

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Adrienne Pusateri Ramos and Simon Cataldo

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to adopt the uniform family law arbitration act.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Adrienne Pusateri Ramos</i>	<i>14th Essex</i>	<i>1/15/2025</i>
<i>Simon Cataldo</i>	<i>14th Middlesex</i>	<i>1/17/2025</i>

HOUSE No.

[Pin Slip]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Fourth General Court
(2025-2026)**

An Act to adopt the uniform family law arbitration act.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. SHORT TITLE.

2 This act may be cited as the Massachusetts Family Law Arbitration Act.

3 SECTION 2. DEFINITIONS. In this act:

4 (a)“Arbitration agreement” means an agreement that subjects a family law dispute to
5 arbitration.

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

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

11 (d)“Award” means any interim award, temporary order or final disposition of any family
12 law dispute by an arbitrator.

13 (e)“Child-related dispute” means a family law dispute regarding legal custody, physical
14 custody, custodial responsibility, parental responsibility or authority, parenting time, right to
15 access, other parenting plan matter; and/or financial support regarding a child.

16 (f)“Court” means the Probate and Family Court Department of the Massachusetts Trial
17 Court, or in the case of contractual provisions, the Superior Court Department and/or District
18 Court Department.

19 (g)“Family law dispute” means a contested issue arising under the family law statutes and
20 case law of this commonwealth, including without limitation, M.G.L., chs. 207, 208, 209, 209B,
21 209C, 209D and where applicable, ch. 215, §6.

22 (h)“Party” means an individual who signs an arbitration agreement and whose rights will
23 be determined by an award.

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

26 (j)“Record”, used as a noun, means information that is inscribed on a tangible medium or
27 that is stored in an electronic or other medium and is retrievable in perceivable form.

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

29 (1)to execute or adopt a tangible symbol; or

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

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

35 SECTION 3. SCOPE.

36 (a)This act governs arbitration of a family law dispute.

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

38 (1)grants a judgment of separate support, divorce or annulment;

39 (2)terminates parental rights;

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

41 (4)determines the status of a child, elder or incapacitated person in need of care and
42 protection.

43 SECTION 4. APPLICABLE LAW.

44 (a)Except as otherwise provided in this act, the law applicable to arbitration is M.G.L. ch.
45 251, the statutes in section 6 above, case law of the commonwealth, the Massachusetts Rules of
46 Domestic Relations Procedure (Mass. Dom. Rel. P.) and other rules of the Probate and Family
47 Court and where applicable, the Massachusetts Rules of Civil Procedure (Mass. R. Civ. P.) and
48 rules of the rule of other Trial Court Departments.

49 (b)Except as otherwise provided in the parties’ arbitration agreement, in determining the
50 merits of a family law dispute, an arbitrator shall apply the law of this commonwealth, including
51 its choice of law rules.

52 SECTION 5. ARBITRATION AGREEMENT.

53 (a)An arbitration agreement must:

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

55 (2)identify the arbitrator, an arbitration organization, and/or a method of selecting an
56 arbitrator or replacement arbitrator; and

57 (3)identify the family law dispute(s) that the parties agree to arbitrate.

58 (b)An agreement in a record to arbitrate a family law dispute that arises between the
59 parties before, at the time, or after the agreement is made, is valid and enforceable as any other
60 contract and irrevocable, except:

61 (1)for a cause that exists at law or in equity for the rescission or reformation of a contract;
62 or

63 (2)if a party who opposes enforcement of the agreement, did not have counsel at the time
64 of execution, and was not questioned by a judge about his or her understanding of the arbitration
65 terms of the agreement to determine that the party understood the meaning of those terms, and
66 that he or she entered the agreement voluntarily, before the judge approved those terms; or

67 (3)if circumstances have occurred after the execution of the agreement that a court finds
68 would negate the voluntariness of the agreement if the party opposing enforcement were entering
69 into the agreement at the time of enforcement; and

70 (4)for a child-related dispute, the parties do not affirm the agreement in a record after the
71 dispute arises, or a court determines that enforcement no longer serves a child's best interests.

