

D R A F T  
FOR DISCUSSION ONLY

# **FAMILY LAW ARBITRATION ACT**

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NATIONAL CONFERENCE OF COMMISSIONERS  
ON UNIFORM STATE LAWS

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Post Conference Call

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April 4, 2016

## **FAMILY LAW ARBITRATION ACT**

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# FAMILY LAW ARBITRATION ACT

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1 **FAMILY LAW ARBITRATION ACT**

2  
3 **Prefatory Note**

4  
5 Arbitration, while used extensively in labor law and contracts, has only recently become  
6 an option in family law cases. Arbitration is a process in which the parties, usually spouses,  
7 agree to submit one or more issues arising from the dissolution of their relationship to a neutral  
8 third party for resolution. Arbitration resembles litigation in that a third person makes a decision  
9 based on the facts presented. The major difference is that the parties choose and pay for the  
10 arbitrator. The parties can choose a family law specialist who has represented both fathers and  
11 mothers or a retired domestic relations judge to arbitrate part, or all, of a case.  
12

13 The move toward alternative dispute resolution developed in response to increasing  
14 number of contested family law cases on court dockets and to social science literature about the  
15 harm to children from prolonged adversarial disputes. Mediation, once voluntary, has become  
16 mandatory in many jurisdictions before parties can seek a court date. Arbitration offers an  
17 alternative for those who want a faster, more confidential, potentially less adversarial proceeding  
18 with an experienced decision-maker. The arbitrator decides the dispute rather than making  
19 recommendations or helping the parties resolve their own dispute.  
20

21 Arbitration clauses have begun to appear in premarital, separation and mediated  
22 settlement agreements. The American Arbitration Association has developed a family dispute  
23 service and offers mediation services, as well as arbitration. As early as 1990, the American  
24 Academy of Matrimonial Lawyers (AAML) adopted Rules for Arbitration of Financial Issues. In  
25 2005, the AAML adopted a Model Family Law Arbitration Act. Although no state has adopted  
26 its act, the AAML conducts training to certify family law arbitrators. Several states have statutes  
27 authorizing arbitration of property and support issues; others allow custody. Other states use  
28 existing arbitration law for family law disputes.  
29

30 The Uniform Law Commission Executive Committee appointed the Family Law  
31 Arbitration Study Committee in April 2012. After considering the feasibility and desirability of  
32 a uniform or model act on family law arbitration for several months, the Study Committee  
33 unanimously recommended that a drafting committee be appointed to develop a free-standing act  
34 on family law arbitration. The Study Committee further suggested that the act need only contain  
35 the features of arbitration law that are essential for family law arbitration and are typically not  
36 addressed by commercial arbitration statutes. The Study Committee envisioned an act that  
37 would incorporate by reference the existing structure of a state’s commercial arbitration statutes  
38 – whether it’s the original Uniform Arbitration Act or the 2000 Revised Uniform Arbitration  
39 Act. In 2013 the Uniform Law Commission approved a drafting committee to write a Family  
40 Law Arbitration Act. The Committee originally agreed that a free-standing act addressing family  
41 law arbitration in full, rather than a partial act with references that incorporate other arbitration  
42 law in the state, would be preferable because it would provide a single statutory scheme for  
43 family law attorneys and arbitrators to consult when engaging in family law arbitration. It would

1 avoid ambiguity that might arise through an “incorporation by reference” approach. In  
2 particular, if family law arbitrators were to be governed in part by existing commercial  
3 arbitration statutes, the judicial interpretations of those laws might not be appropriate for family  
4 law arbitration. The applicability of those precedents, in other words, would be an ongoing  
5 question. Drafting a free standing act proved to be difficult because there are some parts of  
6 existing arbitration law, especially those relating to procedures and general arbitration practice  
7 that seem equally applicable to family law.

1 **FAMILY LAW ARBITRATION ACT**

2 **SECTION 1. SHORT TITLE.** This [act] may be cited as the Family Law Arbitration

3 Act.

4 **SECTION 2. DEFINITIONS.** In this [act]:

5 (1) “Arbitration agreement” means an agreement which subjects a family law dispute to  
6 arbitration.

7 (2) “Arbitrator” means an individual selected, alone or with others, to make an award in a  
8 family law dispute that is subject to an arbitration agreement.

9 (3) “Court” means [the family court] [insert name of a tribunal authorized by law to hear  
10 a family law dispute].

11 (4) “Family law dispute” means a contested issue arising under the family or domestic  
12 relations law of this state.

