

HOUSE BILL No. 2181

By Committee on Judiciary

Requested by Joe Molina on behalf of the Kansas Bar Association

1-30

AN ACT concerning family law; relating to arbitration agreements; enacting the uniform family law arbitration act.

Be it enacted by the Legislature of the State of Kansas:

Section 1. Sections 1 through 28, and amendments thereto, shall be known and may be cited as the uniform family law arbitration act.

Sec. 2. As used in the uniform family law arbitration act:

(a) "Arbitration agreement" means an agreement that subjects a family law dispute to arbitration.

(b) "Arbitration organization" means an association, agency, board, commission or other entity that is neutral and initiates, sponsors or administers an arbitration or is involved in the selection of an arbitrator.

(c) "Arbitrator" means an individual selected, alone or with others, to make an award in a family law dispute that is subject to an arbitration agreement.

(d) "Child-related dispute" means a family law dispute regarding legal custody, residency, parenting time, visitation or financial support regarding a child.

(e) "Court" means the district court authorized by state law to hear a family law dispute.

(f) "Family law dispute" means a contested issue arising under the Kansas family law code.

(g) "Party" means an individual who signs an arbitration agreement and whose rights will be determined by an award.

(h) "Person" means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, instrumentality or any other legal entity.

(i) "Record," used as a noun, means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(j) "Sign" means to authenticate or adopt a record with present intent to:

(1) Execute or adopt a tangible symbol; or

(2) attach to or logically associate an electronic symbol, sound or process with the record.

1 (k) "State" means a state of the United States, the District of
2 Columbia, Puerto Rico, the United States Virgin Islands or any territory or
3 insular possession subject to the jurisdiction of the United States. The term
4 includes a federally recognized Indian tribe.

5 Sec. 3. (a) This act governs arbitration of a family law dispute.

6 (b) This act does not authorize an arbitrator to make an award that:

7 (1) Grants a decree of divorce, annulment or separate maintenance;

8 (2) terminates parental rights;

9 (3) grants an adoption or a guardianship of a child or incapacitated
10 individual;

11 (4) determines the status of a child in need of care; or

12 (5) determines the existence or nonexistence of the parent and child
13 relationship.

14 Sec. 4. (a) Except as otherwise provided in this act, the law applicable
15 to arbitration is article 4 of chapter 5 of the Kansas Statutes Annotated, and
16 amendments thereto.

17 (b) In determining the merits of a family law dispute, an arbitrator
18 shall apply the law of this state, including its choice of law rules.

19 Sec. 5. (a) An arbitration agreement shall:

20 (1) Be in a record signed by the parties;

21 (2) identify the arbitrator, an arbitration organization or a method of
22 selecting an arbitrator; and

23 (3) identify the family law dispute that the parties intend to arbitrate.

24 (b) Except as otherwise provided in subsection (c), an agreement in a
25 record to arbitrate a family law dispute that arises between the parties
26 before, at the time or after the agreement is made is valid and enforceable
27 as any other contract and irrevocable except on a ground that exists at law
28 or in equity for the revocation of a contract.

29 (c) An agreement to arbitrate a child-related dispute that arises
30 between the parties after the agreement is made is unenforceable unless:

31 (1) The parties affirm the agreement in a record after the dispute
32 arises; or

33 (2) the agreement was entered during a family law proceeding and the
34 court approved or incorporated the agreement in an order issued in the
35 proceeding.

36 (d) If a party objects to arbitration on the ground that the arbitration
37 agreement is unenforceable or the agreement does not include a family law
38 dispute, the court shall decide whether the agreement is enforceable or
39 includes the family law dispute.

40 Sec. 6. A party may initiate arbitration by giving notice to arbitrate to
41 the other party in the manner specified in the arbitration agreement or, in
42 the absence of a specified manner, under article 4 of chapter 5 of the
43 Kansas Statutes Annotated, and amendments thereto.

1 Sec. 7. (a) A motion for judicial relief under this act must be made to
2 the court in which a proceeding is pending involving a family law dispute
3 subject to arbitration or, if no proceeding is pending, a court with
4 jurisdiction over the parties and the subject matter.

5 (b) On motion of a party, the court may compel arbitration if the
6 parties have entered into an arbitration agreement that complies with
7 section 5, and amendments thereto, unless the court determines under
8 section 12, and amendments thereto, that the arbitration should not
9 proceed.