72 (c) If a party objects to arbitration on the ground the arbitration agreement is
73 unenforceable or the agreement does not include a family law dispute, the court shall decide
74 whether the agreement is enforceable or includes the family law dispute.

75 SECTION 6. NOTICE OF ARBITRATION.

76 (a) A party may initiate arbitration by giving notice to arbitrate to the other party in the
77 manner specified in the arbitration agreement or, in the absence of a specified manner, under the
78 law and procedural rules of this commonwealth governing contractual arbitration.

79 SECTION 7. REQUEST FOR JUDICIAL RELIEF.

80 (a) A request made by complaint, petition or motion for judicial relief under this act must
81 be made to the court in which a proceeding is pending involving a family law dispute subject to
82 arbitration or, if no proceeding is pending, a court with jurisdiction over the parties and the
83 subject matter.

84 (b) On request made by complaint, petition or motion of a party, the court may compel
85 arbitration if the parties have entered into an arbitration agreement that complies with Section
86 5(a), unless the court determines under Sections 5(b), 5(c), or Section 12 that the arbitration
87 should not proceed.

88 (c) On request made by complaint, petition or motion of a party, the court shall terminate
89 arbitration if it determines that:

90 (1) the agreement to arbitrate is unenforceable;

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

92 (3)under Sections 5(b), 5(c), or 12, the arbitration should not proceed.

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

96 SECTION 8. QUALIFICATION AND SELECTION OF ARBITRATOR.

97 (a)Except as otherwise provided in subsection (b), unless waived in a record by the
98 parties, an arbitrator must be:

99 (1)an attorney in good standing admitted to practice on “active” status under the laws of
100 the commonwealth or equivalent in another state; and

101 (2)trained in providing family law arbitration and in identifying domestic violence, which
102 requirement may be satisfied by attending any training program approved or established by the
103 chief justice of the probate and family court department for any purpose.

104 (b)The identification in the arbitration agreement of an arbitrator, arbitration
105 organization, or method of selection of the arbitrator controls.

106 (c)If an arbitrator is unable or unwilling to act or if the agreed-on method of selecting an
107 arbitrator fails, on motion of a party, the court shall select an arbitrator who meets the
108 requirements of sub-paragraph (a) of this paragraph 8.

109 SECTION 9. DISCLOSURE BY ARBITRATOR; DISQUALIFICATION.

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

113 (1) the impartiality of the arbitrator in the arbitration, including bias, a financial or
114 personal interest in the outcome of the arbitration, or an existing or past relationship with a party,
115 attorney representing a party, or witness; or

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

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

120 (c) An objection to the selection or continued service of an arbitrator and a motion for a
121 stay of arbitration and disqualification of the arbitrator must be made under the law and
122 procedural rules of this commonwealth governing arbitrator disqualification.

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

124 (1) on motion of a party not later than 30 days after the failure to disclose is known or by
125 the exercise of reasonable care should have been known to the party, suspend the arbitration;

126 (2) on timely motion of a party, vacate an award under Section 19(a)(2); or

127 (3) if an award has been confirmed, grant other appropriate relief under law of this
128 commonwealth.

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

132 SECTION 10. PARTY PARTICIPATION.

133 (a)A party may:

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

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

137 (3)participate in the arbitration to the full extent permitted under the law and procedural
138 rules of this commonwealth governing a party's participation in contractual arbitration.

139 (b)A party or representative of a party may not communicate ex parte with the arbitrator
140 except to the extent permitted by the agreement to arbitrate.

141 SECTION 11. TEMPORARY ORDER OR AWARD.

142 (a)Before an arbitrator is selected and able to act, on motion of a party, the court may
143 enter temporary orders under M.G.L., ch. 208, §§ 28, 28A and 31.