13 (5) “Child-related dispute” means a family law dispute regarding custodial responsibility,  
14 parenting time, access, visitation, parental responsibility or authority, or support of a child.

15 (6) “Party” means an individual who signs an arbitration agreement and whose rights will  
16 be determined by an award.

17 (7) “Person” means an individual, estate, business or nonprofit entity, public corporation,  
18 government or governmental subdivision, agency, or instrumentality, or any other legal entity.

19 (8) “Protection order” means an injunction or other order, issued under the domestic-  
20 violence, family-violence, or anti-stalking laws of the issuing jurisdiction to prevent an  
21 individual from engaging in a violent or threatening act against, harassment of, contact or  
22 communication with, or physical proximity to another individual who is a party or a child under  
23 the custodial responsibility of a party.

1 (9) “Record” means information that is inscribed on a tangible medium or that is stored in  
2 an electronic or other medium and is retrievable in perceivable form.

3 (10) “Sign” means, with present intent to authenticate or adopt a record:

4 (A) to execute or adopt a tangible symbol; or

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

7 (11) “State” means a state of the United States, the District of Columbia, Puerto Rico, the  
8 United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of  
9 the United States. The term includes a federally recognized Indian tribe.

10 **SECTION 3. SCOPE.**

11 (a) This [act] governs the arbitration of a family law dispute.

12 (b) This [act] does not authorize an arbitrator to make an award that:

13 (1) grants a [divorce] [dissolution of marriage];

14 (2) terminates parental rights;

15 (3) grants an adoption or guardianship of a minor or incapacitated individual; [or]

16 (4) determines the status of [dependency] [a child in need of protection][;or

17 [(5) insert other determination to be excluded from arbitration.]

18 **SECTION 4. APPLICABLE LAW.**

19 (a) Except as otherwise provided in this [act], the law governing the arbitration process is  
20 [cite to this state’s statutory law on binding arbitration] and procedural rules selected by the  
21 parties or, with the parties’ consent, the arbitrator.

22 (b) In determining the merits of a family law dispute, the arbitrator shall apply the law of  
23 this state other than this [act], including its choice of law rules.



1           **SECTION 5. MOTION FOR JUDICIAL RELIEF.**

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

5           (b) A party may move to compel arbitration under the law and procedural rules of this  
6 state other than this [act] governing binding arbitration.

7           (c) On motion of a party, the court shall stay arbitration if it determines that

8                   (1) there is no agreement to arbitrate;

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

10                  (3) arbitration should not proceed in accordance under Section 12.

11           (d) Unless prohibited by the arbitration agreement, on motion of a party, the court may  
12 order consolidation of separate arbitration proceedings if necessary for the fair and expeditious  
13 resolution of the family law dispute.

14           **SECTION 6. ARBITRATION AGREEMENT.**

15           (a) An arbitration agreement must:

16                   (1) be in a record signed by the parties;

17                   (2) identify the arbitrator or a method of selecting an arbitrator; and

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

19           (b) Except as provided in subsection (c), an agreement in a record to submit to arbitration  
20 an existing or subsequent family law dispute between the parties is valid and enforceable as any  
21 other contract, and irrevocable except on a ground that exists at law or in equity for the  
22 revocation of a contract.

23           (c) An agreement to submit to arbitration a child-related dispute that may arise in the

1 future is enforceable under this [act] if the parties affirm the agreement at the time of the dispute  
2 or if there is a court order incorporating the agreement of the parties.

3 (d) If a party objects to arbitration on the ground there was no arbitration agreement or  
4 the agreement does not include a family law dispute, the court shall decide whether the parties  
5 entered into a valid arbitration agreement and whether a family law dispute is subject to the  
6 agreement.

7 (e) Unless otherwise required by law of this state other than this [act], the parties may  
8 agree that an arbitration is confidential.

9 **SECTION 7. NOTICE OF ARBITRATION.** A party initiates an arbitration  
10 proceeding by giving notice to the other party to arbitrate in the manner specified in the  
11 arbitration agreement or, in the absence of a specified manner, under the law and procedural  
12 rules of this state other than this [act] governing binding arbitration.

13 **SECTION 8. QUALIFICATION AND SELECTION OF ARBITRATOR.**

14 (a) If the parties have agreed to the selection of an arbitrator or the method of selection of  
15 an arbitrator, the agreement controls.

