

Senate Study Bill 3158 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON SCHULTZ)

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:

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,
10 agency, board, commission, or other entity which is neutral
11 and initiates, sponsors, or administers an arbitration or is
12 involved 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
24 over a family law dispute.

25 8. "*Family law dispute*" means a contested issue arising
26 under chapter 598, 600B, or 600C. "*Family law dispute*" does not
27 include 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
31 or nonprofit entity, public corporation, government or
32 governmental subdivision, agency, or instrumentality or any
33 other legal entity.

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

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

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

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

12 a. To execute or adopt a tangible symbol.

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

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

20 Sec. 3. NEW SECTION. 598A.3 Scope.

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

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

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

27 b. Terminates parental rights.

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

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

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

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

2 1. *a.* Subject to paragraph “*b*”, the law applicable to
3 arbitration is chapter 679A.

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

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

9 Sec. 5. NEW SECTION. **598A.5 Arbitration agreements.**

10 1. An arbitration agreement must do the following:

11 *a.* Be in a record signed by the parties.

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

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

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

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

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

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

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

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

2 A party shall initiate arbitration by giving notice to
3 arbitrate to the other party in the manner specified in the
4 arbitration agreement or, in the absence of a specified manner,
5 under section 679A.15.

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

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

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

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

- 18 *a.* The agreement to arbitrate is unenforceable.
19 *b.* The family law dispute is not subject to arbitration.
20 *c.* Under section 598A.12, the arbitration should not

21 proceed.

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

27 **Sec. 8. NEW SECTION. 598A.8 Qualification and selection of**
28 **arbitrator.**

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

32 *a.* An attorney at law, a former attorney at law on inactive
33 status, or a retired judge.

34 *b.* Have successfully completed a combined five hours of
35 instruction in an accredited continuing legal education course

1 on domestic violence and child abuse.

2 2. The identification in the arbitration agreement of an
3 arbitrator, arbitration organization, or method of selection of
4 the arbitrator controls.

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

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

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

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

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

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

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

29 3. An objection to selection or continued service of
30 an arbitrator and a motion for a stay of arbitration and
31 disqualification of the arbitrator shall be made under section
32 598A.7.

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

1 *a.* On motion of a party not later than fifteen days after
2 the failure to disclose is known, or by the exercise of
3 reasonable care should have been known to the party, suspend
4 the arbitration.

5 *b.* On timely motion of party, vacate an award under section
6 598A.19, subsection 1, paragraph "b".

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

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

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

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

15 *a.* Be represented in an arbitration by counsel.

16 *b.* Be accompanied by an individual who will not be called as
17 a witness or act as an advocate.

18 *c.* Participate in the arbitration to the full extent
19 permitted under section 598A.13 and chapter 679A.

20 2. A party or representative of a party shall not
21 communicate ex parte with the arbitrator except to the extent
22 allowed in a family law proceeding for communication with a
23 judge.

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

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

29 2. After an arbitrator is selected, all of the following
30 apply:

31 *a.* The arbitrator may make a temporary award under section
32 598.10 or 600B.40A and the applicable Iowa rules of civil
33 procedure.

34 *b.* If the matter is urgent and the arbitrator is not able to
35 act in a timely manner or provide an adequate remedy, on motion

1 of a party, the court may enter a temporary order.

2 3. On motion of a party, before the court confirms a final
3 award, the court, under section 598A.16, 598A.18, or 598A.19,
4 may confirm, correct, vacate, or amend a temporary award made
5 under subsection 2, paragraph "a".

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

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

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

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

20 (1) The affirmation is informed and voluntary.

21 (2) Arbitration is not inconsistent with the protection
22 order.

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

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

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

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

35 5. This section supplements remedies available under

1 law of this state other than this chapter for the protection
2 of victims of domestic violence, family violence, stalking,
3 harassment, and similar abuse.

4 Sec. 13. NEW SECTION. 598A.13 Powers and duties of
5 arbitrator.

6 1. An arbitrator shall conduct an arbitration in a manner
7 the arbitrator considers appropriate for a fair and expeditious
8 disposition of the family law dispute.

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

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

14 a. Select the rules for conducting the arbitration.

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

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

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

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

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

22 (3) A proposed award which addresses each issue in
23 arbitration.

24 e. Interview a child who is the subject of a child custody
25 dispute.

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

27 g. Administer an oath or affirmation and issue a subpoena
28 for the attendance of a witness or the production of documents
29 and other evidence at a hearing.

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

32 i. Determine the admissibility and weight of evidence.

33 j. Permit deposition of a witness for use as evidence at a
34 hearing.

35 k. For good cause, prohibit a party from disclosing

1 information.

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

4 *m.* Impose a procedure to protect a party or child from risk
5 of harm, harassment, or intimidation.

