

**SUBSTITUTE FOR
HOUSE BILL NO. 4552**

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
(MCL 600.101 to 600.9948) by adding chapter 50b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER 50B.

2 DOMESTIC RELATIONS ARBITRATION

3 SEC. 5070. THIS CHAPTER PROVIDES FOR AND GOVERNS ARBITRA-
4 TION IN DOMESTIC RELATIONS MATTERS. ARBITRATION PROCEEDINGS
5 UNDER THIS CHAPTER ARE ALSO GOVERNED BY COURT RULE EXCEPT TO THE
6 EXTENT THOSE PROVISIONS ARE MODIFIED BY THE ARBITRATION AGREEMENT
7 OR THIS CHAPTER. THIS CHAPTER CONTROLS IF THERE IS A CONFLICT
8 BETWEEN THIS CHAPTER AND CHAPTER 50.

9 SEC. 5071. PARTIES TO AN ACTION FOR DIVORCE, ANNULMENT,
10 SEPARATE MAINTENANCE, OR CHILD SUPPORT, CUSTODY, OR PARENTING
11 TIME, OR TO A POSTJUDGMENT PROCEEDING RELATED TO SUCH AN ACTION,

HB4552, As Passed House, October 4, 2000

Sub. HB 4552 (H-4) as amended October 4, 2000 2

1 MAY STIPULATE TO BINDING ARBITRATION BY A SIGNED AGREEMENT THAT
2 SPECIFICALLY PROVIDES FOR AN AWARD WITH RESPECT TO 1 OR MORE OF
3 THE FOLLOWING ISSUES:

4 (A) REAL AND PERSONAL PROPERTY.

5 (B) CHILD CUSTODY.

6 (C) CHILD SUPPORT, SUBJECT TO THE RESTRICTIONS AND REQUIRE-
7 MENTS IN OTHER LAW AND COURT RULE AS PROVIDED IN THIS ACT.

8 (D) PARENTING TIME.

9 (E) SPOUSAL SUPPORT.

10 (F) COSTS, EXPENSES, AND ATTORNEY FEES.

11 (G) ENFORCEABILITY OF PRENUPTIAL AND POSTNUPTIAL
12 AGREEMENTS.

13 (H) ALLOCATION OF THE PARTIES' RESPONSIBILITY FOR DEBT AS
14 BETWEEN THE PARTIES.

15 (I) OTHER CONTESTED DOMESTIC RELATIONS MATTERS.

16 SEC. 5072. (1) THE COURT SHALL NOT ORDER A PARTY TO PARTIC-
17 IPATE IN ARBITRATION EXCEPT TO THE EXTENT THE PARTY HAS AGREED TO

18 PARTICIPATE UNDER A WRITTEN ARBITRATION AGREEMENT. [BEFORE ACCEPTING
A WRITTEN ARBITRATION AGREEMENT UNDER THIS CHAPTER, THE COURT SHALL
DISTRIBUTE INFORMATION TO EACH PARTY ABOUT DOMESTIC RELATIONS
ARBITRATION. THE STATE COURT ADMINISTRATIVE OFFICE SHALL PREPARE
THE INFORMATION THE COURT IS REQUIRED TO DISTRIBUTE UNDER THIS
SECTION. THE INFORMATION SHALL INCLUDE AT LEAST ALL OF THE
FOLLOWING:

(A) A STATEMENT THAT ARBITRATION IS BINDING.

(B) A STATEMENT THAT ARBITRATION MAY OR MAY NOT BE APPROPRIATE
IN THE PARTY'S CASE.

(C) A STATEMENT THAT THE PARTY MAY CONSULT WITH AN ATTORNEY
BEFORE ENTERING INTO THE ARBITRATION PROCESS OR CHOOSE TO BE
REPRESENTED BY AN ATTORNEY THROUGHOUT THE ENTIRE PROCESS.

(D) INFORMATION ABOUT WHERE AND HOW TO OBTAIN LEGAL SERVICES IF
THE PARTY CANNOT AFFORD AN ATTORNEY.]

