

House File 2277 - Introduced

HOUSE FILE 2277
BY DUNWELL and BEHN

A BILL FOR

- 1 An Act creating the uniform family law arbitration Act.
- 2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

unofficial

1 Section 1. NEW SECTION. **598A.1 Short title.**

2 This chapter shall be known and may be cited as the "*Uniform*
3 *Family Law Arbitration Act*".

4 Sec. 2. NEW SECTION. **598A.2 Definitions.**

5 As used in this chapter, unless the context otherwise
6 requires:

7 1. "*Arbitration agreement*" means an agreement which subjects
8 a family law dispute to arbitration.

9 2. "*Arbitration organization*" means an association, agency,
10 board, commission, or other entity which is neutral and
11 initiates, sponsors, or administers an arbitration or is involved
12 in the selection of an arbitrator.

13 3. "*Arbitrator*" means an individual selected or appointed,
14 alone or with others, to make an award in a family law dispute
15 which is subject to an arbitration agreement.

16 4. "*Award*" means an interim award, temporary order, or final
17 disposition of a family law dispute by an arbitrator.

18 5. "*Child custody dispute*" means a family law dispute
19 regarding legal custody, physical custody, parenting plans,
20 parenting time, or visitation of a child.

21 6. "*Child support dispute*" means a family law dispute
22 regarding financial support of a child.

23 7. "*Court*" means a district court which has jurisdiction over
24 a family law dispute.

25 8. "*Family law dispute*" means a contested issue arising under
26 chapter 598, 600B, or 600C. "*Family law dispute*" does not include
27 an issue under section 598A.3, subsection 2.

28 9. "*Party*" means an individual who signs an arbitration
29 agreement and whose rights will be determined by an award.

30 10. "*Person*" means an individual, estate, business or
31 nonprofit entity, public corporation, government or governmental
32 subdivision, agency, or instrumentality or any other legal
33 entity.

34 11. "*Protection order*" means an injunction or other order,
35 issued under the domestic violence, family violence, or stalking

1 laws of the issuing jurisdiction, to prevent an individual from
2 engaging in a violent or threatening act against, harassment of,
3 contact, or communication with or being in physical proximity to,
4 another individual who is a party or a child under the custodial
5 responsibility of a party.

6 12. "Record", used as a noun, means information that is
7 inscribed on a tangible medium or that is stored in an electronic
8 or other medium and is retrievable in perceivable form.

9 13. "Sign" means, with present intent to authenticate or
10 adopt a record, any of the following:

11 a. To execute or adopt a tangible symbol.

12 b. To attach to or logically associate with the record an
13 electronic symbol, sound, or process.

14 14. "State" means a state of the United States, the District
15 of Columbia, Puerto Rico, the United States Virgin Islands, or
16 any territory or insular possession subject to the jurisdiction
17 of the United States. "State" includes a federally recognized
18 Indian tribe.

19 Sec. 3. NEW SECTION. **598A.3 Scope.**

20 1. Except as provided in subsection 2, this chapter governs
21 arbitration of a family law dispute.

22 2. This chapter does not authorize an arbitrator to make an
23 award that does any of the following:

24 a. Grants legal separation, divorce, dissolution of marriage,
25 or annulment.

26 b. Terminates parental rights.

27 c. Grants an adoption or a guardianship of a child or
28 protected person.

29 d. Determines the status of dependency of a child under
30 chapter 232.

31 e. Determines the support of a child under chapter 252B,
32 252E, 252F, or 252H, or if support payments have been assigned to
33 the department of health and human services pursuant to section
34 234.39 or 239B.6.

35 Sec. 4. NEW SECTION. **598A.4 Applicable law.**

1 1. a. Subject to paragraph "b", the law applicable to
2 arbitration is chapter 679A.

3 b. If there is a conflict between chapter 679A and this
4 chapter, this chapter controls.

5 2. In determining the merits of a family law dispute, an
6 arbitrator shall apply the law of this state, including its
7 choice of law rules.

8 Sec. 5. dNEW SECTION. **598A.5 Arbitration agreements.**

9 1. An arbitration agreement must do the following:

10 a. Be in a record signed by the parties.

11 b. Identify the arbitrator, an arbitration organization, or a
12 method of selecting an arbitrator.