144 (b)After an arbitrator is selected:

145 (1)the arbitrator may make temporary awards under M.G.L. ch. 207, 208, 209 and 209C;
146 and

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

149 (c)On motion of a party, before the court confirms a final award, the court under Section
150 16, 18, or 19 may confirm, correct, vacate, or amend a temporary award made under subsection
151 (b)(1).

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

154 SECTION 12. PROTECTION OF PARTY OR CHILD.

155 (a)In this section, “protection order” means an injunction or other order, issued under the
156 domestic-violence, family-violence, or stalking laws of the issuing jurisdiction, to prevent an
157 individual from engaging in a violent or threatening act against, harassment of, contact or
158 communication with, or being in physical proximity to another individual who is a party or a
159 child under the custodial responsibility of a party.

160 (b)If a party is subject to a protection order that does not permit attendance at arbitration
161 or if an arbitrator determines there is a reasonable basis to believe a party’s safety or ability to
162 participate effectively in arbitration is at risk, the arbitrator shall stay the arbitration and refer the
163 parties to court. The arbitration may not proceed unless the party at risk affirms the arbitration
164 agreement in a record and the court determines:

165 (1)the affirmation is informed and voluntary;

166 (2)arbitration is not inconsistent with the protection order; and

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

169 (c)If an arbitrator determines that there is a reasonable basis to believe a child who is the
170 subject of a child-related dispute is subject to ongoing abuse or neglected, the arbitrator may
171 terminate the arbitration of the child-related dispute and shall have the right to report the
172 reasonably believed abuse or neglect to the Department of Children and Families,
173 notwithstanding the agreement to arbitrate.

174 (d)If a party is subject to a protection order that does not permit attendance at arbitration
175 or that party reasonably believes that his or her safety or ability to participate effectively in
176 arbitration is at risk, the party may move the court to stay the arbitration and review temporary or
177 interim awards under this section.

178 (e)This section supplements remedies available under law of this commonwealth for the
179 protection of victims of domestic violence, family violence, stalking, harassment, or similar
180 abuse.

181 SECTION 13. POWERS AND DUTIES OF ARBITRATOR.

182 (a)An arbitrator shall conduct an arbitration in a manner the arbitrator considers
183 appropriate for a fair and expeditious disposition of the dispute and consistent with the
184 agreement to arbitrate.

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

187 (c)Unless the parties otherwise agree in a record, an arbitrator’s powers include the power
188 to:

189 (1)select the rules for conducting the arbitration;

190 (2)hold conferences with the parties before a hearing;

191 (3)determine the date, time, and place of a hearing;

192 (4)require a party to provide:

193 (A)a copy of a relevant court order;

194 (B)information required to be disclosed in a family law proceeding under law and
195 procedural rules of this commonwealth and

196 (C)a proposed award that addresses each issue in arbitration;

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

199 (6)compel discovery concerning the family law dispute and determine the date, time, and
200 place of discovery;

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

202 (8)permit deposition of a witness for use as evidence at a hearing;

203 (9) impose a procedure to protect a party or child from risk of harm, harassment, or
204 intimidation;

205 (10)allocate arbitration fees, attorney’s fees, expert-witness fees, and other costs to the
206 parties; and

207 (11)impose a sanction on a party for bad faith or misconduct during the arbitration
208 according to law and procedural rules governing imposition of a sanction for litigant misconduct
209 in a court proceeding.

210 (d)An arbitrator may not allow ex parte communication except to the extent allowed in
211 the agreement to arbitrate.

212 SECTION 14. RECORDING OF HEARING.

213 (a)Except as otherwise provided in subsection (b) or required by law of this
214 commonwealth, an arbitration hearing need not be recorded unless provided by the arbitration
215 agreement, or requested by a party.

216 (b)An arbitrator shall request a verbatim recording be made of any part of an arbitration
217 hearing concerning a child-related dispute.

