

**SENATE SUBSTITUTE FOR**

**HOUSE BILL NO. 4552**

(As amended December 6, 2000)

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. (1) 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.

(2) THIS CHAPTER DOES NOT APPLY TO ARBITRATION IN A DOMESTIC  
RELATIONS MATTER IF, BEFORE THE EFFECTIVE DATE OF THE AMENDATORY ACT  
THAT ADDED THIS CHAPTER, THE COURT HAS ENTERED AN ORDER FOR  
ARBITRATION AND ALL THE PARTIES HAVE EXECUTED THE ARBITRATION  
AGREEMENT.

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,

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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 UNLESS EACH PARTY TO THE DOMESTIC RELATIONS  
18 MATTER ACKNOWLEDGES, IN WRITING OR ON THE RECORD, THAT HE OR SHE  
19 HAS BEEN INFORMED IN PLAIN LANGUAGE OF ALL OF THE FOLLOWING:

20 (A) ARBITRATION IS VOLUNTARY.

21 (B) ARBITRATION IS BINDING AND THE RIGHT OF APPEAL IS  
22 LIMITED.

23 (C) ARBITRATION IS NOT RECOMMENDED FOR CASES INVOLVING  
24 DOMESTIC VIOLENCE.

25 (D) ARBITRATION MAY NOT BE APPROPRIATE IN ALL CASES.

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1       (E) THE ARBITRATOR'S POWERS AND DUTIES ARE DELINEATED IN A  
2 WRITTEN ARBITRATION AGREEMENT THAT ALL PARTIES MUST SIGN BEFORE  
3 ARBITRATION COMMENCES.

4       (F) DURING ARBITRATION, THE ARBITRATOR HAS THE POWER TO  
5 DECIDE EACH ISSUE ASSIGNED TO ARBITRATION UNDER THE ARBITRATION  
6 AGREEMENT. THE COURT WILL, HOWEVER, ENFORCE THE ARBITRATOR'S  
7 DECISIONS ON THOSE ISSUES.

8       (G) THE PARTY MAY CONSULT WITH AN ATTORNEY BEFORE ENTERING  
9 INTO THE ARBITRATION PROCESS OR MAY CHOOSE TO BE REPRESENTED BY  
10 AN ATTORNEY THROUGHOUT THE ENTIRE PROCESS.

11       (H) IF THE PARTY CANNOT AFFORD AN ATTORNEY, THE PARTY MAY  
12 WISH TO SEEK FREE LEGAL SERVICES, WHICH MAY OR MAY NOT BE  
13 AVAILABLE.

14       (I) A PARTY TO ARBITRATION WILL BE RESPONSIBLE, EITHER  
15 SOLELY OR JOINTLY WITH OTHER PARTIES, TO PAY FOR THE COST OF THE  
16 ARBITRATION, INCLUDING FEES FOR THE ARBITRATOR'S SERVICES. IN  
17 COMPARISON, A PARTY DOES NOT PAY FOR THE COURT TO HEAR AND DECIDE  
18 AN ISSUE, EXCEPT FOR PAYMENT OF FILING AND OTHER COURT FEES PRE-  
19 SCRIBED BY STATUTE OR COURT RULE FOR WHICH THE PARTY IS RESPONSI-  
20 BLE REGARDLESS OF THE USE OF ARBITRATION.

21       (2) IF EITHER PARTY IS SUBJECT TO A PERSONAL PROTECTION  
22 ORDER INVOLVING DOMESTIC VIOLENCE OR IF, IN THE PENDING DOMESTIC  
23 RELATIONS MATTER, THERE ARE ALLEGATIONS OF DOMESTIC VIOLENCE OR  
24 CHILD ABUSE, THE COURT SHALL NOT REFER THE CASE TO ARBITRATION  
25 UNLESS EACH PARTY TO THE DOMESTIC RELATIONS MATTER WAIVES THIS  
26 EXCLUSION. A PARTY CANNOT WAIVE THIS EXCLUSION FROM ARBITRATION  
27 UNLESS THE PARTY IS REPRESENTED BY AN ATTORNEY THROUGHOUT THE

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1 ACTION, INCLUDING THE ARBITRATION PROCESS, AND THE PARTY IS  
2 INFORMED ON THE RECORD CONCERNING ALL OF THE FOLLOWING:

3 (A) THE ARBITRATION PROCESS.

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

5 (C) THE BINDING NATURE OF ARBITRATION.

6 (3) IF, AFTER RECEIVING THE INFORMATION REQUIRED UNDER  
7 SUBSECTION (2), A PARTY DECIDES TO WAIVE THE DOMESTIC VIOLENCE  
8 EXCLUSION FROM ARBITRATION, THE COURT AND THE PARTY'S ATTORNEY  
9 SHALL ENSURE THAT THE PARTY'S WAIVER IS INFORMED AND VOLUNTARY.  
10 IF THE COURT FINDS A PARTY'S WAIVER IS INFORMED AND VOLUNTARY,  
11 THE COURT SHALL PLACE THOSE FINDINGS AND THE WAIVER ON THE  
12 RECORD.

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

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

23 (2) THE COURT SHALL NOT APPOINT AN ARBITRATOR UNDER THIS  
24 CHAPTER UNLESS THE INDIVIDUAL MEETS ALL OF THE FOLLOWING  
25 QUALIFICATIONS:

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

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

4 (C) HAS RECEIVED TRAINING IN THE DYNAMICS OF DOMESTIC VIO-  
5 LENCE AND IN HANDLING DOMESTIC RELATIONS MATTERS THAT HAVE A HIS-  
6 TORY OF DOMESTIC VIOLENCE.