13 c. Identify the family law dispute the parties intend to
14 arbitrate.

15 2. Except as otherwise provided in subsection 3, an agreement
16 in a record to arbitrate a family law dispute that arises between
17 the parties before, at the time, or after the agreement is made
18 is valid and enforceable as any other contract and irrevocable
19 except on a ground that exists at law or in equity for the
20 revocation of a contract.

21 3. An agreement to arbitrate a child custody dispute or
22 child support dispute that arises between the parties after the
23 agreement is made is unenforceable unless any of the following
24 apply:

25 a. The parties affirm the agreement in a record after the
26 dispute arises.

27 b. The agreement was entered during a family law proceeding
28 and the court approved or incorporated the agreement in an order
29 issued in the proceeding.

30 4. If a party objects to arbitration on the grounds the
31 arbitration agreement is unenforceable or the agreement does not
32 include a family law dispute, the court shall decide whether the
33 agreement is enforceable or includes the family law dispute.

34 Sec. 6. NEW SECTION. **598A.6 Notice of arbitration.**

35 A party shall initiate arbitration by giving notice to

1 arbitrate to the other party in the manner specified in the
2 arbitration agreement or, in the absence of a specified manner,
3 under section 679A.15.

4 Sec. 7. NEW SECTION. **598A.7 Motion for judicial relief.**

5 1. A motion for judicial relief under this chapter shall be
6 made to the court in which a proceeding is pending involving a
7 family law dispute subject to arbitration or, if no proceeding
8 is pending, a court with jurisdiction over the parties and the
9 subject matter.

10 2. On motion by a party, the court may compel arbitration
11 if the parties have entered into an arbitration agreement that
12 complies with section 598A.5 unless the court determines under
13 section 598A.12 that the arbitration should not proceed.

14 3. On motion of a party, the court shall terminate
15 arbitration if the court determines any of the following:

16 a. The agreement to arbitrate is unenforceable.

17 b. The family law dispute is not subject to arbitration.

18 c. Under section 598A.12, the arbitration should not proceed.

19 4. Unless prohibited by an arbitration agreement, on motion
20 of a party, the court may order consolidation of separate
21 arbitrations involving the same parties and a common issue of law
22 or fact if necessary for the fair and expeditious resolution of
23 the family law dispute.

24 Sec. 8. NEW SECTION. **598A.8 Qualification and selection of**
25 **arbitrator.**

26 1. Except as otherwise provided in subsection 2, unless
27 waived in a record by the parties, an arbitrator must be all of
28 the following:

29 a. An attorney at law, a former attorney at law on inactive
30 status, or a retired judge.

31 b. Have successfully completed a combined five hours of
32 instruction in an accredited continuing legal education course on
33 domestic violence and child abuse.

34 2. The identification in the arbitration agreement of an
35 arbitrator, arbitration organization, or method of selection of

1 the arbitrator controls.

2 3. If an arbitrator is unable or unwilling to act or if the
3 agreed-upon method of selecting an arbitrator fails, on motion of
4 a party, the court shall select an arbitrator.

5 Sec. 9. NEW SECTION. **598A.9 Disclosure by arbitrator —**
6 **disqualification.**

7 1. Before agreeing to serve as an arbitrator, an individual,
8 after making reasonable inquiry, shall disclose to all parties
9 any known fact a reasonable person would believe is likely to
10 affect any of the following:

11 a. The impartiality of the arbitrator, including bias, a
12 financial or personal interest in the outcome of the arbitration,
13 or an existing or past relationship with a party, attorney
14 representing a party, or witness.

15 b. The arbitrator's ability to make a timely award.

16 2. a. An arbitrator, the parties, and the attorneys
17 representing the parties have a continuing obligation to disclose
18 to all parties any known fact a reasonable person would believe
19 is likely to affect the impartiality of the arbitrator or the
20 arbitrator's ability to make a timely award.

21 b. The arbitrator shall disclose, and provide in writing to
22 the parties, the amount of initial fee, any hourly rate to be
23 charged, the process for invoices and payment for services and
24 information on the arbitration process, specifically including
25 how to terminate the arbitration.

26 3. An objection to selection or continued service of
27 an arbitrator and a motion for a stay of arbitration and
28 disqualification of the arbitrator shall be made under section
29 598A.7.

