



# HOUSE BILL No. 4515

March 2, 1995, Introduced by Rep. Gubow and referred to the Committee on Judiciary and Civil Rights.

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:

5 CHAPTER 50B.

6 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.