16 (b) Unless waived by the parties, an arbitrator:

17 (1) must be:

18 (A) an attorney in good standing currently admitted to practice [or an attorney  
19 or judge on retired status] in a state; or

20 (B) a licensed professional in a field relevant to the family law dispute that is  
21 being arbitrated; and

22 (2) must have training in identifying domestic violence and child abuse [according to  
23 standards established under law of this state other than this [act] for a judicial officer assigned to

1 hear a family law proceeding].

2 (c) If an arbitrator selected under subsection (a) is unable to act or if the agreed on  
3 method of selecting an arbitrator fails, on motion of a party, the court shall select an arbitrator.

4 **SECTION 9. DISCLOSURE BY ARBITRATOR; DISQUALIFICATION.**

5 (a) Before agreeing to serve as an arbitrator, an individual, after making reasonable  
6 inquiry, shall disclose to all parties any known fact a reasonable individual would believe is  
7 likely to affect:

8 (1) the impartiality of the arbitrator in the arbitration proceeding, including bias, a  
9 financial or personal interest in the outcome of the arbitration, or an existing or past relationship  
10 with a party, a party's attorney, or a witness, or

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

12 (b) An arbitrator, the parties, and the parties' attorneys have a continuing obligation to  
13 disclose to all parties any known fact a reasonable individual would believe is likely to affect the  
14 impartiality of the arbitrator.

15 (c) An objection to the selection or continued service of an arbitrator and a motion to the  
16 court for a stay of arbitration and disqualification of the arbitrator must be made in accordance  
17 with the law and procedural rules of this state other than this [act] governing binding arbitration.

18 (d) If a disclosure required by subsection (a) (1) or (b) is not made, on objection by a  
19 party within [30] days after the failure to disclose is known or by the exercise of reasonable care  
20 could have been known to the party filing the motion, the court may:

21 (1) suspend the arbitration;

22 (2) vacate an award under Section 19; or

23 (3) if an award has been confirmed, grant other appropriate relief under law of

1 this state other than this [act].

2 (e) If the parties agree to discharge an arbitrator or the arbitrator is disqualified, the  
3 parties by agreement shall select a new arbitrator or may request the court to select another  
4 arbitrator as provided in Section 8.

5 **SECTION 10. PARTY PARTICIPATION.**

6 (a) A party may:

7 (1) be represented in an arbitration by an attorney;

8 (2) be accompanied by an individual who will not be called as a witness; and

9 (3) participate in the arbitration to the full extent permitted under the law and  
10 procedural rules of this state other than this [act] governing binding arbitration.

11 (b) A party or a party's representative may not communicate ex parte with the arbitrator  
12 except to the extent allowed in a family law proceeding for communication with a judge.

13 **SECTION 11. TEMPORARY OR PROVISIONAL ORDER OR AWARD.**

14 (a) Before an arbitrator is selected and able to act, the court, on motion of a party, may  
15 enter a temporary order under [insert reference to this state's statutes or rules governing issuance  
16 of a temporary order in a family law proceeding] and any other provisional remedy necessary to  
17 protect the effectiveness of the arbitration to the same extent as in a civil action.

18 (b) After an arbitrator is selected and able to act:

19 (1) the arbitrator may make a temporary award under [insert this state's statutes or  
20 rules governing a temporary order in a family law proceeding] to the same extent as a court in a  
21 family law proceeding and any other provisional award necessary to protect the effectiveness of  
22 the arbitration, to the same extent as in a civil action; and

23 (2) if the matter is urgent and the arbitrator is not able to act in a timely manner or

1 provide an adequate remedy, a court, on motion of a party, may enter a temporary order or  
2 provisional remedy.

3 (c) On motion of a party, at any time before the court confirms a final award, the court  
4 under Section 18, 19, or 20 may correct, vacate or amend, or confirm a temporary award made  
5 under subsection (b).

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

8 **SECTION 12. PROTECTION OF PARTY OR CHILD.**

9 (a) If a party is subject to a valid protection order or an arbitrator determines that there is  
10 a reasonable basis to believe that a party's safety or ability to participate effectively in arbitration  
11 is at risk, an arbitration may not proceed unless each party affirms the arbitration agreement in a  
12 record and the court determines:

13 (1) the affirmation is informed and voluntary;

14 (2) arbitration is not inconsistent with a protection order; and

15 (3) reasonable procedures are in place to protect the party from risk of harm,  
16 harassment, or intimidation.

