



# House of Representatives

General Assembly

**File No. 582**

February Session, 2018

Substitute House Bill No. 5258

*House of Representatives, April 19, 2018*

The Committee on Judiciary reported through REP. TONG of the 147th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## ***AN ACT ADOPTING THE REVISED UNIFORM ARBITRATION ACT.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2018*) As used in sections 1 to  
2 31, inclusive, of this act:

3 (1) "Arbitration organization" means an association, agency, board,  
4 commission or other entity that is neutral and initiates, sponsors or  
5 administers an arbitration proceeding or is involved in the  
6 appointment of an arbitrator.

7 (2) "Arbitrator" means an individual appointed to render an award,  
8 alone or with others, in a controversy that is subject to an agreement to  
9 arbitrate.

10 (3) "Court" means the Superior Court.

11 (4) "Knowledge" means actual knowledge.

12 (5) "Person" means an individual, corporation, business trust, estate,

13 trust, partnership, limited liability company, association, joint venture,  
14 government, governmental subdivision, agency or instrumentality,  
15 public corporation or any other legal or commercial entity.

16 (6) "Record" means information that is inscribed on a tangible  
17 medium or that is stored in an electronic or other medium and is  
18 retrievable in a perceivable form.

19 Sec. 2. (NEW) (*Effective October 1, 2018*) (a) Except as otherwise  
20 provided in sections 9, 15, 19, 20 and 22 to 24, inclusive, of this act, a  
21 person gives notice to another person by taking action that is  
22 reasonably necessary to inform the other person in ordinary course,  
23 whether or not the other person acquires knowledge of the notice.

24 (b) A person has notice if the person has knowledge of the notice or  
25 has received notice.

26 (c) A person receives notice when the notice comes to the person's  
27 attention or the notice is delivered at the person's place of residence or  
28 place of business, or at another location held out by the person as a  
29 place of delivery of such communications.

30 Sec. 3. (NEW) (*Effective October 1, 2018*) Sections 1 to 31, inclusive, of  
31 this act govern an agreement to arbitrate made on or after October 1,  
32 2018, except that any proceeding that is governed by chapter 48, 68,  
33 113, 166 or 743b of the general statutes, or any other provision of the  
34 general statutes, related to an agreement to arbitrate that was made  
35 prior to, on or after October 1, 2018, shall be subject to chapter 909 of  
36 the general statutes, unless:

37 (1) (A) All the parties to the proceeding agree in a record to be  
38 governed by sections 1 to 31, inclusive, of this act, and (B) the  
39 agreement under subparagraph (A) of this subdivision is permitted by  
40 a law of this state other than sections 1 to 31, inclusive, of this act; or

41 (2) The proceeding is governed by sections 1 to 31, inclusive, of this  
42 act pursuant to a law of this state other than sections 1 to 31, inclusive,  
43 of this act.

44 Sec. 4. (NEW) (*Effective October 1, 2018*) (a) Except as otherwise  
45 provided in subsections (b) and (c) of this section, a party to an  
46 agreement to arbitrate or to an arbitration proceeding may waive, or  
47 the parties may vary the effect of, the requirements of sections 1 to 31,  
48 inclusive, of this act to the extent permitted by law.

49 (b) Before a controversy arises that is subject to an agreement to  
50 arbitrate, a party to the agreement may not:

51 (1) Waive or agree to vary the effect of the requirements of  
52 subsection (a) of section 5 of this act, subsection (a) of section 6 of this  
53 act, section 8 of this act, subsection (a) or (b) of section 17 of this act  
54 and section 26 or 28 of this act;

55 (2) Agree to unreasonably restrict the right under section 9 of this  
56 act to notice of the initiation of an arbitration proceeding;

57 (3) Agree to unreasonably restrict the right under section 12 of this  
58 act to disclosure of any facts by a neutral arbitrator; or

59 (4) Waive the right under section 16 of this act of a party to an  
60 agreement to arbitrate to be represented by a lawyer at any proceeding  
61 or hearing under sections 1 to 31, inclusive, of this act, provided an  
62 employer and a labor organization may waive the right to  
63 representation by a lawyer in a labor arbitration.