218 SECTION 15. AWARD.

219 (a)An arbitrator shall make an award in a record, dated and signed by the arbitrator. The
220 arbitrator shall give notice of the award to each party by a method agreed on by the parties or, if
221 the parties have not agreed on a method, under the law and procedural rules of this
222 commonwealth governing notice in contractual arbitration.

223 (b) Except as otherwise provided in subsection (c), the award must state the reasons on
224 which it is based unless otherwise agreed by the parties.

225 (c)An award determining a child-related dispute must state the reasons on which it is
226 based.

227 (d)An award under this act is not enforceable as a judgment until confirmed under
228 Section 16.

229 SECTION 16. CONFIRMATION OF AWARD.

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

232 (b)Except as otherwise provided in subsection (c), the court shall confirm an award under
233 this [act] if:

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

235 (2)the time has expired for making a motion, and no motion is pending, under Section 18
236 or 19.

237 (c)If an award determines a child-related dispute, the court shall confirm the award under
238 subsection (b) if the court finds, after a review of the record if necessary, that the award on its
239 face: complies with Section 15 and law of this state other than this [act] governing a child-related
240 dispute; and

241 (1)is in the best interests of the child.

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

243 SECTION 17. CORRECTION OR CLARIFICATION BY ARBITRATOR OF
244 UNCONFIRMED AWARD.

245 (a) On motion of a party made not later than 30 days after an arbitrator gives notice under
246 Section 15(a) of an award, the arbitrator may correct the award:

247 (1) if the award has an evident mathematical miscalculation or an evident mistake in the
248 description of a person, thing, or property;

249 (2) if the award is imperfect in a matter of form not affecting the merits on the issues
250 submitted; or

251 (3) to clarify the award.

252 SECTION 18. CORRECTION OR CLARIFICATION BY COURT OF
253 UNCONFIRMED AWARD.

254 (a) On motion of a party made not later than 90 days after an arbitrator gives notice under
255 Section 15(a) of an award, including an award corrected under Section 17, the court shall correct
256 the award if:

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

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

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

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

265 (c)Unless a motion under Section 19 is pending, the court may confirm a corrected
266 award under Section 16.

267 SECTION 19. VACATION OR AMENDMENT BY COURT OF UNCONFIRMED
268 AWARD.

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

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

272 (2)there was:

273 (A)evident partiality by the arbitrator; or

274 (B)corruption by the arbitrator; or

275 (C)misconduct by the arbitrator substantially prejudicing the rights of a party; or

276 (3)the arbitrator refused to postpone a hearing on showing of sufficient cause for
277 postponement, refused to consider evidence material to the controversy, or otherwise conducted
278 the hearing contrary to Section 13, so as to prejudice substantially the rights of a party; or

279 (4)the arbitrator exceeded the arbitrator's powers; or

280 (5)no arbitration agreement exists, unless the moving party participated in the arbitration
281 without making a motion under Section 7 not later than the beginning of the first arbitration
282 hearing; or

283 (6)the arbitration was conducted without proper notice under Section 6 of the initiation of
284 arbitration, so as to prejudice substantially the rights of a party; or

285 (7)a ground exists for vacating the award under law of this commonwealth; or

286 (8)the parties have included in the agreement the right to a review by the court of the
287 unconfirmed award for fairness and reasonableness in the same manner as the court would
288 review a settlement agreement of the parties in a family law matter for the purpose of
289 incorporation or incorporation and merger in a judgment, and the court finds that the award is not
290 fair and reasonable.

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

294 (1)the award does not comply with Section 15 or law of commonwealth governing a
295 child-related dispute or is contrary to the best interests of the child;

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

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

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

301 (d)The court shall determine a motion under subsection (b) or (c) based on the record of
302 the arbitration hearing.

