bill to amend Act No 236 of the Public Acts of 1961, entitled as amended "Revised judicature act of 1961," as amended, being sections 600 101 to 600 9947 of the Michigan Compiled Laws, by adding chapter 50b

THE PEOPLE OF THE STATE OF MICHIGAN ENACT

1 Section 1 Act No 236 of the Public Acts of 1961, as
2 amended, being sections 600 101 to 600 9947 of the Michigan
3 Compiled Laws, is amended by adding chapter 50b to read as
4 follows

CHAPTER 50B

DOMESTIC RELATIONS ARBITRATION

7 SEC 5070 THIS CHAPTER PROVIDES FOR AND GOVERNS
8 ARBITRATION IN DOMESTIC RELATIONS MATTERS ARBITRATION
9 PROCEEDINGS UNDER THIS CHAPTER ARE ALSO GOVERNED BY COURT RULE

1 EXCEPT TO THE EXTENT THOSE PROVISIONS ARE MODIFIED BY THE
2 ARBITRATION AGREEMENT OR THIS CHAPTER THIS CHAPTER CONTROLS IF
3 THERE IS A CONFLICT BETWEEN THIS CHAPTER AND CHAPTER 50

4 SEC 5071 PARTIES TO AN ACTION FOR DIVORCE, ANNULMENT
5 SEPARATE MAINTENANCE OR CHILD SUPPORT, CUSTODY, OR VISITATION,
6 OR TO A POSTJUDGMENT PROCEEDING RELATED TO SUCH AN ACTION MAY
7 STIPULATE TO BINDING ARBITRATION BY A SIGNED AGREEMENT THAT SPE-
8 CIFICALLY PROVIDES FOR AN AWARD WITH RESPECT TO 1 OR MORE OF THE
9 FOLLOWING ISSUES

10 (A) REAL AND PERSONAL PROPERTY

11 (B) CHILD SUPPORT, CUSTODY, OR VISITATION

12 (C) SPOUSAL SUPPORT

13 (D) COSTS, EXPENSES AND ATTORNEY FEES

14 (E) ENFORCEABILITY OF PRENUPTIAL AND POSTNUPTIAL

15 AGREEMENTS

16 (F) ALLOCATION OF THE PARTIES RESPONSIBILITY FOR DEBT AS
17 BETWEEN THE PARTIES

18 (G) OTHER CONTESTED DOMESTIC RELATIONS MATTERS

19 SEC 5072 (1) A COURT SHALL NOT ORDER A PARTY TO PARTICI-
20 PATE IN ARBITRATION EXCEPT TO THE EXTENT THE PARTY HAS AGREED TO
21 PARTICIPATE UNDER A WRITTEN ARBITRATION AGREEMENT

22 (2) IF THE PARTIES TO AN ACTION AGREE TO ARBITRATE AND THERE
23 ARE ALLEGATIONS OF DOMESTIC VIOLENCE, THE COURT AND ATTORNEYS
24 REPRESENTING THE PARTIES SHALL ENSURE THAT EACH PARTY'S CONSENT
25 TO ARBITRATE OR TO A SUSPENSION OF THE FORMAL RULES OF EVIDENCE
26 IS INFORMED AND VOLUNTARY IN SUCH A CASE THE COURT SHALL PLACE
27 EACH PARTY'S CONSENT ON THE RECORD

1 SEC 5073 (1) ARBITRATION UNDER THIS CHAPTER MAY BE HEARD
2 BY A SINGLE ARBITRATOR OR BY A PANEL OF 3 ARBITRATORS THE COURT
3 SHALL APPOINT AN ARBITRATOR AGREED TO BY THE PARTIES IF THE ARBI-
4 TRATOR IS QUALIFIED UNDER SUBSECTION (2) AND CONSENTS TO THE
5 APPOINTMENT AN ARBITRATOR APPOINTED UNDER THIS CHAPTER IS
6 IMMUNE FROM LIABILITY IN REGARD TO THE ARBITRATION PROCEEDING TO
7 THE SAME EXTENT AS THE CIRCUIT JUDGE WHO HAS JURISDICTION OF THE
8 ACTION THAT IS SUBMITTED TO ARBITRATION

9 (2) THE COURT SHALL NOT APPOINT AN ARBITRATOR UNDER THIS
10 CHAPTER UNLESS THE INDIVIDUAL MEETS ALL OF THE FOLLOWING
11 QUALIFICATIONS