7 (3) THE OFFICE OF THE FRIEND OF THE COURT, AN ALTERNATIVE  
8 DISPUTE RESOLUTION CLERK, OR ANOTHER INDIVIDUAL DESIGNATED BY THE  
9 CHIEF JUDGE MAY MAKE AVAILABLE A LIST OF ARBITRATORS WHO MEET THE  
10 QUALIFICATIONS OF THIS SECTION. THE LIST SHALL INCLUDE A SUMMARY  
11 OF EACH ARBITRATOR'S QUALIFICATIONS AND EXPERIENCE.

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

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

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

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

22 (C) SUBJECT TO PROVISIONS OF THE ARBITRATION AGREEMENT, TO  
23 ISSUE AN ORDER ALLOCATING ARBITRATION FEES AND EXPENSES BETWEEN  
24 THE PARTIES OR TO 1 PARTY, INCLUDING IMPOSING A FEE OR EXPENSE ON  
25 A PARTY OR ATTORNEY AS A SANCTION.

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1 (D) TO ISSUE AN ORDER REQUIRING A PARTY TO PRODUCE SPECIFIED  
2 INFORMATION THAT THE ARBITRATOR CONSIDERS RELEVANT TO, AND  
3 HELPFUL IN RESOLVING, AN ISSUE SUBJECT TO THE ARBITRATION.

4 (3) IF THE ARBITRATOR CONSIDERS IT RELEVANT TO AN ISSUE  
5 BEING ARBITRATED, THE ARBITRATOR MAY ORDER THE FILING OF SWORN  
6 STATEMENTS THAT IDENTIFY EACH PARTY'S PLACE OF EMPLOYMENT AND  
7 OTHER SOURCES OF INCOME AND THAT LIST THE ASSETS AND LIABILITIES  
8 OF EACH PARTY. THE ARBITRATOR SHALL NOT RELEASE THE SWORN STATE-  
9 MENTS REQUIRED UNDER THIS SECTION UNTIL AFTER ALL PARTIES HAVE  
10 FILED THOSE SWORN STATEMENTS. THE ARBITRATOR SHALL ATTEMPT TO  
11 RELEASE THE SWORN STATEMENTS TO THE OPPOSITE PARTIES AT APPROXI-  
12 MATELY THE SAME TIME.

13 (4) A SWORN STATEMENT ORDERED UNDER SUBSECTION (3) SHALL  
14 LIST AT LEAST ALL OF THE FOLLOWING ASSETS:

15 (A) REAL PROPERTY.

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

18 (C) STOCKS AND BONDS.

19 (D) INCOME TAX REFUNDS DUE THE PARTIES.

20 (E) LIFE INSURANCE, INCLUDING CASH VALUE AND AMOUNT PAYABLE  
21 AT DEATH.

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

24 (G) RETIREMENT FUNDS AND PENSION BENEFITS.

25 (H) PROFESSIONAL LICENSES.

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

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- 1 (J) EXTRAORDINARY TOOLS OF A TRADE.
- 2 (K) CEMETERY LOTS.
- 3 (L) OWNERSHIP INTERESTS IN BUSINESSES.
- 4 (M) LIMITED PARTNERSHIPS.
- 5 (N) OTHER ASSETS IN WHATEVER FORM.
- 6 (5) A SWORN STATEMENT ORDERED UNDER SUBSECTION (3) SHALL
- 7 LIST AT LEAST ALL OF THE FOLLOWING LIABILITIES:
- 8 (A) SECURED AND UNSECURED CREDITS.
- 9 (B) TAXES.
- 10 (C) RENTS AND SECURITY DEPOSITS.
- 11 (D) ALL OTHER LIABILITIES IN WHATEVER FORM.
- 12 SEC. 5075. (1) AN ARBITRATOR, ATTORNEY, OR PARTY IN AN
- 13 ARBITRATION PROCEEDING UNDER THIS CHAPTER SHALL DISCLOSE ANY CIR-
- 14 CUMSTANCE THAT MAY AFFECT AN ARBITRATOR'S IMPARTIALITY, INCLUD-
- 15 ING, BUT NOT LIMITED TO, BIAS, A FINANCIAL OR PERSONAL INTEREST
- 16 IN THE OUTCOME OF THE ARBITRATION, OR A PAST OR PRESENT BUSINESS
- 17 OR PROFESSIONAL RELATIONSHIP WITH A PARTY OR ATTORNEY. UPON DIS-
- 18 CLOSURE OF SUCH A CIRCUMSTANCE, A PARTY MAY REQUEST DISQUALIFICA-
- 19 TION OF THE ARBITRATOR AND SHALL MAKE THAT REQUEST AS SOON AS
- 20 PRACTICABLE AFTER THE DISCLOSURE. IF THE ARBITRATOR DOES NOT
- 21 WITHDRAW WITHIN 14 DAYS AFTER A REQUEST FOR DISQUALIFICATION, THE
- 22 PARTY MAY FILE A MOTION FOR DISQUALIFICATION WITH THE CIRCUIT
- 23 COURT.
- 24 (2) THE CIRCUIT COURT SHALL HEAR A MOTION UNDER
- 25 SUBSECTION (1) WITHIN 21 DAYS AFTER THE MOTION IS FILED. IF THE
- 26 COURT FINDS THAT THE ARBITRATOR IS DISQUALIFIED, THE COURT MAY
- 27 APPOINT ANOTHER ARBITRATOR AGREED TO BY THE PARTIES OR MAY VOID

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1 THE ARBITRATION AGREEMENT AND PROCEED AS IF ARBITRATION HAD NOT  
2 BEEN ORDERED.

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