

April 20, 2005

H 1319. AMEND FAMILY LAW ARBITRATION ACT. TO AMEND VARIOUS PROVISIONS UNDER THE FAMILY LAW ARBITRATION ACT. Makes the following changes in the Family Law Arbitration Act. (1) In several sections, where the act permits the parties to agree to procedures that vary from the literal terms of the act, the bill requires that the agreement be written. (2) The bill adds to GS 50-41 provisions generally permitting the parties to a family law arbitration agreement to waive or agree in writing to vary the effect of the requirements of the act, but specifying particular portions of the act which are not to be subject to such variance by agreement. Specifies that a waiver contrary to these provisions voids the entire agreement to arbitrate. (3) The bill amends GS 50-42 to specify actions that initiate an arbitration proceeding and to spell out the circumstances under which notice by various means is effective. (4) The bill amends GS 50-43(b) to provide that an arbitrator decides whether a condition precedent to arbitrability has been fulfilled and whether a contract containing a valid agreement to arbitrate is enforceable. If there is a judicial challenge, the arbitration proceeding may continue pending final resolution on the challenge, unless the court orders otherwise. (5) The bill adds new GS 50-44(j) to specify that a party does not waive the right to arbitrate by seeking interim relief directly from the court where arbitrators have not yet been appointed or are not available. (6) The bill amends GS 50-45 to spell out interests or relationships that a person requested to serve as an arbitrator, or serving as an arbitrator, must disclose, including any known facts that a reasonable person would consider likely to affect the impartiality of the arbitrator in the arbitration proceeding. Provides that failure by the arbitrator to make the disclosure may be grounds for vacating an award. (7) The bill repeals GS 50-50 and replaces it with new GS 50-50A to permit a court to order the consolidation of separate arbitration agreements under specified circumstances. (8) The bill amends GS 50-51 to provide that the arbitrator's award is to specify the place where the arbitration was conducted and that the parties may agree that the award of costs is not to include fees and expenses of counsel. (9) The bill amends GS 50-52 (which specifies circumstances in which an arbitrator may modify or correct an award) to provide that the arbitrator may modify or correct an award only if the arbitrator has not made a final and definite award upon a claim submitted by the parties to the arbitration proceeding. (10) The bill adds new GS 50-57(b) providing for the court to seal all or part of an arbitration award or a court order on an award. (11) The bill amends GS 50-59 to add a definition of "person" and amends GS 50-62 to specify that the Family Law Arbitration Act conforms with the Electronic Signatures in Global and National Commerce Act.

Intro. by Hackney, Goodwin.

Ref. to Judiciary I

GS 50

May 4, 2005

H 1319. AMEND FAMILY LAW ARBITRATION ACT. Intro. 4/20/05. House committee substitute makes the following changes to 1st edition. Amends GS 50-41(e) to provide that although a waiver that does not comply with the requirements of section will not be effective, it will not void the agreement to arbitrate. Provides that act also applies to agreements to arbitrate made before October 1, 2005, if all parties to the agreement or arbitration proceeding agree that act applies. Makes technical changes.

June 21, 2005

H 1319. AMEND FAMILY LAW ARBITRATION ACT. Intro. 4/20/05. Senate committee substitute makes the following changes to 2nd edition. Makes technical changes only, including transferring the provisions of proposed GS 50-41(c) – (f) into new GS 50-42.1 (nonwaivable provisions), proposed GS 50-42(c) – (g) into new GS 50-42.2 (notice), and proposed GS 50-45(g1) – (g6) into new GS 50-45.1 (disclosure by arbitrator).

July 14, 2005

SL 2005-187 (H 1319). AMEND FAMILY LAW ARBITRATION ACT. AN ACT TO AMEND VARIOUS PROVISIONS UNDER THE FAMILY LAW ARBITRATION ACT. Summarized in *Daily Bulletin* 4/20/05, 5/4/05, and 6/21/05. Enacted July 12, 2005. Effective October 1, 2005.