12 (A) IS AN ATTORNEY IN GOOD STANDING WITH THE STATE BAR OF
13 MICHIGAN

14 (B) HAS PRACTICED AS AN ATTORNEY FOR NOT LESS THAN 5 YEARS
15 IMMEDIATELY PRECEDING THE APPOINTMENT AND ACTIVELY PRACTICED IN
16 THE AREA OF DOMESTIC RELATIONS DURING 3 OF THOSE 5 YEARS ANY
17 PERIOD OF TIME DURING WHICH AN INDIVIDUAL SERVES AS A CIRCUIT
18 JUDGE OR FRIEND OF THE COURT REFEREE IS CONSIDERED AS ACTIVE
19 PRACTICE IN THE AREA OF DOMESTIC RELATIONS

20 (C) HAS RECEIVED TRAINING IN HANDLING DOMESTIC RELATIONS
21 MATTERS THAT HAVE A HISTORY OF DOMESTIC VIOLENCE

22 SEC 5074 (1) AN ARBITRATOR APPOINTED UNDER THIS CHAPTER
23 SHALL HEAR AND MAKE AN AWARD ON EACH ISSUE SUBMITTED FOR ARBITRA-
24 TION UNDER THE ARBITRATION AGREEMENT SUBJECT TO THE PROVISIONS OF
25 THE AGREEMENT

26 (2) AN ARBITRATOR APPOINTED UNDER THIS CHAPTER HAS ALL OF
27 THE FOLLOWING POWERS AND DUTIES

1 (A) TO ADMINISTER AN OATH OR ISSUE A SUBPOENA AS PROVIDED BY
2 COURT RULE

3 (B) TO ISSUE ORDERS REGARDING DISCOVERY PROCEEDINGS RELATIVE
4 TO THE ISSUES BEING ARBITRATED

5 (C) TO ALLOCATE ARBITRATION FEES AND EXPENSES BETWEEN THE
6 PARTIES INCLUDING IMPOSING A FEE OR EXPENSE ON A PARTY OR ATTOR-
7 NEY AS A SANCTION, SUBJECT TO PROVISIONS OF THE ARBITRATION
8 AGREEMENT

9 SEC 5075 (1) AN ARBITRATOR ATTORNEY OR PARTY IN AN
10 ARBITRATION PROCEEDING UNDER THIS CHAPTER SHALL DISCLOSE ANY CIR-
11 CUMSTANCE THAT MAY AFFECT AN ARBITRATOR S IMPARTIALITY, INCLUD-
12 ING, BUT NOT LIMITED TO, BIAS A FINANCIAL OR PERSONAL INTEREST
13 IN THE OUTCOME OF THE ARBITRATION OR A PAST OR PRESENT BUSINESS
14 OR PROFESSIONAL RELATIONSHIP WITH A PARTY OR ATTORNEY UPON DIS-
15 CLOSURE OF SUCH A CIRCUMSTANCE A PARTY MAY REQUEST DISQUALIFICA-
16 TION OF THE ARBITRATOR IF THE ARBITRATOR DOES NOT WITHDRAW
17 WITHIN 14 DAYS AFTER A REQUEST FOR DISQUALIFICATION THE PARTY
18 MAY FILE A MOTION FOR DISQUALIFICATION WITH THE CIRCUIT COURT

19 (2) THE CIRCUIT COURT SHALL HEAR A MOTION UNDER SUBSECTION
20 (1) WITHIN 21 DAYS AFTER THE MOTION IS FILED IF THE COURT FINDS
21 THAT THE ARBITRATOR IS DISQUALIFIED THE COURT MAY APPOINT
22 ANOTHER ARBITRATOR AGREED TO BY THE PARTIES OR MAY VOID THE ARBI-
23 TRATION AGREEMENT AND PROCEED AS IF ARBITRATION HAD NOT BEEN
24 ORDERED

25 SEC 5076 (1) AS SOON AS PRACTICABLE AFTER THE APPOINTMENT
26 OF THE ARBITRATOR, THE PARTIES AND ATTORNEYS SHALL MEET WITH THE
27 ARBITRATOR TO CONSIDER ALL OF THE FOLLOWING

1 (A) SCOPE OF THE ISSUES SUBMITTED

2 (B) DATE TIME AND PLACE OF THE HEARING

3 (C) WITNESSES, INCLUDING EXPERTS WHO MAY TESTIFY

4 (D) SCHEDULE FOR EXCHANGE OF EXPERT REPORTS OR SUMMARY OF
5 EXPERT TESTIMONY

6 (E) SUBJECT TO SUBSECTION (2), EXHIBITS, DOCUMENTS OR OTHER
7 INFORMATION EACH PARTY CONSIDERS MATERIAL TO THE CASE AND A
8 SCHEDULE FOR PRODUCTION OR EXCHANGE OF THE INFORMATION AN
9 OBJECTION NOT MADE BEFORE THE HEARING TO PRODUCTION OR LACK OF
10 PRODUCTION OF INFORMATION IS WAIVED