10 (c) On motion of a party, the court shall terminate arbitration if it
11 determines that the:

12 (1) Agreement to arbitrate is unenforceable;

13 (2) family law dispute is not subject to arbitration; or

14 (3) arbitration should not proceed, pursuant to section 12, and
15 amendments thereto.

16 (d) Unless prohibited by an arbitration agreement, on motion of a
17 party, the court may order consolidation of separate arbitrations involving
18 the same parties and a common issue of law or fact if necessary for the fair
19 and expeditious resolution of the family law dispute.

20 Sec. 8. (a) Except as otherwise provided in subsection (b), unless
21 waived in a record by the parties, an arbitrator shall be:

22 (1) An attorney in good standing admitted to practice law or on
23 inactive status or a judge on retired status in a state; and

24 (2) trained in identifying domestic violence and child abuse.

25 (b) The identification in the arbitration agreement of an arbitrator,
26 arbitration organization or method of selection of the arbitrator shall
27 control.

28 (c) If an arbitrator is unable or unwilling to act, or if the agreed-on
29 method of selecting an arbitrator fails, on motion of a party, the court shall
30 select an arbitrator.

31 Sec. 9. (a) Before agreeing to serve as an arbitrator, an individual,
32 after making reasonable inquiry, shall disclose to all parties any known
33 fact a reasonable person would believe is likely to affect:

34 (1) The impartiality of the arbitrator in the arbitration, including bias,
35 a financial or personal interest in the outcome of the arbitration, or an
36 existing or past relationship with a party, attorney representing a party or
37 witness; or

38 (2) the arbitrator's ability to make a timely award.

39 (b) An arbitrator, the parties and the attorneys representing the parties
40 have a continuing obligation to disclose to all parties any known fact a
41 reasonable person would believe is likely to affect the impartiality of the
42 arbitrator or the arbitrator's ability to make a timely award.

43 (c) An objection to the selection or continued service of an arbitrator

1 and a motion for a stay of arbitration and disqualification of the arbitrator
2 must be made under the law and procedural rules of this state, other than
3 this act governing arbitrator disqualification.

4 (d) If a disclosure required by subsection (a)(1) or (b) is not made, the
5 court may:

6 (1) On motion of a party within 30 days after the failure to disclose is
7 known or by the exercise of reasonable care should have been known to
8 the party, suspend the arbitration;

9 (2) on timely motion of a party, vacate an award under section 19(a)
10 (2), and amendments thereto; or

11 (3) if an award has been confirmed, grant other appropriate relief
12 under the other laws of this state.

13 (e) If the parties agree to discharge an arbitrator or the arbitrator is
14 disqualified, the parties by agreement may select a new arbitrator or
15 request the court to select another arbitrator as provided in section 8, and
16 amendments thereto.

17 Sec. 10. (a) A party may:

18 (1) Be represented in an arbitration by an attorney;

19 (2) be accompanied by an individual who will not be called as a
20 witness or act as an advocate; and

21 (3) participate in the arbitration to the full extent permitted under the
22 law and procedural rules of this state, other than this act, governing a
23 party's participation in contractual arbitration.

24 (b) A party or representative of a party may not communicate ex parte
25 with the arbitrator except to the extent allowed in a family law proceeding
26 for communication with a judge.

27 Sec. 11. (a) Before an arbitrator is selected and able to act, on motion
28 of a party, the court may enter a temporary order under K.S.A. 2024 Supp.
29 23-2224, 23-2707, 23-3103 or 23-3212, and amendments thereto.

30 (b) After an arbitrator is selected:

31 (1) The arbitrator may make a temporary award under K.S.A. 2024
32 Supp. 23-2224, 23-2707, 23-3103 or 23-3212, and amendments thereto;
33 and

34 (2) if the matter is urgent and the arbitrator is not able to act in a
35 timely manner or provide an adequate remedy, on motion of a party, the
36 court may enter a temporary order.

37 (c) On motion of a party, before the court confirms a final award, the
38 court under section 16, 18 or 19, and amendments thereto, may confirm,
39 correct, vacate or amend a temporary award made under subsection (b)(1).

40 (d) On motion of a party, the court may enforce a subpoena or interim
41 award issued by an arbitrator for the fair and expeditious disposition of the
42 arbitration.

43 Sec. 12. (a) As used in this section, "protection order" means an

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

7 (b) If a party is subject to a protection order or an arbitrator
8 determines there is a reasonable basis to believe a party's safety or ability
9 to participate effectively in arbitration is at risk, the arbitrator shall stay the
10 arbitration and refer the parties to court. The arbitration may not proceed
11 unless the party at risk affirms the arbitration agreement in a record and
12 the court determines:

- 13 (1) The affirmation is informed and voluntary;
- 14 (2) arbitration is not inconsistent with the protection order; and
- 15 (3) reasonable procedures are in place to protect the party from risk of
16 harm, harassment or intimidation.