64 (c) A party to an agreement to arbitrate or arbitration proceeding  
65 may not waive, or the parties may not vary the effect of, the  
66 requirements of this section or section 3, 7, 14 or 18 of this act,  
67 subsection (d) or (e) of section 20 of this act, or sections 22, 23, 24, 25,  
68 29, 30 and 31 of this act or section 37-3a of the general statutes, as  
69 amended by this act.

70 Sec. 5. (NEW) (*Effective October 1, 2018*) (a) Except as otherwise  
71 provided in section 28 of this act, an application for judicial relief  
72 under sections 1 to 31, inclusive, of this act shall be made by motion to  
73 the court and heard in the manner provided by law or rule of court for  
74 making and hearing motions.

75 (b) Unless a civil action involving the agreement to arbitrate is  
76 pending, notice of an initial motion to the court under sections 1 to 31,  
77 inclusive, of this act must be served in the manner provided by law for  
78 the service of a summons in a civil action. Otherwise, notice of the  
79 motion must be given in the manner provided by law or rule of court  
80 for serving motions in pending cases.

81 Sec. 6. (NEW) (*Effective October 1, 2018*) (a) An agreement contained  
82 in a record to submit to arbitration any existing or subsequent  
83 controversy arising between the parties to the agreement is valid,  
84 enforceable and irrevocable, except upon a ground that exists at law or  
85 in equity for the revocation of a contract.

86 (b) The court shall decide whether an agreement to arbitrate exists  
87 or a controversy is subject to an agreement to arbitrate.

88 (c) An arbitrator shall decide whether a condition precedent to  
89 arbitrability has been fulfilled and whether a contract containing a  
90 valid agreement to arbitrate is enforceable.

91 (d) If a party to a judicial proceeding challenges the existence of, or  
92 claims that a controversy is not subject to, an agreement to arbitrate,  
93 the arbitration proceeding may continue pending final resolution of  
94 the issue by the court, unless the court otherwise orders.

95 Sec. 7. (NEW) (*Effective October 1, 2018*) (a) On motion of a person  
96 showing an agreement to arbitrate and alleging another person's  
97 refusal to arbitrate pursuant to the agreement:

98 (1) If the refusing party does not appear or does not oppose the  
99 motion, the court shall order the parties to arbitrate; and

100 (2) If the refusing party opposes the motion, the court shall proceed  
101 summarily to decide the issue and order the parties to arbitrate unless  
102 it finds that there is no enforceable agreement to arbitrate.

103 (b) On motion of a person alleging that an arbitration proceeding  
104 has been initiated or threatened but that there is no agreement to

105 arbitrate, the court shall proceed summarily to decide the issue. If the  
106 court finds that there is an enforceable agreement to arbitrate, it shall  
107 order the parties to arbitrate.

108 (c) If the court finds that there is no enforceable agreement, it may  
109 not order the parties to arbitrate under this section.

110 (d) The court may not refuse to order arbitration because the claim  
111 subject to arbitration lacks merit or grounds for the claim have not  
112 been established.

113 (e) If a proceeding involving a claim referable to arbitration under  
114 an alleged agreement to arbitrate is pending in court, a motion under  
115 this section must be made in that court. Otherwise, a motion under this  
116 section may be made in any court specified in section 27 of this act.

117 (f) If a party makes a motion to the court to order arbitration, the  
118 court on just terms shall stay any judicial proceeding that involves a  
119 claim alleged to be subject to the arbitration until the court renders a  
120 final decision under this section.

121 (g) If the court orders arbitration, the court on just terms shall stay  
122 any judicial proceeding that involves a claim subject to the arbitration.  
123 If a claim subject to the arbitration is severable, the court may limit the  
124 stay to that claim.

