

Act No. 419
Public Acts of 2000
Approved by the Governor
January 8, 2001
Filed with the Secretary of State
January 8, 2001
EFFECTIVE DATE: March 28, 2001

**STATE OF MICHIGAN
90TH LEGISLATURE
REGULAR SESSION OF 2000**

Introduced by Reps. Switalski, Wojno, Rivet, Lemmons, Jamnick, Hansen, Woodward, Vear, Bovin,
Basham and O'Neil

ENROLLED HOUSE BILL No. 4552

AN ACT to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," (MCL 600.101 to 600.9948) by adding chapter 50B.

The People of the State of Michigan enact:

CHAPTER 50B.

DOMESTIC RELATIONS ARBITRATION

Sec. 5070. (1) This chapter provides for and governs arbitration in domestic relations matters. Arbitration proceedings under this chapter are also governed by court rule except to the extent those provisions are modified by the arbitration agreement or this chapter. This chapter controls if there is a conflict 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.

Sec. 5071. Parties to an action for divorce, annulment, separate maintenance, or child support, custody, or parenting time, or to a postjudgment proceeding related to such an action, may stipulate to binding arbitration by a signed agreement that specifically provides for an award with respect to 1 or more of the following issues:

- (a) Real and personal property.
- (b) Child custody.
- (c) Child support, subject to the restrictions and requirements in other law and court rule as provided in this act.
- (d) Parenting time.
- (e) Spousal support.
- (f) Costs, expenses, and attorney fees.
- (g) Enforceability of prenuptial and postnuptial agreements.
- (h) Allocation of the parties' responsibility for debt as between the parties.
- (i) Other contested domestic relations matters.

Sec. 5072. (1) The court shall not order a party to participate in arbitration unless each party to the domestic relations matter acknowledges, in writing or on the record, that he or she has been informed in plain language of all of the following:

- (a) Arbitration is voluntary.
- (b) Arbitration is binding and the right of appeal is limited.
- (c) Arbitration is not recommended for cases involving domestic violence.
- (d) Arbitration may not be appropriate in all cases.
- (e) The arbitrator's powers and duties are delineated in a written arbitration agreement that all parties must sign before arbitration commences.
- (f) During arbitration, the arbitrator has the power to decide each issue assigned to arbitration under the arbitration agreement. The court will, however, enforce the arbitrator's decisions on those issues.
- (g) The party may consult with an attorney before entering into the arbitration process or may choose to be represented by an attorney throughout the entire process.
- (h) If the party cannot afford an attorney, the party may wish to seek free legal services, which may or may not be available.
- (i) A party to arbitration will be responsible, either solely or jointly with other parties, to pay for the cost of the arbitration, including fees for the arbitrator's services. In comparison, a party does not pay for the court to hear and decide an issue, except for payment of filing and other court fees prescribed by statute or court rule for which the party is responsible regardless of the use of arbitration.

(2) If either party is subject to a personal protection order involving domestic violence or if, in the pending domestic relations matter, there are allegations of domestic violence or child abuse, the court shall not refer the case to arbitration unless each party to the domestic relations matter waives this exclusion. A party cannot waive this exclusion from arbitration unless the party is represented by an attorney throughout the action, including the arbitration process, and the party is informed on the record concerning all of the following:

- (a) The arbitration process.
- (b) The suspension of the formal rules of evidence.
- (c) The binding nature of arbitration.

(3) If, after receiving the information required under subsection (2), a party decides to waive the domestic violence exclusion from arbitration, the court and the party's attorney shall ensure that the party's waiver is informed and voluntary. If the court finds a party's waiver is informed and voluntary, the court shall place those findings and the waiver on the record.

- (4) A child abuse or neglect matter is specifically excluded from arbitration under this act.

Sec. 5073. (1) Arbitration under this chapter may be heard by a single arbitrator or by a panel of 3 arbitrators. The court shall appoint an arbitrator agreed to by the parties if the arbitrator is qualified under subsection (2) and consents to the appointment. An arbitrator appointed under this chapter is immune from liability in regard to the arbitration proceeding to the same extent as the circuit judge who has jurisdiction of the action that is submitted to arbitration.