17 (c) If an arbitrator determines that there is a reasonable basis to
18 believe a child who is the subject of a child-related dispute is abused or
19 neglected, the arbitrator shall terminate the arbitration of the child-related
20 dispute and report the abuse or neglect to the department of children and
21 families.

22 (d) An arbitrator may make a temporary award to protect a party or
23 child from harm, harassment or intimidation.

24 (e) On motion of a party, the court may stay arbitration and review a
25 determination or temporary award under this section.

26 (f) This section supplements remedies available under the other laws
27 of this state for the protection of victims of domestic violence, family
28 violence, stalking, harassment or similar abuse.

29 Sec. 13. (a) An arbitrator shall conduct an arbitration in a manner the
30 arbitrator considers appropriate for a fair and expeditious disposition of the
31 dispute.

32 (b) An arbitrator shall provide each party a right to be heard, to
33 present evidence material to the family law dispute and to cross-examine
34 witnesses.

35 (c) Unless the parties otherwise agree in a record, an arbitrator's
36 powers include the power to:

- 37 (1) Select the rules for conducting the arbitration;
- 38 (2) hold conferences with the parties before a hearing;
- 39 (3) determine the date, time and place of a hearing;
- 40 (4) require a party to provide:
 - 41 (A) A copy of a relevant court order;
 - 42 (B) information required to be disclosed in a family law proceeding
43 under the other laws of this state; and

- 1 (C) a proposed award that addresses each issue in arbitration;
- 2 (5) meet with or interview a child who is the subject of a child-related
- 3 dispute;
- 4 (6) appoint a private expert at the expense of the parties;
- 5 (7) administer an oath or affirmation and issue a subpoena for the
- 6 attendance of a witness or the production of documents and other evidence
- 7 at a hearing;
- 8 (8) compel discovery concerning the family law dispute and
- 9 determine the date, time and place of discovery;
- 10 (9) determine the admissibility and weight of evidence;
- 11 (10) permit deposition of a witness for use as evidence at a hearing;
- 12 (11) for good cause, prohibit a party from disclosing information;
- 13 (12) appoint an attorney, guardian ad litem or other representative for
- 14 a child at the expense of the parties;
- 15 (13) impose a procedure to protect a party or child from risk of harm,
- 16 harassment or intimidation;
- 17 (14) allocate arbitration fees, attorney's fees, expert-witness fees and
- 18 other costs to the parties; and
- 19 (15) impose a sanction on a party for bad faith or misconduct during
- 20 the arbitration according to standards governing imposition of a sanction
- 21 for litigant misconduct in a family law proceeding.
- 22 (d) An arbitrator may not allow ex parte communication except to the
- 23 extent allowed in a family law proceeding for communication with a
- 24 judge.

25 Sec. 14. (a) Except as otherwise provided in subsection (b) or

26 required by the other laws of this state, an arbitration hearing need not be

27 recorded unless required by the arbitrator, provided by the arbitration

28 agreement or requested by a party.

29 (b) An arbitrator shall request a verbatim recording be made of any

30 part of an arbitration hearing concerning a child-related dispute.

31 Sec. 15. (a) An arbitrator shall make an award in a record that is dated

32 and signed by the arbitrator. The arbitrator shall give notice of the award to

33 each party by a method agreed on by the parties or, if the parties have not

34 agreed on a method, under the other laws and procedural rules of this state,

35 governing notice in contractual arbitration.

36 (b) Except as otherwise provided in subsection (c), the award under

37 this act shall state the reasons on which it is based unless otherwise agreed

38 by the parties.

39 (c) An award determining a child-related dispute shall state the

40 reasons on which it is based as required by the other laws of this state for a

41 court order in a family law proceeding.

42 (d) An award under this act is not enforceable as a judgment until

43 confirmed under section 16, and amendments thereto.

1 Sec. 16. (a) After an arbitrator gives notice of an award under section
2 15(a), and amendments thereto, including an award corrected under
3 section 17, and amendments thereto, a party may move the court for an
4 order confirming the award.

5 (b) Except as otherwise provided in subsection (c), the court shall
6 confirm an award under this act if:

7 (1) The parties agree in a record to the confirmation; or

8 (2) the time has expired for making a motion, and no motion is
9 pending, under section 18 or 19, and amendments thereto.