125 Sec. 8. (NEW) (*Effective October 1, 2018*) (a) Before an arbitrator is  
126 appointed and is authorized and able to act, the court, upon motion of  
127 a party to an arbitration proceeding and for good cause shown, may  
128 enter an order for provisional remedies to protect the effectiveness of  
129 the arbitration proceeding to the same extent and under the same  
130 conditions as if the controversy were the subject of a civil action.

131 (b) After an arbitrator is appointed and is authorized and able to act:

132 (1) The arbitrator may issue such orders for provisional remedies,  
133 including interim awards, as the arbitrator finds necessary to protect  
134 the effectiveness of the arbitration proceeding and to promote the fair

135 and expeditious resolution of the controversy, to the same extent and  
136 under the same conditions as if the controversy were the subject of a  
137 civil action; and

138 (2) A party to an arbitration proceeding may move the court for a  
139 provisional remedy only if the matter is urgent and the arbitrator is not  
140 able to act timely or the arbitrator cannot provide an adequate remedy.

141 (c) A party does not waive a right of arbitration by making a motion  
142 under subsection (a) or (b) of this section.

143 Sec. 9. (NEW) (*Effective October 1, 2018*) (a) A person initiates an  
144 arbitration proceeding by giving notice in a record to the other parties  
145 to the agreement to arbitrate in the agreed manner between the parties,  
146 or in the absence of agreement, by certified or registered mail, return  
147 receipt requested and obtained, or by service as authorized for the  
148 commencement of a civil action. The notice must describe the nature of  
149 the controversy and the remedy sought.

150 (b) Unless a person objects for lack or insufficiency of notice under  
151 subsection (c) of section 15 of this act not later than the beginning of  
152 the arbitration hearing, the person by appearing at the hearing waives  
153 any objection to lack or insufficiency of notice.

154 Sec. 10. (NEW) (*Effective October 1, 2018*) (a) Except as otherwise  
155 provided in subsection (c) of this section, upon motion of a party to an  
156 agreement to arbitrate or to an arbitration proceeding, the court may  
157 order consolidation of separate arbitration proceedings as to all or  
158 some of the claims if:

159 (1) There are separate agreements to arbitrate or separate arbitration  
160 proceedings between the same persons or one of them is a party to a  
161 separate agreement to arbitrate or a separate arbitration proceeding  
162 with a third person;

163 (2) The claims subject to the agreements to arbitrate arise in  
164 substantial part from the same transaction or series of related  
165 transactions;

166 (3) The existence of a common issue of law or fact creates the  
167 possibility of conflicting decisions in the separate arbitration  
168 proceedings; and

169 (4) Prejudice resulting from a failure to consolidate is not  
170 outweighed by the risk of undue delay or prejudice to the rights of or  
171 hardship to parties opposing consolidation.

172 (b) The court may order consolidation of separate arbitration  
173 proceedings as to some claims and allow other claims to be resolved in  
174 separate arbitration proceedings.

175 (c) The court may not order consolidation of the claims of a party to  
176 an agreement to arbitrate if the agreement prohibits consolidation.

177 Sec. 11. (NEW) (*Effective October 1, 2018*) (a) If the parties to an  
178 agreement to arbitrate agree on a method for appointing an arbitrator,  
179 that method must be followed, unless the method fails. If the parties  
180 have not agreed on a method, the agreed method fails or an appointed  
181 arbitrator fails or is unable to act and a successor has not been  
182 appointed, the court, on motion of a party to the arbitration  
183 proceeding, shall appoint the arbitrator. An arbitrator so appointed has  
184 all the powers of an arbitrator designated in the agreement to arbitrate  
185 or appointed pursuant to the agreed method.

186 (b) An individual who has a known, direct and material interest in  
187 the outcome of the arbitration proceeding or a known, existing and  
188 substantial relationship with a party may not serve as an arbitrator  
189 required by an agreement to be neutral.