30 4. If a disclosure required by subsection 1, paragraph "a",
31 or subsection 2 is not made, the court may do any of the
32 following:

33 a. On motion of a party not later than fifteen days after
34 the failure to disclose is known, or by the exercise of
35 reasonable care should have been known to the party, suspend the

1 arbitration.

2 b. On timely motion of party, vacate an award under section
3 598A.19, subsection 1, paragraph "b".

4 c. If an award has been confirmed, grant other appropriate
5 relief under law of this state other than this chapter.

6 5. If the parties agree to discharge an arbitrator or the
7 arbitrator is disqualified, the parties by agreement may select a
8 new arbitrator or request the court to select another arbitrator
9 as provided for in section 598A.8.

10 Sec. 10. NEW SECTION. **598A.10 Party participation.**

11 1. A party may do all of the following:

12 a. Be represented in an arbitration by counsel.

13 b. Be accompanied by an individual who will not be called as
14 a witness or act as an advocate.

15 c. Participate in the arbitration to the full extent
16 permitted under section 598A.13 and chapter 679A.

17 2. A party or representative of a party shall not communicate
18 ex parte with the arbitrator except to the extent allowed in a
19 family law proceeding for communication with a judge.

20 Sec. 11. NEW SECTION. **598A.11 Temporary order or award.**

21 1. Before an arbitrator is selected and able to act, on
22 motion of a party, the court may enter a temporary order under
23 section 598.10 or 600B.40A and the applicable Iowa rules of civil
24 procedure.

25 2. After an arbitrator is selected, all of the following
26 apply:

27 a. The arbitrator may make a temporary award under section
28 598.10 or 600B.40A and the applicable Iowa rules of civil
29 procedure.

30 b. If the matter is urgent and the arbitrator is not able to
31 act in a timely manner or provide an adequate remedy, on motion
32 of a party, the court may enter a temporary order.

33 3. On motion of a party, before the court confirms a final
34 award, the court, under section 598A.16, 598A.18, or 598A.19, may
35 confirm, correct, vacate, or amend a temporary award made under

1 subsection 2, paragraph "a".

2 4. On motion of a party, the court may enforce a subpoena
3 or interim award issued by an arbitrator for the fair and
4 expeditious disposition of the arbitration.

5 Sec. 12. NEW SECTION. **598A.12 Protection of party or**
6 **child.**

7 1. a. This subsection applies if a party is subject to
8 a protection order or the arbitrator determines there is
9 a reasonable basis to believe a party is the victim of
10 domestic violence or a party's safety or ability to participate
11 effectively in arbitration is otherwise at risk.

12 b. If the conditions described in paragraph "a" are met, the
13 arbitrator shall stay the arbitration and refer the parties to
14 court. The arbitration shall not proceed unless the party at
15 risk affirms the arbitration agreement in a record and the court
16 determines all of the following are true:

17 (1) The affirmation is informed and voluntary.

18 (2) Arbitration is not inconsistent with the protection
19 order.

20 (3) Reasonable procedures are in place to protect the party
21 from risk of harm, harassment, or intimidation.

22 2. If the arbitrator determines that there is a reasonable
23 basis to believe a child who is the subject of a child custody
24 dispute is abused or neglected, the arbitrator shall terminate
25 the arbitration of the child custody dispute and report the abuse
26 or neglect to the court, or to another appropriate authority.

27 3. An arbitrator may make a temporary award to protect a
28 party or child from harm, harassment, or intimidation.

29 4. On motion of a party, the court may stay arbitration and
30 review a determination or temporary award under this section.

31 5. This section supplements remedies available under law of
32 this state other than this chapter for the protection of victims
33 of domestic violence, family violence, stalking, harassment, and
34 similar abuse.

35 Sec. 13. NEW SECTION. **598A.13 Powers and duties of**

1 **arbitrator.**

2 1. An arbitrator shall conduct an arbitration in a manner
3 the arbitrator considers appropriate for a fair and expeditious
4 disposition of the family law dispute.

5 2. An arbitrator shall provide each party a right to be
6 heard, to present evidence material to the family law dispute,
7 and to cross-examine witnesses.

8 3. Unless the parties otherwise agree in a record, an
9 arbitrator may do all of the following:

10 a. Select the rules for conducting the arbitration.