10 (c) If an award determines a child-related dispute, the court shall
11 confirm the award under subsection (b) if the court finds, after a review of
12 the record if necessary, that the award on its face:

13 (1) Complies with section 15, and amendments thereto, and the laws
14 of this state governing a child-related dispute other than this act; and

15 (2) is in the best interests of the child.

16 (d) On confirmation, an award under this act is enforceable as a
17 judgment.

18 Sec. 17. On motion of a party made within 30 days after an arbitrator
19 gives notice of an award under section 15(a), and amendments thereto, the
20 arbitrator may correct the award:

21 (a) If the award has an evident mathematical miscalculation or an
22 evident mistake in the description of a person, thing or property;

23 (b) if the award is imperfect in a matter of form not affecting the
24 merits on the issues submitted; or

25 (c) to clarify the award.

26 Sec. 18. (a) On motion of a party made within 90 days after an
27 arbitrator gives notice of an award under section 15(a), and amendments
28 thereto, including an award corrected under section 17, and amendments
29 thereto, the court shall correct the award if:

30 (1) The award has an evident mathematical miscalculation or an
31 evident mistake in the description of a person, thing or property;

32 (2) the award is imperfect in a matter of form not affecting the merits
33 of the issues submitted; or

34 (3) the arbitrator made an award on a dispute not submitted to the
35 arbitrator and the award may be corrected without affecting the merits of
36 the issues submitted.

37 (b) A motion to correct an award under this section may be joined
38 with a motion to vacate or amend the award under section 19, and
39 amendments thereto.

40 (c) Unless a motion under section 19, and amendments thereto, is
41 pending, the court may confirm a corrected award under section 16, and
42 amendments thereto.

43 Sec. 19. (a) On motion of a party, the court shall vacate an

1 unconfirmed award if the moving party establishes that:

2 (1) The award was procured by corruption, fraud or other undue
3 means;

4 (2) there was:

5 (A) Evident partiality by the arbitrator;

6 (B) corruption by the arbitrator; or

7 (C) misconduct by the arbitrator substantially prejudicing the rights
8 of a party;

9 (3) the arbitrator refused to postpone a hearing on showing of
10 sufficient cause for postponement, refused to consider evidence material to
11 the controversy or otherwise conducted the hearing contrary to section 13,
12 and amendments thereto, so as to prejudice substantially the rights of a
13 party;

14 (4) the arbitrator exceeded the arbitrator's powers;

15 (5) no arbitration agreement exists, unless the moving party
16 participated in the arbitration without making a motion under section 7,
17 and amendments thereto, not later than the beginning of the first
18 arbitration hearing; or

19 (6) the arbitration was conducted without proper notice of the
20 initiation of arbitration under section 6, and amendments thereto, so as to
21 prejudice substantially the rights of a party.

22 (b) Except as otherwise provided in subsection (c), on motion of a
23 party, the court shall vacate an unconfirmed award that determines a child-
24 related dispute if the moving party establishes that:

25 (1) The award does not comply with section 15, and amendments
26 thereto, the laws of this state other than this act governing a child-related
27 dispute or is contrary to the best interests of the child;

28 (2) the record of the hearing or the statement of reasons in the award
29 is inadequate for the court to review the award; or

30 (3) a ground for vacating the award under subsection (a) exists.

31 (c) If an award is subject to vacation under subsection (b)(1), on
32 motion of a party, the court may amend the award if amending rather than
33 vacating is in the best interests of the child.

34 (d) The court shall determine a motion under subsection (b) or (c)
35 based on the record of the arbitration hearing and facts occurring after the
36 hearing.

37 (e) A motion under this section to vacate or amend an award must be
38 filed within 90 days:

39 (1) After an arbitrator gives the party filing the motion notice of the
40 award or a corrected award; or

41 (2) for a motion under subsection (a)(1), after the ground of
42 corruption, fraud or other undue means is known or by the exercise of
43 reasonable care should have been known to the party filing the motion.

1 (f) If the court under this section vacates an award for a reason other
2 than the absence of an enforceable arbitration agreement, the court may
3 order a rehearing before an arbitrator. If the reason for vacating the award
4 is that the award was procured by corruption, fraud or other undue means
5 or there was evident partiality, corruption or misconduct by the arbitrator,
6 the rehearing shall be before another arbitrator.

7 (g) If the court under this section denies a motion to vacate or amend
8 an award, the court may confirm the award under section 16, and
9 amendments thereto, unless a motion is pending under section 18, and
10 amendments thereto.