190 Sec. 12. (NEW) (*Effective October 1, 2018*) (a) Before accepting  
191 appointment, an individual who is requested to serve as an arbitrator,  
192 after making a reasonable inquiry, shall disclose to all parties to the  
193 agreement to arbitrate and arbitration proceeding and to any other  
194 arbitrators any known facts that a reasonable person would consider  
195 likely to affect the impartiality of the arbitrator in the arbitration  
196 proceeding, including:

197 (1) A financial or personal interest in the outcome of the arbitration  
198 proceeding; and

199 (2) An existing or past relationship with any of the parties to the  
200 agreement to arbitrate or the arbitration proceeding, their counsel or  
201 representatives, a witness or another arbitrator.

202 (b) An arbitrator has a continuing obligation to disclose to all parties  
203 to the agreement to arbitrate and arbitration proceeding and to any  
204 other arbitrators any facts that the arbitrator learns after accepting  
205 appointment which a reasonable person would consider likely to affect  
206 the impartiality of the arbitrator.

207 (c) If an arbitrator discloses a fact required by subsection (a) or (b) of  
208 this section to be disclosed and a party timely objects to the  
209 appointment or continued service of the arbitrator based upon the fact  
210 disclosed, the objection may be a ground under subdivision (2) of  
211 subsection (a) of section 23 of this act for vacating an award made by  
212 the arbitrator.

213 (d) If the arbitrator did not disclose a fact as required by subsection  
214 (a) or (b) of this section, upon timely objection by a party, the court,  
215 under subdivision (2) of subsection (a) of section 23 of this act, may  
216 vacate an award.

217 (e) An arbitrator appointed as a neutral arbitrator who does not  
218 disclose a known, direct and material interest in the outcome of the  
219 arbitration proceeding or a known, existing and substantial  
220 relationship with a party is presumed to act with evident partiality  
221 under subdivision (2) of subsection (a) of section 23 of this act.

222 (f) If the parties to an arbitration proceeding agree to the procedures  
223 of an arbitration organization or any other procedures for challenges to  
224 arbitrators before an award is made, substantial compliance with those  
225 procedures is a condition precedent to a motion to vacate an award on  
226 that ground under subdivision (2) of subsection (a) of section 23 of this  
227 act.



228       Sec. 13. (NEW) (*Effective October 1, 2018*) If there is more than one  
229 arbitrator, the powers of an arbitrator must be exercised by a majority  
230 of the arbitrators, but all of them shall conduct the hearing under  
231 subsection (c) of section 15 of this act.

232       Sec. 14. (NEW) (*Effective October 1, 2018*) (a) An arbitrator or an  
233 arbitration organization acting in that capacity is immune from civil  
234 liability to the same extent as a judge of a court of this state acting in a  
235 judicial capacity.

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

238       (c) The failure of an arbitrator to make a disclosure required by  
239 section 12 of this act does not cause any loss of immunity under this  
240 section.

241       (d) In a judicial, administrative or similar proceeding, an arbitrator  
242 or representative of an arbitration organization is not competent to  
243 testify and may not be required to produce records as to any  
244 statement, conduct, decision or ruling occurring during the arbitration  
245 proceeding to the same extent as a judge of a court of this state acting  
246 in a judicial capacity. This subsection does not apply:

247       (1) To the extent necessary to determine the claim of an arbitrator,  
248 arbitration organization or representative of the arbitration  
249 organization against a party to the arbitration proceeding; or

250       (2) To a hearing on a motion to vacate an award under subdivision  
251 (1) or (2) of subsection (a) of section 23 of this act if the movant  
252 establishes prima facie that a ground for vacating the award exists.

253       (e) If a person commences a civil action against an arbitrator,  
254 arbitration organization or representative of an arbitration  
255 organization arising from the services of the arbitrator, organization or  
256 representative or if a person seeks to compel an arbitrator or a  
257 representative of an arbitration organization to testify or produce  
258 records in violation of subsection (d) of this section, and the court

259 decides that the arbitrator, arbitration organization or representative of  
260 an arbitration organization is immune from civil liability or that the  
261 arbitrator or representative of the organization is not competent to  
262 testify, the court shall award to the arbitrator, organization or  
263 representative reasonable attorney's fees and other reasonable  
264 expenses of litigation.