11 b. Hold a conference with the parties before a hearing.

12 c. Determine the date, time, and place of a hearing.

13 d. Require a party to provide all of the following:

14 (1) A copy of a relevant court order.

15 (2) Information required to be disclosed in a family law
16 proceeding under chapters 598 and 600B and the applicable Iowa
17 rules of civil procedure.

18 (3) A proposed award which addresses each issue in
19 arbitration.

20 e. Interview a child who is the subject of a child custody
21 dispute.

22 f. Appoint a private expert at the expense of the parties.

23 g. Administer an oath or affirmation and issue a subpoena for
24 the attendance of a witness or the production of documents and
25 other evidence at a hearing.

26 h. Permit and compel discovery concerning the family law
27 dispute and determine the date, time, and place of discovery.

28 i. Determine the admissibility and weight of evidence.

29 j. Permit deposition of a witness for use as evidence at a
30 hearing.

31 k. For good cause, prohibit a party from disclosing
32 information.

33 l. Appoint an attorney, guardian ad litem, or other
34 representative for a child at the expense of the parties.

35 m. Impose a procedure to protect a party or child from risk

1 of harm, harassment, or intimidation.

2 n. Allocate arbitration fees, attorney fees, expert witness
3 fees, and other costs to the parties.

4 o. Impose a sanction on a party for bad faith or misconduct
5 during the arbitration according to standards governing
6 imposition of a sanction for litigant misconduct in a family law
7 proceeding.

8 4. An arbitrator shall not allow ex parte communication
9 except to the extent allowed in a family law proceeding for
10 communication with a judge.

11 Sec. 14. NEW SECTION. **598A.14 Recording of hearing.**

12 An arbitration hearing need not be recorded unless required
13 by the arbitrator, provided by the arbitration agreement, or
14 requested by a party.

15 Sec. 15. NEW SECTION. **598A.15 Award.**

16 1. An arbitrator shall make an award in a record, dated and
17 signed by the arbitrator. The arbitrator shall give notice of
18 the award to each party by a method agreed on by the parties
19 or, if the parties have not agreed on a method, under section
20 679A.15.

21 2. a. Except as provided in paragraph "b", the arbitrator
22 shall make written findings explaining an award.

23 b. Except as provided in subsection 3, the parties, by
24 agreement, may stipulate that paragraph "a" does not apply.

25 3. Notwithstanding subsection 2, paragraph "b", for an award
26 determining a child custody dispute or a child support dispute,
27 the arbitrator shall state the reasons on which the award is
28 based as required by chapter 598.

29 4. An award is not enforceable as a judgment until confirmed
30 under section 598A.16.

31 Sec. 16. NEW SECTION. **598A.16 Confirmation of award.**

32 1. After an arbitrator gives notice under section 598A.15,
33 subsection 1, or makes a correction under section 598A.17, a
34 party may move the court for an order confirming the award or,
35 when applicable, entry of the decree of dissolution of marriage

1 incorporating the award.

2 2. Except as set forth in subsection 3, the court shall
3 confirm an award if any of the following apply:

4 a. The parties agree in a record to confirmation.

5 b. All of the following apply:

6 (1) The time period under section 598A.18 has expired, and no
7 motion is pending under section 598A.18.

8 (2) The time period under section 598A.19, subsection 5, has
9 expired, and no motion is pending under section 598A.19.

10 3. If an award determines a child custody dispute or a
11 child support dispute, the court shall confirm the award under
12 subsection 2 if the court finds, after a review of the record if
13 necessary, that the award on its face does all of the following:

14 a. Complies with section 598A.15 and chapter 598 or 600B.

15 b. Is in the best interests of the child.

16 4. On confirmation, an award is enforceable as a judgment.

17 5. Unless the parties otherwise agree, the arbitration
18 proceedings and the arbitration award are confidential. If
19 either party includes, in the motion under subsection 1, a
20 request that the arbitration award be filed under seal, the court
21 shall file the award under seal.

22 Sec. 17. NEW SECTION. **598A.17 Correction by arbitrator of**
23 **unconfirmed award.**

24 On motion of a party made not later than twenty days after
25 an arbitrator gives notice under section 598A.15, subsection
26 1, the arbitrator may correct the award if the award has an
27 evident mathematical miscalculation or an evident mistake in the
28 description of a person, thing, or property or to clarify the
29 award.