17 (b) If the arbitrator finds a reasonable basis under law of this state other than this [act] to  
18 believe that a child who is the subject of a child-related dispute is abused or neglected, the  
19 arbitrator shall suspend arbitration of the child-related dispute and report the abuse or neglect to  
20 the [state child protection authority.]

21 (c) An arbitrator may make a temporary award under Section 11 to protect a party or  
22 child from harm, harassment, or intimidation.

23 (d) On motion of a party, the court may stay arbitration or review a determination or

1 award made by an arbitrator under this section.

2 (e) This section supplements other remedies available under law of this state other than  
3 this [act] for the protection of victims of domestic violence, family violence, stalking, harassment  
4 or similar abuse.

5 **SECTION 13. POWERS AND DUTIES OF ARBITRATOR.**

6 (a) An arbitrator shall provide each party a right to be heard, to present evidence material  
7 to the family law dispute, and to cross-examine witnesses according to the law and procedural  
8 rules of this state other than this [act] governing binding arbitration.

9 (b) An arbitrator may conduct an arbitration in a manner the arbitrator considers  
10 appropriate for a fair and expeditious disposition and, unless otherwise agreed by the parties,  
11 select the rules for conducting the arbitration.

12 (c) Unless otherwise provided in an arbitration agreement, the arbitrator's powers are  
13 the same as those of a judge in a family law proceeding under law of this state other than this  
14 [act] and include the power to:

15 (1) hold conferences with the parties before a hearing;

16 (2) determine the date, time, and location of a hearing;

17 (3) meet with or interview a child who is the subject of a child-related dispute;

18 (4) appoint an expert;

19 (5) administer an oath or affirmation and issue a subpoena for the attendance of a  
20 witness or the production of documents and other evidence at a hearing;

21 (6) compel discovery concerning the family law dispute being arbitrated and  
22 determine the date, time, and place of discovery;

23 (7) determine the admissibility and weight of evidence;

- 1 (8) permit a deposition of a witness for use as evidence at a hearing;
- 2 (9) prohibit a party from disclosing information for good cause shown;
- 3 (10) appoint an attorney, guardian ad litem, or other representative for a child;
- 4 (11) impose procedures to protect a party or a child who is the subject of a child-  
5 related dispute from risk of harm, harassment, or intimidation;
- 6 (12) allocate arbitration fees, attorney's fees, expert witness fees, and other costs  
7 to the parties;
- 8 (13) impose a sanction on a party for bad faith or harassing conduct during the  
9 arbitration; and
- 10 (14) require a party to provide:
  - 11 (A) a copy of any relevant court order;
  - 12 (B) information required to be disclosed in a family law proceeding under  
13 law of this state other than this [act]; and
  - 14 (C) a proposed award that addresses each issue in arbitration.
- 15 (d) An arbitrator shall not allow ex parte communication except to the extent allowed in a  
16 family law proceeding for communication with a judge.

17 **SECTION 14. RECORD OF HEARING.**

18 (a) Except as otherwise provided in subsection (b), an arbitration hearing need not be  
19 recorded unless ordered by the arbitrator, provided by the agreement, or requested by a party.

20 (b) An arbitrator shall make a verbatim record of any part of an arbitration hearing  
21 concerning:

- 22 (1) a child-related dispute; and
- 23 (2) if required by law of this state other than this [act], other specified family law

1 dispute.

2 **SECTION 15. AWARD.**

3 (a) An arbitrator shall make a record of an award, dated and signed by the arbitrator,  
4 with a statement of the place where the arbitration was conducted. The arbitrator shall give  
5 notice of the award to each party by a method agreed on by the parties or, if the parties have not  
6 agreed on a method, in accordance with the law and procedural rules of this state other than this  
7 [act] governing binding arbitration.

8 (b) Except as provided in subsection (c), parties may agree in a record that an award need  
9 not state the reasons on which it is based.

10 (c) An award determining a child-related dispute must state the reasons on which it is  
11 based as required by law of this state other than this [act] for a court order in a family law  
12 proceeding.

13 (d) The award is effective when made but is not enforceable as a judgment until  
14 confirmed under Section 20.

15 **SECTION 16. CONFIRMATION OF AWARD.**

16 (a) After the arbitrator gives notice under Section 15(a) of an award, including an award  
17 changed under Section 17, a party may move the court for an order confirming the award.

18 (b) The court shall confirm the award if:

19 (1) the time for making a motion under Section 18 or 19 to correct or vacate the  
20 award has expired;

21 (2) no motion to correct or vacate the award is pending; and

22 (3) on the face of an award that determines a child-related dispute, the award  
23 complies with law of this state other than this [act] and is in the best interests of



1                   the child.