265 Sec. 15. (NEW) (*Effective October 1, 2018*) (a) An arbitrator may  
266 conduct an arbitration in such manner as the arbitrator considers  
267 appropriate for a fair and expeditious disposition of the proceeding.  
268 The authority conferred upon the arbitrator includes the power to hold  
269 conferences with the parties to the arbitration proceeding before the  
270 hearing and, among other matters, determine the admissibility,  
271 relevance, materiality and weight of any evidence.

272 (b) An arbitrator may decide a request for summary disposition of a  
273 claim or particular issue:

274 (1) If all interested parties agree; or

275 (2) Upon request of one party to the arbitration proceeding if that  
276 party gives notice to all other parties to the proceeding and the other  
277 parties have a reasonable opportunity to respond.

278 (c) If an arbitrator orders a hearing, the arbitrator shall set a time  
279 and place and give notice of the hearing not less than five days before  
280 the hearing begins. Unless a party to the arbitration proceeding makes  
281 an objection to lack or insufficiency of notice not later than the  
282 beginning of the hearing, the party's appearance at the hearing waives  
283 the objection. Upon request of a party to the arbitration proceeding  
284 and for good cause shown, or upon the arbitrator's own initiative, the  
285 arbitrator may adjourn the hearing from time to time as necessary but  
286 may not postpone the hearing to a time later than that fixed by the  
287 agreement to arbitrate for making the award unless the parties to the  
288 arbitration proceeding consent to a later date. The arbitrator may hear  
289 and decide the controversy upon the evidence produced although a  
290 party who was duly notified of the arbitration proceeding did not

291 appear. The court, on request, may direct the arbitrator to conduct the  
292 hearing promptly and render a timely decision.

293 (d) At a hearing under subsection (c) of this section, a party to the  
294 arbitration proceeding has a right to be heard, to present evidence  
295 material to the controversy and to cross-examine witnesses appearing  
296 at the hearing.

297 (e) If an arbitrator ceases or is unable to act during the arbitration  
298 proceeding, a replacement arbitrator must be appointed in accordance  
299 with section 11 of this act to continue the proceeding and to resolve the  
300 controversy.

301 Sec. 16. (NEW) (*Effective October 1, 2018*) A party to an arbitration  
302 proceeding may be represented by a lawyer.

303 Sec. 17. (NEW) (*Effective October 1, 2018*) (a) An arbitrator may issue  
304 a subpoena for the attendance of a witness and for the production of  
305 records and other evidence at any hearing and may administer oaths.  
306 A subpoena must be served in the manner for service of subpoenas in  
307 a civil action and, upon motion to the court by a party to the  
308 arbitration proceeding or the arbitrator, enforced in the manner for  
309 enforcement of subpoenas in a civil action.

310 (b) In order to make the proceedings fair, expeditious and cost  
311 effective, upon request of a party to or a witness in an arbitration  
312 proceeding, an arbitrator may permit a deposition of any witness to be  
313 taken for use as evidence at the hearing, including a witness who  
314 cannot be subpoenaed for or who is unable to attend a hearing. The  
315 arbitrator shall determine the conditions under which the deposition is  
316 taken.

317 (c) An arbitrator may permit such discovery as the arbitrator  
318 decides is appropriate in the circumstances, taking into account the  
319 needs of the parties to the arbitration proceeding and other affected  
320 persons and the desirability of making the proceeding fair, expeditious  
321 and cost effective.

322 (d) If an arbitrator permits discovery under subsection (c) of this  
323 section, the arbitrator may order a party to the arbitration proceeding  
324 to comply with the arbitrator's discovery-related orders, issue  
325 subpoenas for the attendance of a witness and for the production of  
326 records and other evidence at a discovery proceeding and take action  
327 against a noncomplying party to the extent a court could if the  
328 controversy were the subject of a civil action in this state.