30 Sec. 18. NEW SECTION. **598A.18 Correction or confirmation by**
31 **court of unconfirmed award.**

32 1. On motion of a party made not later than thirty days after
33 an arbitrator gives notice under section 598A.15, subsection 1,
34 or makes a correction under section 598A.17, the court shall
35 correct the award if any of the following are true:

1 a. The award has an evident mathematical miscalculation or
2 an evident mistake in the description of a person, thing, or
3 property.

4 b. The arbitrator made an award on a family law dispute
5 not submitted to the arbitrator, and the award may be corrected
6 without affecting the merits of the issues submitted.

7 2. A motion under this section to correct an award may be
8 joined with a motion to vacate or amend the award under section
9 598A.19.

10 3. Unless a motion under section 598A.19 is pending, the
11 court may confirm a corrected award under section 598A.16.

12 Sec. 19. NEW SECTION. **598A.19 Vacation, amendment, or**
13 **confirmation by court of unconfirmed award.**

14 1. Subject to subsection 2, on motion of a party, the court
15 shall vacate an unconfirmed award if the moving party establishes
16 any of the following:

17 a. The award was procured by corruption, fraud, or other
18 undue means.

19 b. There was any of the following:

20 (1) Evident partiality by the arbitrator.

21 (2) Corruption by the arbitrator.

22 (3) Misconduct by the arbitrator substantially prejudicing
23 the rights of a party.

24 c. The arbitrator refused to postpone a hearing on showing of
25 sufficient cause for postponement, refused to consider evidence
26 material to the controversy, or otherwise conducted the hearing
27 contrary to section 598A.13, so as to prejudice substantially the
28 rights of a party.

29 d. The arbitrator exceeded the arbitrator's powers.

30 e. No arbitration agreement exists, unless the moving party
31 participated in the arbitration without making a motion under
32 section 598A.7 not later than the beginning of the first
33 arbitration hearing.

34 f. The arbitration was conducted without proper notice under
35 section 598A.6, so as to prejudice substantially the rights of a

1 party.

2 2. Subject to subsection 3, on motion of a party, the court
3 shall vacate an unconfirmed award which determines a child
4 custody dispute or a child support dispute if the moving party
5 establishes any of the following:

6 a. That the award does not comply with section 598A.15 or
7 chapter 598 or 600B or is contrary to the best interests of the
8 child.

9 b. That the statement of reasons in the award is inadequate
10 for the court to review the award.

11 c. That a ground for vacating the award under subsection 1
12 exists.

13 3. If an award is subject to vacation under subsection 2,
14 paragraph "a", on motion of a party, the court may amend the
15 award, if amending rather than vacating is in the best interests
16 of the child.

17 4. The court may determine a motion under subsection 2 or 3
18 as follows:

19 a. Based on the record of the arbitration hearing, if the
20 hearing was recorded, and facts occurring after the hearing.

21 b. If there is no record, de novo.

22 5. A motion under this section to vacate or amend an award
23 must be filed not later than thirty days after the following:

24 a. Except as set forth in paragraph "b", after an arbitrator
25 gives notice under section 598A.15, subsection 1, or makes a
26 correction under section 598A.17.

27 b. For a motion under subsection 1, paragraph "a", the ground
28 of corruption, fraud, or other undue means is known or, by the
29 exercise of reasonable care, should be known to the party filing
30 the motion.

31 6. If the court under this section vacates an award for
32 a reason other than the absence of an enforceable arbitration
33 agreement, the court may order a rehearing before an arbitrator.
34 The rehearing shall be before another arbitrator if the reason
35 for vacating the award is any of the following:

1 a. The award was procured by corruption, fraud, or other
2 undue means.

3 b. There was evident partiality, corruption, or misconduct by
4 the arbitrator.

5 7. If the court under this section denies a motion to vacate
6 or amend an award, unless a motion is pending under section
7 598A.18, the court may confirm the award under section 598A.16.

8 Sec. 20. NEW SECTION. **598A.20 Clarification of confirmed**
9 **award.**

10 If the meaning or effect of an award confirmed under section
11 598A.16 is in dispute, the parties may do any of the following:

12 1. Agree to arbitrate the family law dispute before the
13 original arbitrator or another arbitrator.