19 (2) IF EITHER PARTY IS SUBJECT TO A PERSONAL PROTECTION

20 ORDER INVOLVING DOMESTIC VIOLENCE OR IF, IN THE PENDING DOMESTIC
21 RELATIONS MATTER, THERE ARE ALLEGATIONS OF DOMESTIC VIOLENCE OR

22 CHILD ABUSE, THE COURT SHALL NOT REFER THE CASE TO ARBITRATION

23 UNLESS EACH PARTY TO THE DOMESTIC RELATIONS MATTER WAIVES THIS

24 EXCLUSION. A PARTY CANNOT WAIVE THE EXCLUSION FROM ARBITRATION

25 UNLESS THE PARTY IS REPRESENTED BY AN ATTORNEY THROUGHOUT THE

26 ACTION, INCLUDING THE ARBITRATION PROCESS, AND THE PARTY IS

27 INFORMED ON THE RECORD CONCERNING ALL OF THE FOLLOWING:

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1 (A) THE ARBITRATION PROCESS.

2 (B) THE SUSPENSION OF THE FORMAL RULES OF EVIDENCE.

3 (C) THE BINDING NATURE OF ARBITRATION.

4 (3) IF, AFTER RECEIVING THE INFORMATION REQUIRED UNDER SUB-
5 SECTION (2), A PARTY DECIDES TO WAIVE THE EXCLUSION FROM ARBITRA-
6 TION, THE COURT AND THE PARTY'S ATTORNEY SHALL ENSURE THAT THE
7 PARTY'S WAIVER IS INFORMED AND VOLUNTARY. IF THE COURT FINDS A
8 PARTY'S WAIVER IS INFORMED AND VOLUNTARY, THE COURT SHALL PLACE
9 THOSE FINDINGS AND THE WAIVER ON THE RECORD.

10 (4) A CHILD ABUSE OR NEGLECT MATTER IS SPECIFICALLY EXCLUDED
11 FROM ARBITRATION UNDER THIS ACT.

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

20 (2) THE COURT SHALL NOT APPOINT AN ARBITRATOR UNDER THIS
21 CHAPTER UNLESS THE INDIVIDUAL MEETS ALL OF THE FOLLOWING
22 QUALIFICATIONS:

23 (A) IS AN ATTORNEY IN GOOD STANDING WITH THE STATE BAR OF
24 MICHIGAN.

25 (B) HAS PRACTICED AS AN ATTORNEY FOR NOT LESS THAN 5 YEARS
26 BEFORE THE APPOINTMENT AND HAS DEMONSTRATED AN EXPERTISE IN THE
27 AREA OF DOMESTIC RELATIONS LAW.

1 (C) HAS RECEIVED TRAINING IN THE DYNAMICS OF DOMESTIC
2 VIOLENCE AND IN HANDLING DOMESTIC RELATIONS MATTERS THAT HAVE A
3 HISTORY OF DOMESTIC VIOLENCE.

4 (3) THE OFFICE OF THE FRIEND OF THE COURT SHALL MAKE AVAIL-
5 ABLE A LIST OF ARBITRATORS WHO MEET THE QUALIFICATIONS OF THIS
6 SECTION. THE LIST SHALL INCLUDE A SUMMARY OF EACH ARBITRATOR'S
7 QUALIFICATIONS AND EXPERIENCE.

8 SEC. 5074. (1) AN ARBITRATOR APPOINTED UNDER THIS CHAPTER
9 SHALL HEAR AND MAKE AN AWARD ON EACH ISSUE SUBMITTED FOR ARBITRA-
10 TION UNDER THE ARBITRATION AGREEMENT SUBJECT TO THE PROVISIONS OF
11 THE AGREEMENT.