329 (e) An arbitrator may issue a protective order to prevent the  
330 disclosure of privileged information, confidential information, trade  
331 secrets and other information protected from disclosure to the extent a  
332 court could if the controversy were the subject of a civil action in this  
333 state.

334 (f) All laws compelling a person under subpoena to testify and all  
335 fees for attending a judicial proceeding, a deposition or a discovery  
336 proceeding as a witness apply to an arbitration proceeding as if the  
337 controversy were the subject of a civil action in this state.

338 (g) The court may enforce a subpoena or discovery-related order for  
339 the attendance of a witness within this state and for the production of  
340 records and other evidence issued by an arbitrator in connection with  
341 an arbitration proceeding in another state upon conditions determined  
342 by the court so as to make the arbitration proceeding fair, expeditious  
343 and cost effective. A subpoena or discovery-related order issued by an  
344 arbitrator in another state must be served in the manner provided by  
345 law for service of subpoenas in a civil action in this state and, upon  
346 motion to the court by a party to the arbitration proceeding or the  
347 arbitrator, enforced in the manner provided by law for enforcement of  
348 subpoenas in a civil action in this state.

349 Sec. 18. (NEW) (*Effective October 1, 2018*) If an arbitrator makes a  
350 preaward ruling in favor of a party to the arbitration proceeding, the  
351 party may request the arbitrator to incorporate the ruling into an  
352 award under section 19 of this act. A prevailing party may make a  
353 motion to the court for an expedited order to confirm the award under  
354 section 22 of this act, in which case the court shall summarily decide

355 the motion. The court shall issue an order to confirm the award unless  
356 the court vacates, modifies or corrects the award under section 23 or 24  
357 of this act.

358 Sec. 19. (NEW) (*Effective October 1, 2018*) (a) An arbitrator shall make  
359 a record of an award. The record must be signed or otherwise  
360 authenticated by any arbitrator who concurs with the award. The  
361 arbitrator or the arbitration organization shall give notice of the award,  
362 including a copy of the award, to each party to the arbitration  
363 proceeding.

364 (b) An award must be made within the time specified by the  
365 agreement to arbitrate or, if not specified therein, within the time  
366 ordered by the court. The court may extend or the parties to the  
367 arbitration proceeding may agree in a record to extend the time. The  
368 court or the parties may do so within or after the time specified or  
369 ordered. A party waives any objection that an award was not timely  
370 made unless the party gives notice of the objection to the arbitrator  
371 before receiving notice of the award.

372 Sec. 20. (NEW) (*Effective October 1, 2018*) (a) On motion to an  
373 arbitrator by a party to an arbitration proceeding, the arbitrator may  
374 modify or correct an award:

375 (1) Upon a ground stated in subdivision (1) or (3) of subsection (a)  
376 of section 24 of this act;

377 (2) Because the arbitrator has not made a final and definite award  
378 upon a claim submitted by the parties to the arbitration proceeding; or

379 (3) To clarify the award.

380 (b) A motion under subsection (a) of this section shall be made and  
381 notice given to all parties within twenty days after the movant receives  
382 notice of the award.

383 (c) A party to the arbitration proceeding must give notice of any  
384 objection to the motion within ten days after receipt of the notice.

385 (d) If a motion to the court is pending under section 22, 23 or 24 of  
386 this act, the court may submit the claim to the arbitrator to consider  
387 whether to modify or correct the award:

388 (1) Upon a ground stated in subdivision (1) or (3) of subsection (a)  
389 of section 24 of this act;

390 (2) Because the arbitrator has not made a final and definite award  
391 upon a claim submitted by the parties to the arbitration proceeding; or

392 (3) To clarify the award.

393 (e) An award modified or corrected pursuant to this section is  
394 subject to subsection (a) of section 19 of this act and sections 22, 23 and  
395 24 of this act.