14 2. Proceed under rule of civil procedure 1.1101.

15 Sec. 21. NEW SECTION. **598A.21 Judgment on award.**

16 1. On granting an order confirming, vacating without
17 directing a rehearing, or amending an award under this chapter,
18 the court shall enter judgment in conformity with the order.

19 2. On motion of a party, the court shall order that a
20 document or part of the arbitration record be sealed or redacted
21 to prevent public disclosure of all or part of the record or
22 award.

23 Sec. 22. NEW SECTION. **598A.22 Modification of confirmed**
24 **award or judgment.**

25 If a party requests under law of this state other than this
26 chapter modification of an award confirmed under section 598A.16
27 or of a judgment on an award, based on a fact occurring after
28 confirmation:

29 1. The parties shall proceed under the dispute resolution
30 method specified in the award or judgment.

31 2. If the award or judgment does not specify a dispute
32 resolution method, the parties may do any of the following:

33 a. Agree to arbitrate the modification before the original
34 arbitrator or another arbitrator.

35 b. Absent agreement, proceed under chapter 598 or 600B and

1 the applicable Iowa rules of civil procedure.

2 Sec. 23. NEW SECTION. **598A.23 Enforcement of confirmed**
3 **award.**

4 1. A court shall enforce an award confirmed under section
5 598A.16, including a temporary award, in the manner and to the
6 same extent as any other order or judgment of a court.

7 2. A court shall enforce an arbitration award in a family law
8 dispute confirmed by a court in another state in the manner and
9 to the same extent as any other order or judgment from another
10 state.

11 Sec. 24. NEW SECTION. **598A.24 Appeal.**

12 1. An appeal may be taken under this chapter from all of the
13 following:

14 a. An order granting or denying a motion to compel
15 arbitration.

16 b. An order granting or denying a motion to stay arbitration.

17 c. An order confirming or denying confirmation of an award.

18 d. An order correcting an award.

19 e. An order vacating an award without directing a rehearing.

20 f. A final judgment.

21 2. An appeal under this section may be taken as from an order
22 or a judgment in a civil action.

23 Sec. 25. NEW SECTION. **598A.25 Immunity of arbitrator.**

24 1. An arbitrator or arbitration organization acting in that
25 capacity in a family law dispute is immune from civil liability
26 to the same extent as a judge of a court of this state acting in
27 a judicial capacity.

28 2. The immunity provided by this section supplements immunity
29 under chapter 669.

30 3. An arbitrator's failure to make a disclosure under section
31 598A.9 does not cause the arbitrator to lose immunity under this
32 section.

33 4. a. Except as set forth in paragraph "b", an arbitrator is
34 not competent to testify, and shall not be required to produce
35 records, in a judicial, administrative, or similar proceeding

1 about a statement, conduct, decision, or ruling occurring during
2 an arbitration, to the same extent as a judge of a court of this
3 state acting in a judicial capacity.

4 b. This subsection does not apply to any of the following:

5 (1) To the extent disclosure is necessary to determine a
6 claim by the arbitrator or arbitration organization against a
7 party to the arbitration.

8 (2) To a hearing on a motion under section 598A.19,
9 subsection 1, paragraph "a" or "b", if there is prima facie
10 evidence that a ground for vacating the award exists.

11 5. If a person commences a civil action against an arbitrator
12 arising from the services of the arbitrator or seeks to compel
13 the arbitrator to testify or produce records in violation of
14 subsection 4 and the court determines that the arbitrator is
15 immune from civil liability or is not competent to testify
16 or required to produce the records, the court shall award the
17 arbitrator reasonable attorney fees and costs.

18 Sec. 26. NEW SECTION. **598A.26 Uniformity of application and**
19 **construction.**

20 In applying and construing this uniform act, consideration
21 must be given to the need to promote uniformity of the law with
22 respect to its subject matter among states that enact it.

23 Sec. 27. NEW SECTION. **598A.27 Relation to Electronic**
24 **Signatures in Global and National Commerce Act.**

25 To the extent permitted by section 102 of the federal
26 Electronic Signatures in Global and National Commerce Act, 15
27 U.S.C. §7002, this chapter may supersede provisions of that Act.