6 *n.* Allocate arbitration fees, attorney fees, expert witness
7 fees, and other costs to the parties.

8 *o.* Impose a sanction on a party for bad faith or misconduct
9 during the arbitration according to standards governing
10 imposition of a sanction for litigant misconduct in a family
11 law proceeding.

12 4. An arbitrator shall not allow ex parte communication
13 except to the extent allowed in a family law proceeding for
14 communication with a judge.

15 Sec. 14. NEW SECTION. 598A.14 Recording of hearing.

16 An arbitration hearing need not be recorded unless required
17 by the arbitrator, provided by the arbitration agreement, or
18 requested by a party.

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

20 1. An arbitrator shall make an award in a record, dated and
21 signed by the arbitrator. The arbitrator shall give notice of
22 the award to each party by a method agreed on by the parties
23 or, if the parties have not agreed on a method, under section
24 679A.15.

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

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

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

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

35 Sec. 16. NEW SECTION. 598A.16 Confirmation of award.

1 1. After an arbitrator gives notice under section 598A.15,
2 subsection 1, or makes a correction under section 598A.17, a
3 party may move the court for an order confirming the award or,
4 when applicable, entry of the decree of dissolution of marriage
5 incorporating the award.

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

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

9 b. All of the following apply:

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

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

14 3. If an award determines a child custody dispute or a
15 child support dispute, the court shall confirm the award under
16 subsection 2 if the court finds, after a review of the record
17 if necessary, that the award on its face does all of the
18 following:

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

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

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

22 5. Unless the parties otherwise agree, the arbitration
23 proceedings and the arbitration award are confidential. If
24 either party includes, in the motion under subsection 1, a
25 request that the arbitration award be filed under seal, the
26 court shall file the award under seal.

27 Sec. 17. NEW SECTION. 598A.17 Correction by arbitrator of
28 unconfirmed award.

29 On motion of a party made not later than twenty days after
30 an arbitrator gives notice under section 598A.15, subsection
31 1, the arbitrator may correct the award if the award has an
32 evident mathematical miscalculation or an evident mistake in
33 the description of a person, thing, or property or to clarify
34 the award.

35 Sec. 18. NEW SECTION. 598A.18 Correction or confirmation

1 **by court of unconfirmed award.**

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

6 *a.* The award has an evident mathematical miscalculation or
7 an evident mistake in the description of a person, thing, or
8 property.

9 *b.* The arbitrator made an award on a family law dispute not
10 submitted to the arbitrator, and the award may be corrected
11 without affecting the merits of the issues submitted.

12 2. A motion under this section to correct an award may be
13 joined with a motion to vacate or amend the award under section
14 598A.19.

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

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

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

22 *a.* The award was procured by corruption, fraud, or other
23 undue means.

24 *b.* There was any of the following:

25 (1) Evident partiality by the arbitrator.

26 (2) Corruption by the arbitrator.

27 (3) Misconduct by the arbitrator substantially prejudicing
28 the rights of a party.

29 *c.* The arbitrator refused to postpone a hearing on showing
30 of sufficient cause for postponement, refused to consider
31 evidence material to the controversy, or otherwise conducted
32 the hearing contrary to section 598A.13, so as to prejudice
33 substantially the rights of a party.

34 *d.* The arbitrator exceeded the arbitrator's powers.

35 *e.* No arbitration agreement exists, unless the moving

1 party participated in the arbitration without making a motion
2 under section 598A.7 not later than the beginning of the first
3 arbitration hearing.

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

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

11 *a.* That the award does not comply with section 598A.15 or
12 chapter 598 or 600B or is contrary to the best interests of the
13 child.

14 *b.* That the statement of reasons in the award is inadequate
15 for the court to review the award.

16 *c.* That a ground for vacating the award under subsection 1
17 exists.

18 3. If an award is subject to vacation under subsection
19 2, paragraph "a", on motion of a party, the court may amend
20 the award, if amending rather than vacating is in the best
21 interests of the child.

22 4. The court may determine a motion under subsection 2 or
23 3 as follows:

24 *a.* Based on the record of the arbitration hearing, if the
25 hearing was recorded, and facts occurring after the hearing.

26 *b.* If there is no record, de novo.

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

29 *a.* Except as set forth in paragraph "b", after an arbitrator
30 gives notice under section 598A.15, subsection 1, or makes a
31 correction under section 598A.17.

32 *b.* For a motion under subsection 1, paragraph "a", the
33 ground of corruption, fraud, or other undue means is known or,
34 by the exercise of reasonable care, should be known to the
35 party filing the motion.

1 6. If the court under this section vacates an award for a
2 reason other than the absence of an enforceable arbitration
3 agreement, the court may order a rehearing before an
4 arbitrator. The rehearing shall be before another arbitrator
5 if the reason for vacating the award is any of the following:

6 a. The award was procured by corruption, fraud, or other
7 undue means.