11 (F) DISCLOSURE REQUIRED UNDER SECTION 5075

12 (2) THE ARBITRATOR SHALL ORDER REASONABLE ACCESS TO INFORMA-
13 TION THAT IS MATERIAL TO THE ARBITRATION ISSUES INCLUDING AT A
14 MINIMUM FROM EACH PARTY ALL OF THE FOLLOWING

15 (A) A CURRENT, COMPLETE, AND ACCURATE SWORN FINANCIAL DIS-
16 CLOSURE STATEMENT

17 (B) FINANCIAL DISCLOSURE STATEMENTS FOR THE PAST 5 YEARS

18 (C) STATE AND FEDERAL INCOME TAX RETURNS FOR THE PREVIOUS 3
19 YEARS OR OTHER TIME PERIOD AS ORDERED BY THE ARBITRATOR

20 (D) IF A COURT HAS ISSUED AN ORDER CONCERNING AN ISSUE
21 SUBJECT TO ARBITRATION A COPY OF THE ORDER STATE AND FEDERAL
22 INCOME TAX RETURNS FOR THE YEAR THE ORDER WAS ISSUED AND A
23 FINANCIAL STATEMENT FOR THE TIME AT WHICH THE ORDER WAS ENTERED,
24 WHICH STATEMENT INCLUDES AT LEAST GROSS AND NET INCOME AND ASSETS
25 AND LIABILITIES

26 (E) PROPOSED AWARD FOR EACH ISSUE SUBJECT TO ARBITRATION

1 SEC 5077 (1) EXCEPT AS PROVIDED BY THIS SECTION COURT
2 RULE OR THE ARBITRATION AGREEMENT, A RECORD SHALL NOT BE MADE OF
3 AN ARBITRATION HEARING UNDER THIS CHAPTER IF A RECORD IS NOT
4 REQUIRED, AN ARBITRATOR MAY MAKE A RECORD TO BE USED ONLY BY THE
5 ARBITRATOR TO AID IN REACHING THE DECISION

6 (2) A RECORD SHALL BE MADE OF THAT PORTION OF A HEARING THAT
7 CONCERNS CHILD SUPPORT CUSTODY OR VISITATION

8 SEC 5078 (1) UNLESS OTHERWISE AGREED BY THE PARTIES AND
9 ARBITRATOR IN WRITING OR ON THE RECORD, THE ARBITRATOR SHALL
10 ISSUE THE WRITTEN AWARD ON EACH ISSUE WITHIN 60 DAYS AFTER THE
11 END OF THE HEARING AND AFTER RECEIPT OF FINDINGS OF FACT AND CON-
12 CLUSIONS OF LAW IF REQUESTED BY THE ARBITRATOR

13 (2) IF THE PARTIES REACH AN AGREEMENT REGARDING CHILD SUP-
14 PORT, CUSTODY, OR VISITATION THE AGREEMENT SHALL BE PLACED ON
15 THE RECORD BY THE PARTIES UNDER OATH AND SHALL BE INCLUDED IN THE
16 ARBITRATOR S WRITTEN AWARD

17 (3) THE ARBITRATOR RETAINS JURISDICTION TO CORRECT ERRORS OR
18 OMISSIONS IN AN AWARD UPON MOTION BY A PARTY TO THE ARBITRATOR
19 WITHIN 14 DAYS AFTER THE AWARD IS ISSUED ANOTHER PARTY TO THE
20 ARBITRATION MAY RESPOND TO THE MOTION WITHIN 7 DAYS AFTER THE
21 MOTION IS MADE THE ARBITRATOR SHALL MAKE A DECISION ON THE
22 MOTION WITHIN 7 DAYS AFTER THE EXPIRATION OF THE RESPONSE TIME
23 PERIOD

24 SEC 5079 (1) THE CIRCUIT COURT SHALL ENFORCE AN
25 ARBITRATOR S AWARD OR OTHER ORDER ISSUED UNDER THIS CHAPTER IN
26 THE SAME MANNER AS AN ORDER ISSUED BY THE CIRCUIT COURT A PARTY