28 Sec. 28. NEW SECTION. **598A.28 Transitional provision.**

29 1. This chapter applies to arbitration of a family law
30 dispute under an arbitration agreement made on or after the
31 effective date of this Act.

32 2. If an arbitration agreement was made before the effective
33 date of this Act, the parties may agree in a record that this
34 chapter applies to the arbitration.

35

EXPLANATION

1 The inclusion of this explanation does not constitute agreement with
2 the explanation's substance by the members of the general assembly.

3 This bill creates the Iowa uniform family law arbitration Act.
4 The bill provides definitions, including the terms "arbitrator",
5 "child custody dispute", "child support dispute", and "family law
6 dispute".

7 The bill governs the arbitration in a family dispute but does
8 not allow an arbitrator to grant a legal separation, a divorce, a
9 dissolution of marriage, or an annulment; to terminate parental
10 rights, to grant an adoption or a guardianship of a child or
11 protected person; or to determine the status of dependency of a
12 child or the support of a child.

13 The bill provides that an arbitration agreement must be in
14 a record signed by the parties. The agreement must identify
15 the arbitrator, an arbitration organization, or a method of
16 selecting an arbitrator and identify the family law dispute the
17 parties intend to arbitrate. The bill provides that a family
18 law dispute that arises after the arbitration agreement is made
19 unenforceable unless the parties affirm the agreement in a record
20 after the dispute arises or the agreement was entered during a
21 family law proceeding and the court approved or incorporated the
22 agreement in an order issued in the proceeding. If there is an
23 objection to the arbitration agreement on the grounds that it is
24 unenforceable or the agreement does not involve a family dispute,
25 the court shall determine whether it is enforceable or includes
26 an appropriate dispute.

27 The bill provides that notice for arbitration shall be made
28 either in a manner agreed upon or by Code section 679A.15
29 (arbitration — applications to district court).

30 The bill requires motions for judicial relief to be filed with
31 the court with the appropriate jurisdiction. A party may file a
32 motion to compel arbitration by the court. The bill also allows
33 a party to file a motion for judicial relief to terminate an
34 arbitration. The bill allows upon motion of a party for the
35 court to order consolidation of separate arbitrations involving

1 the same parties and a common issue of law or fact if necessary
2 for resolution of the family law dispute.

3 The bill provides that an arbitrator must be an attorney at
4 law, a former attorney at law on inactive status, or a retired
5 judge and have successfully completed a combined five hours of
6 instruction in an accredited continuing legal education course on
7 domestic violence and child abuse.

8 The bill requires an arbitrator to disclose any information
9 a reasonable person would believe would affect the arbitrator's
10 impartiality. The arbitrator, the attorneys, and parties are
11 all required to disclose information that would change the
12 impartiality of the arbitrator or the arbitrator's ability to
13 make a timely award. The bill provides that if a timely
14 disclosure was not made, a party may file a motion to suspend the
15 arbitration no later than 15 days after such failure. The bill
16 provides that failure to disclose can also result in the vacating
17 of an award and other appropriate relief. Upon discharge of an
18 arbitrator, the parties may select a new arbitrator or request
19 that the court select one.

20 The bill allows a party to an arbitration to be represented
21 by counsel, be accompanied by an individual who will not be
22 used as a witness or advocate, and to fully participate in the
23 arbitration. Parties are not allowed to communicate ex parte
24 with the arbitrator.

25 The bill provides that prior to the selection of an
26 arbitrator, the court may enter a temporary order for the
27 family law dispute. After the selection of an arbitrator, the
28 arbitrator may make a temporary award.

29 The bill provides that if a party is subject to a protection
30 order and the arbitrator determines there is a reasonable
31 basis to believe a party is the victim of domestic violence
32 or a party's safety or ability to participate effectively in
33 arbitration is otherwise at risk, the arbitrator shall stay the
34 arbitration and refer the parties to court. The arbitration
35 shall not resume until the party at risk affirms the agreement

1 in a record and the court determines that the affirmation is
2 informed and voluntary, the arbitration is not inconsistent with
3 the protection order, and reasonable procedures are in place to
4 protect the party. The bill provides that if an arbitrator
5 reasonably believes that a child subject to the matter is abused
6 or neglected, the arbitration shall be terminated and the abuse
7 or neglect shall be reported to the court or another appropriate
8 authority.