(2) The court shall not appoint an arbitrator under this chapter unless the individual meets all of the following qualifications:

- (a) Is an attorney in good standing with the state bar of Michigan.

(b) Has practiced as an attorney for not less than 5 years before the appointment and has demonstrated an expertise in the area of domestic relations law.

(c) Has received training in the dynamics of domestic violence and in handling domestic relations matters that have a history of domestic violence.

(3) The office of the friend of the court, an alternative dispute resolution clerk, or another individual designated by the chief judge may make available a list of arbitrators who meet the qualifications of this section. The list shall include a summary of each arbitrator's qualifications and experience.

Sec. 5074. (1) An arbitrator appointed under this chapter shall hear and make an award on each issue submitted for arbitration under the arbitration agreement subject to the provisions of the agreement.

(2) An arbitrator appointed under this chapter has all of the following powers and duties:

(a) To administer an oath or issue a subpoena as provided by court rule.

(b) To issue an order regarding discovery proceedings relative to the issues being arbitrated.

(c) Subject to provisions of the arbitration agreement, to issue an order allocating arbitration fees and expenses between the parties or to 1 party, including imposing a fee or expense on a party or attorney as a sanction.

(d) To issue an order requiring a party to produce specified information that the arbitrator considers relevant to, and helpful in resolving, an issue subject to the arbitration.

(3) If the arbitrator considers it relevant to an issue being arbitrated, the arbitrator may order the filing of sworn statements that identify each party's place of employment and other sources of income and that list the assets and liabilities of each party. The arbitrator shall not release the sworn statements required under this section until after all parties have filed those sworn statements. The arbitrator shall attempt to release the sworn statements to the opposite parties at approximately the same time.

(4) A sworn statement ordered under subsection (3) shall list at least all of the following assets:

(a) Real property.

(b) Checking and savings account balances, regardless of the form in which the money is held.

(c) Stocks and bonds.

(d) Income tax refunds due the parties.

(e) Life insurance, including cash value and amount payable at death.

(f) Loans held as a creditor or money owed to the parties in whatever form.

(g) Retirement funds and pension benefits.

(h) Professional licenses.

(i) Motor vehicles, boats, mobile homes, or any other type of vehicle including untitled vehicles.

(j) Extraordinary tools of a trade.

(k) Cemetery lots.

(l) Ownership interests in businesses.

(m) Limited partnerships.

(n) Other assets in whatever form.

(5) A sworn statement ordered under subsection (3) shall list at least all of the following liabilities:

(a) Secured and unsecured credits.

(b) Taxes.

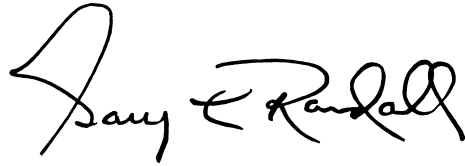
(c) Rents and security deposits.

(d) All other liabilities in whatever form.

Sec. 5075. (1) An arbitrator, attorney, or party in an arbitration proceeding under this chapter shall disclose any circumstance that may affect an arbitrator's impartiality, including, but not limited to, bias, a financial or personal interest in the outcome of the arbitration, or a past or present business or professional relationship with a party or attorney. Upon disclosure of such a circumstance, a party may request disqualification of the arbitrator and shall make that request as soon as practicable after the disclosure. If the arbitrator does not withdraw within 14 days after a request for disqualification, the party may file a motion for disqualification with the circuit court.

(2) The circuit court shall hear a motion under subsection (1) within 21 days after the motion is filed. If the court finds that the arbitrator is disqualified, the court may appoint another arbitrator agreed to by the parties or may void the arbitration agreement and proceed as if arbitration had not been ordered.

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



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Clerk of the House of Representatives.



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Secretary of the Senate.

Approved

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Governor.