

Testimony of Adina F. Morse  
Written Testimony in Support of HB 2017 before the Senate Judiciary Committee  
Sen. Kellie Warren, Chair

Chair Warren and Members of the Senate Judiciary Committee,

I would like to thank the Chair and Members of the Committee for the opportunity to testify today. By way of background, I have been an attorney and a mediator since 2002. Over the past 8 years, I have had my own firm in Lawrence, KS. The majority of my work has been asset division and resolution of complicated custody and parenting time disputes using alternative dispute resolution alternatives to litigation, such as mediation and conciliation.

I have served as a domestic mediator on both the Johnson and Douglas County mediation panels. I have been appointed as a family law conciliator by several district court judges. And, I am about to begin my second term as a member the Kansas Supreme Court's Advisory Council on Dispute Resolution. I am passionate about alternative dispute processes as the most effective way to resolve disputes in the domestic law arena, because using these processes generally lessens the negative impacts on the children involved. I am also a volunteer attorney with Kansas Appleseed . It is in this role with Appleseed, that I appear before you today.

The Uniform Family Law Arbitration Act is another important and effective tool in the alternative dispute resolution tool belt. We need all the tools we can get in this area.

Prior to my testimony, you will have heard from Larry Rute. And following my testimony, you will hear from Professor Linda Elrod. Both of these people are experts on the Uniform Family Law Arbitration Act ("UFLAA"), and I urge you to consider their testimony carefully.

I want to share briefly, from a practitioner's perspective, from a child welfare perspective, why I believe Kansas children and families would benefit from adoption of the UFLAA, HB 2017, by our legislature.

1. Kansas courts have recognized and approved the use of arbitration in family law cases when Kansas only had the Uniform Arbitration Act (“UAA”). Adoption of the Revised Uniform Arbitration Act (“RUAA”) in 2018, provide more safeguards for the parties, but neither the UAA nor the RUAA adequately address concerns unique to family law arbitration.
2. The centerpiece of the UFLAA is the protection of vulnerable individuals during the arbitration process. This means children and victims of intimate partner/family abuse. For example, unless waived by the parties, the UFLAA requires arbitrators to be trained in detecting domestic violence and child abuse before arbitrating a family law dispute. Should the arbitrator detect abuse, the arbitrator is required to stay the arbitration and refer the dispute to the court. Similarly, if a party is subject to a protection from abuse or stalking order, the dispute will be referred to a court for resolution.
3. The UFLAA requires close judicial review of arbitration awards determining child-related issues. While an award regarding property or spousal support is subject to limited judicial review, a child-related award may not be confirmed by a court unless the court finds that the award complies with applicable statutory law and is in the best interest of the child/ren.
4. Verbatim recordings are required by the Act, of any part of an arbitration hearing concerning a child-related dispute.
5. Agreements to arbitrate future child-related disputes must be specifically affirmed at the time the dispute arises prior to proceeding to arbitration.
6. Litigation in the domestic arena is incredibly stressful for families. Court proceedings are scheduled during working hours which means taking time off work and potentially lost income. Drawn out discovery is expensive, inconvenient, and stressful. And the children are

always impacted because of the stress their parents are experiencing. Parties who select arbitration want, and will get, a simpler, faster, confidential, and more convenient process.

7. Frequently, judges in family court, especially newly appointed or assigned judges, do not have knowledge or training in the complex area of family law. Arbitration allows the parties to select an “expert” decision-maker of their own choosing, frequently at a lower cost.

In conclusion, the protections afforded by the UFLAA provide substantial benefits for Kansas families who choose to rely upon arbitration as an effective, convenient, confidential means to resolve their complex disputes. I urge approval of HB 2017.

Thank you.