1 MAY MAKE A MOTION TO THE CIRCUIT COURT TO ENFORCE AN ARBITRATOR S
2 AWARD OR ORDER

3 (2) THE PLAINTIFF IN AN ACTION THAT WAS SUBMITTED TO ARBI-
4 TRATION UNDER THIS CHAPTER SHALL FILE WITH THE CIRCUIT COURT A
5 JUDGMENT ORDER, OR MOTION TO SETTLE THE JUDGMENT WITHIN 21 DAYS
6 AFTER THE ARBITRATOR S AWARD IS ISSUED UNLESS OTHERWISE AGREED TO
7 BY THE PARTIES IN WRITING OR UNLESS THE ARBITRATOR OR COURT
8 GRANTS AN EXTENSION IF THE PLAINTIFF FAILS TO COMPLY WITH THIS
9 SUBSECTION, ANOTHER PARTY TO THE ACTION MAY FILE A JUDGMENT
10 ORDER, OR MOTION TO SETTLE THE JUDGMENT AND MAY REQUEST
11 SANCTIONS

12 SEC 5080 IF A PARTY APPLIES TO THE CIRCUIT COURT FOR
13 VACATION OR MODIFICATION OF AN ARBITRATOR S AWARD ISSUED UNDER
14 THIS CHAPTER THAT CONCERNS CHILD SUPPORT CUSTODY, OR VISITATION,
15 THE COURT SHALL REVIEW THE AWARD BASED ONLY UPON THE RECORD OF
16 THE ARBITRATION HEARING THE CIRCUIT COURT SHALL NOT VACATE OR
17 MODIFY AN AWARD OF CHILD SUPPORT, CUSTODY OR VISITATION UNLESS
18 THE COURT FINDS THAT THE AWARD IS ADVERSE TO THE BEST INTERESTS
19 OF THE CHILD WHO IS THE SUBJECT OF THE AWARD OTHER STANDARDS
20 AND PROCEDURES REGARDING REVIEW OF ARBITRATION AWARDS DESCRIBED
21 IN THIS SECTION ARE GOVERNED BY COURT RULE

22 SEC 5081 (1) IF A PARTY APPLIES TO THE CIRCUIT COURT FOR
23 VACATION OR MODIFICATION OF AN ARBITRATOR S AWARD ISSUED UNDER
24 THIS CHAPTER THAT CONCERNS OTHER THAN CHILD SUPPORT, CUSTODY, OR
25 VISITATION, THE COURT SHALL REVIEW THE AWARD AS PROVIDED IN THIS
26 SECTION

1 (2) IF A PARTY APPLIES UNDER THIS SECTION, THE COURT SHALL
2 VACATE AN AWARD UNDER ANY OF THE FOLLOWING CIRCUMSTANCES

3 (A) THE AWARD WAS PROCURED BY CORRUPTION, FRAUD, OR OTHER
4 UNDUE MEANS

5 (B) THERE WAS EVIDENT PARTIALITY BY AN ARBITRATOR APPOINTED
6 AS A NEUTRAL, CORRUPTION OF AN ARBITRATOR, OR MISCONDUCT PREJU-
7 DICING A PARTY'S RIGHTS

8 (C) THE ARBITRATOR EXCEEDED HIS OR HER POWERS

9 (D) THE ARBITRATOR REFUSED TO POSTPONE THE HEARING ON A
10 SHOWING OF SUFFICIENT CAUSE, REFUSED TO HEAR EVIDENCE MATERIAL TO
11 THE CONTROVERSY, OR OTHERWISE CONDUCTED THE HEARING TO PREJUDICE
12 SUBSTANTIALLY A PARTY'S RIGHTS

13 (3) THE FACT THAT THE RELIEF GRANTED IN AN ARBITRATION AWARD
14 COULD NOT BE GRANTED BY A COURT OF LAW OR EQUITY IS NOT GROUNDS
15 FOR VACATING OR REFUSING TO CONFIRM THE AWARD

16 (4) AN APPLICATION TO VACATE AN AWARD ON GROUNDS STATED IN
17 SUBSECTION (2)(A) SHALL BE MADE WITHIN 21 DAYS AFTER THE GROUNDS
18 ARE KNOWN OR SHOULD HAVE BEEN KNOWN IF AN AWARD IS VACATED ON
19 GROUNDS STATED IN SUBSECTION (2)(C) OR (D), THE COURT MAY ORDER A
20 REHEARING BEFORE THE ARBITRATOR WHO MADE THE AWARD

21 (5) OTHER STANDARDS AND PROCEDURES RELATING TO REVIEW OF
22 ARBITRATION AWARDS DESCRIBED IN SUBSECTION (1) ARE GOVERNED BY
23 COURT RULE

24 SEC 5082 AN APPEAL FROM AN ARBITRATION AWARD UNDER THIS
25 CHAPTER THAT THE CIRCUIT COURT CONFIRMS, VACATES, MODIFIES, OR
26 CORRECTS SHALL BE TAKEN IN THIS SAME MANNER AS FROM AN ORDER OR
27 JUDGMENT IN OTHER CIVIL ACTIONS