2                   (c) On confirmation, an award is enforceable as a judgment.

3                   **SECTION 17. CHANGE OF UNCONFIRMED AWARD BY ARBITRATOR.**

4                   (a) On motion of a party made not later than [30] days after an arbitrator gives notice of  
5 an award under Section 15(a), the arbitrator may change or correct an award for the following  
6 reasons:

7                   (1) there is an evident mathematical miscalculation or an evident mistake in the  
8 description of a person, thing, or property referred to in the award;

9                   (2) the award is imperfect in a matter of form not affecting the merits of the  
10 decision on the issues submitted; or

11                   (3) to clarify the award.

12                   (b) The arbitrator shall give notice under Section 15(a) of a changed award.

13                   **SECTION 18. CORRECTION OF UNCONFIRMED AWARD BY COURT.**

14                   (a) On motion made not later than [90] days after an arbitrator gives notice of an award  
15 under Section 15(a), including an award changed under Section 17, the court shall correct the  
16 award if:

17                   (1) there was an evident mathematical miscalculation or an evident mistake in the  
18 description of a person, thing, or property referred to in the award;

19                   (2) the arbitrator has made an award on a dispute not submitted to the arbitrator  
20 and the award may be corrected without affecting the merits of the decision upon the issues  
21 submitted; or

22                   (3) the award is imperfect in a matter of form not affecting the merits of the  
23 decision on the issues submitted.

1 (b) A motion to correct an award under this section may be joined with a motion to  
2 vacate or amend the award under Section 19.

3 (c) Unless a motion under Section 19 to vacate or amend an award is pending, a court, on  
4 motion, may confirm under Section 16 a corrected award.

5 **SECTION 19. VACATION OR AMENDMENT OF UNCONFIRMED AWARD.**

6 (a) On motion of a party, the court shall vacate an unconfirmed award if the moving  
7 party establishes that:

8 (1) the award was procured by corruption, fraud, or other undue means;

9 (2) there was:

10 (A) evident partiality or corruption by the arbitrator;

11 (B) corruption by an arbitrator; or

12 (C) misconduct by the arbitrator prejudicing the rights of a party or a  
13 child who is the subject of a child-related dispute;

14 (3) an arbitrator refused to postpone the hearing upon showing of sufficient cause  
15 for postponement, refused to consider evidence material to the controversy, or otherwise  
16 conducted the hearing contrary to Section 13, so as to prejudice substantially the rights of a party  
17 or a child who is the subject of a child-related dispute;

18 (4) an arbitrator exceeded the arbitrator's powers;

19 (5) there was no arbitration agreement, unless the moving party participated in the  
20 arbitration proceeding without raising the objection under Section 6(d) not later than the  
21 beginning of the arbitration proceeding; or

22 (6) the arbitration was conducted without proper notice of the initiation of the  
23 arbitration as required under Section 7, so as to prejudice substantially the rights of a party or a

1 child who is the subject of a child-related dispute.

2 (b) On motion of a party, the court shall vacate an unconfirmed award that determines a  
3 child-related dispute if the moving party establishes that:

4 (1) the award does not comply with law of this state other than this [act] or is  
5 contrary to the best interests of the child;

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

8 (3) a ground for vacating an award listed in subsection (a) exists.

9 (c) On motion of a party, if in the best interests of the child, the court may amend an  
10 award that is subject to vacation under subsection (b)(1).

11 (d) In determining a motion to vacate or amend under subsections (b) or (c), the court  
12 shall base its review on the record of the arbitration hearing and facts occurring after the hearing  
13 [or, in its discretion, may exercise de novo review].

14 (e) A motion to vacate or amend under this section must be filed not later than [90] days:

15 (1) after an arbitrator gives the party filing the motion notice of the award or a  
16 changed award; or

17 (2) after the ground of corruption, fraud, or undue means is known or by the  
18 exercise of reasonable care could have been known to the party filing the motion.

19 (f) If the court vacates an award for a reason other than the absence of an enforceable  
20 arbitration agreement, the court may order a rehearing before an arbitrator. If the reason for  
21 vacating the award is that the award was procured by corruption, fraud, or other undue means or  
22 there was evident partiality, corruption, or misconduct by the arbitrator, the rehearing must be  
23 before a new arbitrator.