8 b. There was evident partiality, corruption, or misconduct
9 by the arbitrator.

10 7. If the court under this section denies a motion to vacate
11 or amend an award, unless a motion is pending under section
12 598A.18, the court may confirm the award under section 598A.16.

13 Sec. 20. NEW SECTION. 598A.20 Clarification of confirmed
14 award.

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

17 1. Agree to arbitrate the family law dispute before the
18 original arbitrator or another arbitrator.

19 2. Proceed under rule of civil procedure 1.1101.

20 Sec. 21. NEW SECTION. 598A.21 Judgment on award.

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

24 2. On motion of a party, the court shall order that a
25 document or part of the arbitration record be sealed or
26 redacted to prevent public disclosure of all or part of the
27 record or award.

28 Sec. 22. NEW SECTION. 598A.22 Modification of confirmed
29 award or judgment.

30 If a party requests under law of this state other than
31 this chapter modification of an award confirmed under section
32 598A.16 or of a judgment on an award, based on a fact occurring
33 after confirmation:

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

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

3 a. Agree to arbitrate the modification before the original
4 arbitrator or another arbitrator.

5 b. Absent agreement, proceed under chapter 598 or 600B and
6 the applicable Iowa rules of civil procedure.

7 Sec. 23. NEW SECTION. 598A.23 **Enforcement of confirmed
8 award.**

9 1. A court shall enforce an award confirmed under section
10 598A.16, including a temporary award, in the manner and to the
11 same extent as any other order or judgment of a court.

12 2. A court shall enforce an arbitration award in a family
13 law dispute confirmed by a court in another state in the manner
14 and to the same extent as any other order or judgment from
15 another state.

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

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

19 a. An order granting or denying a motion to compel
20 arbitration.

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

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

24 d. An order correcting an award.

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

26 f. A final judgment.

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

29 Sec. 25. NEW SECTION. 598A.25 **Uniformity of application
30 and construction.**

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

34 Sec. 26. NEW SECTION. 598A.26 **Relation to Electronic
35 Signatures in Global and National Commerce Act.**

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

5 Sec. 27. NEW SECTION. 598A.27 **Transitional provision.**

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

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

12 EXPLANATION

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

15 This bill creates the Iowa uniform family law arbitration
16 Act. The bill provides definitions, including the terms
17 "arbitrator", "child custody dispute", "child support dispute",
18 and "family law dispute".

19 The bill governs the arbitration in a family dispute but does
20 not allow an arbitrator to grant a legal separation, a divorce,
21 a dissolution of marriage, or an annulment; to terminate
22 parental rights, to grant an adoption or a guardianship of
23 a child or protected person; or to determine the status of
24 dependency of a child or the support of a child.

25 The bill provides that an arbitration agreement must be in
26 a record signed by the parties. The agreement must identify
27 the arbitrator, an arbitration organization, or a method of
28 selecting an arbitrator and identify the family law dispute
29 the parties intend to arbitrate. The bill provides that a
30 family law dispute that arises after the arbitration agreement
31 is made unenforceable unless the parties affirm the agreement
32 in a record after the dispute arises or the agreement was
33 entered during a family law proceeding and the court approved
34 or incorporated the agreement in an order issued in the
35 proceeding. If there is an objection to the arbitration

1 agreement on the grounds that it is unenforceable or the
2 agreement does not involve a family dispute, the court shall
3 determine whether it is enforceable or includes an appropriate
4 dispute.

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

8 The bill requires motions for judicial relief to be filed
9 with the court with the appropriate jurisdiction. A party
10 may file a motion to compel arbitration by the court. The
11 bill also allows a party to file a motion for judicial relief
12 to terminate an arbitration. The bill allows upon motion
13 of a party for the court to order consolidation of separate
14 arbitrations involving the same parties and a common issue
15 of law or fact if necessary for resolution of the family law
16 dispute.

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

22 The bill requires an arbitrator to disclose any information
23 a reasonable person would believe would affect the arbitrator's
24 impartiality. The arbitrator, the attorneys, and parties are
25 all required to disclose information that would change the
26 impartiality of the arbitrator or the arbitrator's ability
27 to make a timely award. The bill provides that if a timely
28 disclosure was not made, a party may file a motion to suspend
29 the arbitration no later than 15 days after such failure. The
30 bill provides that failure to disclose can also result in
31 the vacating of an award and other appropriate relief. Upon
32 discharge of an arbitrator, the parties may select a new
33 arbitrator or request that the court select one.

34 The bill allows a party to an arbitration to be represented
35 by counsel, be accompanied by an individual who will not be

1 used as a witness or advocate, and to fully participate in the
2 arbitration. Parties are not allowed to communicate ex parte
3 with the arbitrator.