9 The bill requires that the arbitrator conduct the arbitration
10 in a manner considered appropriate for a fair and expeditious
11 disposition. The bill provides the arbitrator the following
12 powers: to select the rules for the arbitration; conduct the
13 prehearing conferences and the hearing; administer oaths to
14 parties and witnesses; allow any party to conduct prehearing
15 discovery by interrogatories, deposition, requests for production
16 of documents, or other means; determine the admissibility
17 of evidence; and subpoena witnesses or documents upon the
18 arbitrator's own initiative or request of a party; the power
19 to meet with a child, appoint a representative for the child,
20 and impose procedures to protect a party or child from risk of
21 harm; and to sanction bad faith conduct according to state law
22 governing misconduct in family law proceedings.

23 The bill does not require an arbitration hearing to be
24 recorded.

25 The bill provides that an award shall be made in a record,
26 dated and signed by the arbitrator and the parties shall be
27 given notice. An award is not enforceable as a judgment until
28 confirmed by the court.

29 The bill requires the court to confirm an award given by
30 an arbitrator. The court shall confirm an award if all the
31 parties agree in a record to confirmation or the time period
32 to correct an unconfirmed award or vacate an award has expired.
33 The bill provides that if an award relates to a child custody
34 dispute or a child support dispute, the court shall confirm
35 the award if the court finds that the award complies with the

1 bill and Code chapter 598 (dissolution of marriage and domestic
2 relations) or 600B (paternity and obligation for support) and
3 is in the best interests of the child. The bill provides that
4 upon confirmation, the award is enforceable as a judgment and
5 that unless otherwise agreed upon by the parties, the arbitration
6 proceeds are confidential.

7 The bill allows the arbitrator, upon motion of a party
8 not later than 20 days after notice of the award, to make a
9 correction of an award. For an unconfirmed award, the parties
10 may make a motion for correction and a motion to amend or
11 vacate no later than 30 days after the arbitrator has given
12 notice of the award. The bill allows the court to vacate
13 an unconfirmed award if the moving party shows that the award
14 was procured by corruption, fraud, or other undue means; there
15 was an evident partiality by the arbitrator, corruption by
16 the arbitrator, or other misconduct by the arbitrator; the
17 arbitrator, refused to postpone a hearing, consider evidence
18 material to the controversy, or otherwise did not conduct the
19 hearing impartially; the arbitrator exceeded the arbitrator's
20 powers; no arbitration agreement exists; or the arbitration was
21 conducted without proper notice. In a child custody dispute, the
22 bill provides that the court shall vacate an unconfirmed award if
23 the moving party establishes that award does not comply with the
24 bill, Code chapter 600B (paternity and obligation for support),
25 or is contrary to the best interests of the child; the statement
26 of reasons in the award is inadequate for court review of the
27 award; or a ground for vacating the award under the bill exists.
28 The court is required to determine a motion in a child custody
29 dispute based on the record of the arbitration hearing and facts
30 occurring after the hearing. If there is no record for the
31 hearing, the court shall consider it de novo. The bill requires
32 that a motion to vacate or amend an award must be filed not later
33 than 30 days after an arbitrator gives notice of an award, the
34 arbitrator makes a correction to the award, or a party moves to
35 vacate the award.

1 The bill allows the parties to arbitrate any dispute arising
2 from the meaning or effect of a confirmed award.

3 The bill requires the court to enter a judgment after
4 confirming, vacating, or amending an award.

5 The bill provides that the parties may modify an award either
6 by the dispute resolution specified in the judgment or award or,
7 if the award or judgment does not specify a dispute-resolution
8 method, the parties may agree to arbitrate or proceed under the
9 relevant Code chapter.

10 The bill allows an order granting or denying a motion
11 to compel arbitration; granting or denying a motion to stay
12 arbitration; confirming or denying confirmation of an award;
13 correcting an award; vacating an award without directing a
14 rehearing; and final judgment to be appealed.

15 The bill provides the arbitrator immunity from civil liability
16 for work on the arbitration with certain exceptions detailed in
17 the bill.

18 The bill applies to arbitration of a family law dispute under
19 an arbitration agreement made on or after the bill's effective
20 date. If an arbitration agreement was made before the bill's
21 effective date, parties may agree in a record that the bill's
22 provisions will apply to the arbitration.