1 (g) If the court denies a motion to vacate an award, the court shall confirm the award  
2 under Section 16 unless a motion under Section 18 to correct the award is pending.

3 **SECTION 20. CLARIFICATION OF CONFIRMED AWARD.** If the meaning or  
4 effect of an award confirmed under Section 16 is in dispute, the parties may:

5 (1) request clarification from the arbitrator;

6 (2) agree to arbitrate the dispute before the original arbitrator or a new arbitrator; or

7 (3) proceed in court under law of this state other than this [act] governing clarification of  
8 a court decree in a family law proceeding.

9 **SECTION 21. JUDGMENT ON AWARD.**

10 (a) On granting an order confirming, vacating without directing a rehearing,  
11 or amending an award, the court shall enter a judgment that conforms to the order. The judgment  
12 may be recorded, docketed, and enforced as any other judgment in a civil action

13 (b) On motion of a party, the court may order that a document or parts of the record be  
14 sealed or redacted to prevent public disclosure of all or part of an arbitration record or award.

15 **SECTION 22. MODIFICATION OF CONFIRMED AWARD OR JUDGMENT.**

16 (a) If, based on facts occurring after confirmation, a party requests a modification of a  
17 confirmed award or judgment on the award under law of this state other than this [act], the  
18 parties shall proceed according to the dispute resolution method specified in the award or  
19 judgment.

20 (b) If the award or judgment does not specify a dispute resolution method, the parties  
21 may:

22 (1) agree to arbitrate the dispute before the original arbitrator or a new  
23 arbitrator; or

1 (2) in the absence of an agreement, proceed under the law of this state other than  
2 this [act] governing modification of a court decree in a family law proceeding.

3 **SECTION 23. ENFORCEMENT OF CONFIRMED AWARD.**

4 (a) The court shall enforce an award confirmed by the court, including a temporary  
5 award, in the manner and to the same extent as any other order or judgment of a court.

6 (b) The court shall enforce an arbitration award in a family law dispute which has been  
7 confirmed by a court in another state in the manner and to the same extent as any other order or  
8 judgment from another state.

9 **SECTION 24. APPEALS**

10 (a) An appeal may be taken from:

11 (1) an order denying a motion to compel arbitration;

12 (2) an order granting a motion to stay arbitration;

13 (3) an order confirming or denying confirmation of an award;

14 (4) an order correcting an award;

15 (5) an order vacating an award without directing a rehearing; or

16 (6) a final judgment entered pursuant to this [act].

17 (b) An appeal under this section may be taken as from an order or a judgment in a civil  
18 action.

19 **SECTION 25. IMMUNITY OF ARBITRATOR.**

20 (a) An arbitrator is immune from civil liability to the same extent as a judge of a court of  
21 this state acting in a judicial capacity.

22 (b) The immunity afforded by this section supplements any immunity under other law.

23 (c) An arbitrator's failure to make a disclosure required by Section 9 does not cause the

1 arbitrator to lose immunity under this section.

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

6 (1) to the extent disclosure is necessary to determine a claim by the arbitrator  
7 against a party to the arbitration; and

8 (2) to a hearing on a motion under Section 19(a)(2) or (3) to vacate an award, if  
9 there is prima facie evidence that a ground for vacating the award exists.

10 (e) If a person commences a civil action against an arbitrator arising from the services of  
11 the arbitrator or seeks to compel the arbitrator to testify or produce records in violation of  
12 subsection (c) and the court decides that the arbitrator is immune from civil liability or is not  
13 competent to testify or required to produce the records, the court shall award the arbitrator  
14 reasonable attorney's fees, costs, and reasonable expenses of litigation.

15 **SECTION 26. UNIFORMITY OF APPLICATION AND CONSTRUCTION.** In  
16 applying and construing this uniform act, consideration must be given to the need to promote  
17 uniformity of the law with respect to its subject matter among states that enact it.

18 **SECTION 27. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND**  
19 **NATIONAL COMMERCE ACT.** This [act] modifies, limits, or supersedes the Electronic  
20 Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not  
21 modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize  
22 electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C.  
23 Section 7003(b).

1           **SECTION 28. APPLICABILITY.** This [act] applies to an arbitration of a family law  
2   dispute pursuant to an arbitration agreement made on or after [the effective date of this [act]]. If  
3   the agreement was made before [the effective date of this [act]], the parties may agree in a record  
4   that this [act] applies to the arbitration.

5           **SECTION 29. EFFECTIVE DATE.** This [act] takes effect . . . .