4 The bill provides that prior to the selection of an
5 arbitrator, the court may enter a temporary order for the
6 family law dispute. After the selection of an arbitrator, the
7 arbitrator may make a temporary award.

8 The bill provides that if a party is subject to a protection
9 order and the arbitrator determines there is a reasonable
10 basis to believe a party is the victim of domestic violence
11 or a party's safety or ability to participate effectively in
12 arbitration is otherwise at risk, the arbitrator shall stay the
13 arbitration and refer the parties to court. The arbitration
14 shall not resume until the party at risk affirms the agreement
15 in a record and the court determines that the affirmation is
16 informed and voluntary, the arbitration is not inconsistent
17 with the protection order, and reasonable procedures are
18 in place to protect the party. The bill provides that if
19 an arbitrator reasonably believes that a child subject to
20 the matter is abused or neglected, the arbitration shall be
21 terminated and the abuse or neglect shall be reported to the
22 court or another appropriate authority.

23 The bill requires that the arbitrator conduct the
24 arbitration in a manner considered appropriate for a fair and
25 expeditious disposition. The bill provides the arbitrator the
26 following powers: to select the rules for the arbitration;
27 conduct the prehearing conferences and the hearing; administer
28 oaths to parties and witnesses; allow any party to conduct
29 prehearing discovery by interrogatories, deposition, requests
30 for production of documents, or other means; determine the
31 admissibility of evidence; and subpoena witnesses or documents
32 upon the arbitrator's own initiative or request of a party; the
33 power to meet with a child, appoint a representative for the
34 child, and impose procedures to protect a party or child from
35 risk of harm; and to sanction bad faith conduct according to

1 state law governing misconduct in family law proceedings.

2 The bill does not require an arbitration hearing to be
3 recorded.

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

8 The bill requires the court to confirm an award given by
9 an arbitrator. The court shall confirm an award if all the
10 parties agree in a record to confirmation or the time period to
11 correct an unconfirmed award or vacate an award has expired.
12 The bill provides that if an award relates to a child custody
13 dispute or a child support dispute, the court shall confirm
14 the award if the court finds that the award complies with the
15 bill and Code chapter 598 (dissolution of marriage and domestic
16 relations) or 600B (paternity and obligation for support) and
17 is in the best interests of the child. The bill provides that
18 upon confirmation, the award is enforceable as a judgment
19 and that unless otherwise agreed upon by the parties, the
20 arbitration proceeds are confidential.

21 The bill allows the arbitrator, upon motion of a party
22 not later than 20 days after notice of the award, to make
23 a correction of an award. For an unconfirmed award, the
24 parties may make a motion for correction and a motion to
25 amend or vacate no later than 30 days after the arbitrator
26 has given notice of the award. The bill allows the court to
27 vacate an unconfirmed award if the moving party shows that
28 the award was procured by corruption, fraud, or other undue
29 means; there was an evident partiality by the arbitrator,
30 corruption by the arbitrator, or other misconduct by the
31 arbitrator; the arbitrator, refused to postpone a hearing,
32 consider evidence material to the controversy, or otherwise did
33 not conduct the hearing impartially; the arbitrator exceeded
34 the arbitrator's powers; no arbitration agreement exists; or
35 the arbitration was conducted without proper notice. In a

1 child custody dispute, the bill provides that the court shall
2 vacate an unconfirmed award if the moving party establishes
3 that award does not comply with the bill, Code chapter 600B
4 (paternity and obligation for support), or is contrary to the
5 best interests of the child; the statement of reasons in the
6 award is inadequate for court review of the award; or a ground
7 for vacating the award under the bill exists. The court is
8 required to determine a motion in a child custody dispute based
9 on the record of the arbitration hearing and facts occurring
10 after the hearing. If there is no record for the hearing,
11 the court shall consider it de novo. The bill requires that
12 a motion to vacate or amend an award must be filed not later
13 than 30 days after an arbitrator gives notice of an award, the
14 arbitrator makes a correction to the award, or a party moves to
15 vacate the award.

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

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

20 The bill provides that the parties may modify an award
21 either by the dispute resolution specified in the judgment
22 or award or, if the award or judgment does not specify a
23 dispute-resolution method, the parties may agree to arbitrate
24 or proceed under the relevant Code chapter.

25 The bill allows an order granting or denying a motion to
26 compel arbitration; granting or denying a motion to stay
27 arbitration; confirming or denying confirmation of an award;
28 correcting an award; vacating an award without directing a
29 rehearing; and final judgment to be appealed.

30 The bill applies to arbitration of a family law dispute under
31 an arbitration agreement made on or after the bill's effective
32 date. If an arbitration agreement was made before the bill's
33 effective date, parties may agree in a record that the bill's
34 provisions will apply to the arbitration.