11 Sec. 20. If the meaning or effect of an award confirmed under section
12 16, and amendments thereto, is in dispute, the parties may:

13 (a) Agree to arbitrate the dispute before the original arbitrator or
14 another arbitrator; or

15 (b) proceed in court under the other laws of this state governing
16 clarification of a judgment in a family law proceeding.

17 Sec. 21. (a) On granting an order confirming, vacating without
18 directing a rehearing or amending an award under this act, the court shall
19 enter judgment in conformity with the order.

20 (b) On motion of a party, the court may order that a document or part
21 of the arbitration record be sealed or redacted to prevent public disclosure
22 of all or part of the record or award to the extent permitted under the other
23 laws of this state.

24 Sec. 22. (a) If a party requests a modification of an award
25 confirmed under section 16, and amendments thereto, or judgment on the
26 award based on a fact occurring after confirmation pursuant to the other
27 laws of the state:

28 (1) The parties shall proceed under the dispute-resolution method
29 specified in the award or judgment; or

30 (2) if the award or judgment does not specify a dispute-resolution
31 method, the parties may:

32 (A) Agree to arbitrate the modification before the original arbitrator
33 or another arbitrator; or

34 (B) absent agreement, proceed under the other laws of this state
35 governing modification of a judgment in a family law proceeding.

36 Sec. 23. (a) The court shall enforce an award confirmed under section
37 16, and amendments thereto, including a temporary award, in the same
38 manner and to the same extent as any other order or judgment of a court.

39 (b) The court shall enforce an arbitration award in a family law
40 dispute confirmed by a court in another state in the same manner and to
41 the same extent as any other order or judgment from another state.

42 Sec. 24. (a) An appeal may be taken under this act from:

43 (1) An order denying a motion to compel arbitration;

- 1 (2) an order granting a motion to stay arbitration;
- 2 (3) an order confirming or denying confirmation of an award;
- 3 (4) an order correcting an award;
- 4 (5) an order vacating an award without directing a rehearing; or
- 5 (6) a final judgment.
- 6 (b) An appeal under this section may be taken as from an order or a
- 7 judgment in a civil action.

8 Sec. 25. (a) An arbitrator or arbitration organization acting in that
9 capacity in a family law dispute is immune from civil liability to the same
10 extent as a judge of a court of this state acting in a judicial capacity.

11 (b) The immunity provided by this section supplements any immunity
12 under the other laws of this state.

13 (c) An arbitrator's failure to make a disclosure required by section 9,
14 and amendments thereto, shall not cause the arbitrator to lose immunity
15 under this section.

16 (d) An arbitrator is not competent to testify, and may not be required
17 to produce records in a judicial, administrative or similar proceeding about
18 a statement, conduct, decision or ruling occurring during an arbitration, to
19 the same extent as a judge of a court of this state acting in a judicial
20 capacity. This subsection does not apply to:

21 (1) The extent disclosure is necessary to determine a claim by the
22 arbitrator or arbitration organization against a party to the arbitration; or

23 (2) a hearing on a motion under section 19(a)(1) or (a)(2), and
24 amendments thereto, to vacate an award, if there is prima facie evidence
25 that a ground for vacating the award exists.

26 (e) If a person commences a civil action against an arbitrator arising
27 from the services of the arbitrator or seeks to compel the arbitrator to
28 testify or produce records in violation of subsection (d) and the court
29 determines that the arbitrator is immune from civil liability or is not
30 competent to testify or required to produce the records, the court shall
31 award the arbitrator reasonable attorney fees, costs and reasonable
32 expenses of litigation.

33 Sec. 26. In applying and construing this uniform act, consideration
34 must be given to the need to promote uniformity of the law with respect to
35 its subject matter among states that enact it.

36 Sec. 27. This act modifies, limits or supersedes the electronic
37 signatures in global and national commerce act, 15 U.S.C. § 7001 et seq.,
38 but does not modify, limit or supersede section 101(c) of that act, 15
39 U.S.C. § 7001(c), or authorize electronic delivery of any of the notices
40 described in section 103(b) of that act, 15 U.S.C. § 7003(b).

41 Sec. 28. This act applies to arbitration of a family law dispute under
42 an arbitration agreement made on or after July 1, 2025. If an arbitration
43 agreement was made before July 1, 2025, the parties may agree in a record

1 that this act applies to the arbitration.

2 Sec. 29. This act shall take effect and be in force from and after its
3 publication in the statute book.