303 (e)A motion under this section to vacate or amend an award must be filed not later than
304 30 days:

305 (1)after an arbitrator gives the party filing the motion notice of the award or a corrected
306 award; or

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

310 (f)If the court under this section vacates an award for a reason other than the absence of
311 an enforceable arbitration agreement, the court may order a rehearing before an arbitrator. If the
312 reason for vacating the award is that the award was procured by corruption, fraud, or other undue
313 means or there was evident partiality, corruption, or misconduct by the arbitrator, the rehearing
314 must be before another arbitrator.

315 (g)If the court under this section denies a motion to vacate or amend an award, the court
316 may confirm the award under Section 16 unless a motion is pending under Section 18.

317 SECTION 20. CLARIFICATION OF CONFIRMED AWARD.

318 (a)If the meaning or effect of an award confirmed under Section 16 is in dispute, the
319 parties may:

320 (1)agree to arbitrate the dispute before the original arbitrator or another arbitrator; or

321 (2)proceed in court under law of this commonwealth governing clarification of
322 a judgment in a family law proceeding.

323 SECTION 21. JUDGMENT ON AWARD.

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

326 (b)On motion of a party, the court may order that a document or part of the arbitration
327 record be sealed or redacted to prevent public disclosure of all or part of the record or award to
328 the extent permitted under law of this commonwealth.

329 SECTION 22. MODIFICATION OF JUDGMENT BASED ON AWARD.

330 (a)If a party requests under law of this commonwealth a modification of judgment on an
331 award based on a material change of circumstances after confirmation:

332 (1)the parties shall proceed under the dispute-resolution method specified in the
333 judgment; or

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

336 (A)agree to arbitrate the modification before the original arbitrator or another arbitrator;
337 or

338 (B)absent agreement proceed under law of this commonwealth governing modification of
339 a judgment in a family law proceeding.

340 SECTION 23. ENFORCEMENT OF CONFIRMED AWARD.

341 (a)The court shall enforce an award confirmed under Section 16, including a temporary
342 award, in the manner and to the same extent as any other order or judgment of a court.

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

346 SECTION 24. APPEAL.

347 (a)An appeal may be taken under this act from:

348 (1)an order granting or denying a motion to compel arbitration;

349 (2)an order granting or denying a motion to stay arbitration;

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

351 (4)an order correcting an award;

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

353 (6)a final judgment.

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

356 SECTION 25. IMMUNITY OF ARBITRATOR.

357 (a)An arbitrator or arbitration organization acting in that capacity in a family law dispute
358 is immune from civil liability to the same extent as a judge of a court of this commonwealth
359 acting in a judicial capacity.

360 (b)The immunity provided by this section supplements any immunity under law of this
361 commonwealth.

362 (c)An arbitrator's failure to make a disclosure required by Section 9 does not cause the
363 arbitrator to lose immunity under this section.

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

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

370 (2)to a hearing on a motion under Section 19(a)(1) or (2) to vacate an award, if there is
371 prima facie evidence that a ground for vacating the award exists.

372 (e)If a person commences a civil action against an arbitrator arising from the services of
373 the arbitrator or seeks to compel the arbitrator to testify or produce records in violation of
374 subsection (d) and the court determines that the arbitrator is immune from civil liability or is not
375 competent to testify or required to produce the records, the court shall award the arbitrator
376 reasonable attorney's fees, costs, and reasonable expenses of litigation.

377 SECTION 26. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND
378 NATIONAL COMMERCE ACT.

379 This [act] modifies, limits, or supersedes the Electronic Signatures in Global and National
380 Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit, or supersede Section
381 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the
382 notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

383 SECTION 27. TRANSITIONAL PROVISION.

384 This [act] applies to arbitration of a family law dispute under an arbitration agreement
385 made on or after [the effective date of this [act]]. If an arbitration agreement was made before
386 [the effective date of this [act]], the parties may agree in a record that this [act] applies to the
387 arbitration.

388 SECTION 28. EFFECTIVE DATE.

389 This [act] takes effect upon passage of the bill.