12 (2) AN ARBITRATOR APPOINTED UNDER THIS CHAPTER HAS ALL OF
13 THE FOLLOWING POWERS AND DUTIES:

14 (A) TO ADMINISTER AN OATH OR ISSUE A SUBPOENA AS PROVIDED BY
15 COURT RULE.

16 (B) TO ISSUE AN ORDER REGARDING DISCOVERY PROCEEDINGS RELA-
17 TIVE TO THE ISSUES BEING ARBITRATED.

18 (C) SUBJECT TO PROVISIONS OF THE ARBITRATION AGREEMENT, TO
19 ISSUE AN ORDER ALLOCATING ARBITRATION FEES AND EXPENSES BETWEEN
20 THE PARTIES, INCLUDING IMPOSING A FEE OR EXPENSE ON A PARTY OR
21 ATTORNEY AS A SANCTION.

22 (D) TO ISSUE AN ORDER REQUIRING A PARTY TO PRODUCE SPECIFIED
23 INFORMATION THAT THE ARBITRATOR CONSIDERS RELEVANT TO, AND HELP-
24 FUL IN RESOLVING, AN ISSUE SUBJECT TO THE ARBITRATION.

25 (3) IF THE ARBITRATOR CONSIDERS IT RELEVANT TO AN ISSUE
26 BEING ARBITRATED, THE ARBITRATOR MAY ORDER THE FILING OF AN
27 AFFIDAVIT THAT IDENTIFIES THE PARTY'S PLACE OF EMPLOYMENT AND

1 OTHER SOURCES OF INCOME, AND THAT LISTS THE ASSETS AND
2 LIABILITIES OF THE PARTIES. THE ARBITRATOR SHALL NOT RELEASE THE
3 AFFIDAVITS REQUIRED UNDER THIS SECTION UNTIL AFTER BOTH PARTIES
4 HAVE FILED THOSE AFFIDAVITS. THE ARBITRATOR SHALL ATTEMPT TO
5 RELEASE THE AFFIDAVITS TO THE OPPOSITE PARTIES AT APPROXIMATELY
6 THE SAME TIME.

7 (4) AN AFFIDAVIT ORDERED UNDER SUBSECTION (3) SHALL LIST AT
8 LEAST ALL OF THE FOLLOWING ASSETS:

9 (A) REAL PROPERTY.

10 (B) CHECKING AND SAVINGS ACCOUNT BALANCES, REGARDLESS OF THE
11 FORM IN WHICH THE MONEY IS HELD.

12 (C) STOCKS AND BONDS.

13 (D) INCOME TAX REFUNDS DUE THE PARTIES.

14 (E) LIFE INSURANCE, INCLUDING CASH VALUE AND AMOUNT PAYABLE
15 AT DEATH.

16 (F) LOANS HELD AS A CREDITOR OR MONEY OWED TO THE PARTIES IN
17 WHATEVER FORM.

18 (G) RETIREMENT FUNDS AND PENSION BENEFITS.

19 (H) PROFESSIONAL LICENSES.

20 (I) MOTOR VEHICLES, BOATS, MOBILE HOMES, OR ANY OTHER TYPE
21 OF VEHICLE INCLUDING UNTITLED VEHICLES.

22 (J) EXTRAORDINARY TOOLS OF A TRADE.

23 (K) CEMETERY LOTS.

24 (L) OWNERSHIP INTERESTS IN BUSINESSES.

25 (M) LIMITED PARTNERSHIPS.

26 (N) OTHER ASSETS IN WHATEVER FORM.

1 (5) AN AFFIDAVIT ORDERED UNDER SUBSECTION (3) SHALL LIST AT
2 LEAST ALL OF THE FOLLOWING LIABILITIES:

3 (A) SECURED AND UNSECURED CREDITS.

4 (B) TAXES.

5 (C) RENTS AND SECURITY DEPOSITS.

6 (D) ALL OTHER LIABILITIES IN WHATEVER FORM.

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

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

23 Enacting section 1. This amendatory act does not take
24 effect unless House Bill No. 4615 of the 90th Legislature is
25 enacted into law.