396 Sec. 21. (NEW) (*Effective October 1, 2018*) (a) An arbitrator may  
397 award punitive damages or other exemplary relief if such an award is  
398 authorized by law in a civil action involving the same claim and the  
399 evidence produced at the hearing justifies the award under the legal  
400 standards otherwise applicable to the claim.

401 (b) An arbitrator may award reasonable attorney's fees and other  
402 reasonable expenses of arbitration if such an award is authorized by  
403 law in a civil action involving the same claim or by the agreement of  
404 the parties to the arbitration proceeding.

405 (c) As to all remedies other than those authorized by subsections (a)  
406 and (b) of this section, an arbitrator may order such remedies as the  
407 arbitrator considers just and appropriate under the circumstances of  
408 the arbitration proceeding.

409 (d) An arbitrator's expenses and fees, together with other expenses,  
410 must be paid as provided in the award.

411 (e) If an arbitrator awards punitive damages or other exemplary  
412 relief under subsection (a) of this section, the arbitrator shall specify in  
413 the award the basis in fact justifying and the basis in law authorizing

414 the award and state separately the amount of the punitive damages or  
415 other exemplary relief.

416 Sec. 22. (NEW) (*Effective October 1, 2018*) After a party to an  
417 arbitration proceeding receives notice of an award, the party may  
418 make a motion to the court for an order confirming the award at which  
419 time the court shall issue a confirming order unless the award is  
420 modified or corrected pursuant to section 20 or 24 of this act or is  
421 vacated pursuant to section 23 of this act.

422 Sec. 23. (NEW) (*Effective October 1, 2018*) (a) Upon motion to the  
423 court by a party to an arbitration proceeding, the court shall vacate an  
424 award made in the arbitration proceeding if:

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

427 (2) There was: (A) Evident partiality by an arbitrator appointed as a  
428 neutral arbitrator; (B) corruption by an arbitrator; or (C) misconduct by  
429 an arbitrator prejudicing the rights of a party to the arbitration  
430 proceeding;

431 (3) An arbitrator refused to postpone the hearing upon showing of  
432 sufficient cause for postponement, refused to consider evidence  
433 material to the controversy or otherwise conducted the hearing  
434 contrary to section 15 of this act so as to prejudice substantially the  
435 rights of a party to the arbitration proceeding;

436 (4) An arbitrator exceeded the arbitrator's powers;

437 (5) There was no agreement to arbitrate, unless the person  
438 participated in the arbitration proceeding without raising the objection  
439 under subsection (c) of section 15 of this act not later than the  
440 beginning of the arbitration hearing; or

441 (6) The arbitration was conducted without proper notice of the  
442 initiation of an arbitration as required in section 9 of this act so as to  
443 prejudice substantially the rights of a party to the arbitration

444 proceeding.

445 (b) A motion under this section must be filed within thirty days  
446 after the movant receives notice of the award pursuant to section 19 of  
447 this act or within thirty days after the movant receives notice of a  
448 modified or corrected award pursuant to section 20 of this act, unless  
449 the movant alleges that the award was procured by corruption, fraud  
450 or other undue means, in which case the motion must be made within  
451 thirty days after the ground is known or by the exercise of reasonable  
452 care would have been known by the movant.

453 (c) If the court vacates an award on a ground other than that set  
454 forth in subdivision (5) of subsection (a) of this section, it may order a  
455 rehearing. If the award is vacated on a ground stated in subdivision (1)  
456 or (2) of subsection (a) of this section, the rehearing must be before a  
457 new arbitrator. If the award is vacated on a ground stated in  
458 subdivision (3), (4) or (6) of subsection (a) of this section, the rehearing  
459 may be before the arbitrator who made the award or the arbitrator's  
460 successor. The arbitrator must render the decision in the rehearing  
461 within the same time as that provided in subsection (b) of section 19 of  
462 this act for an award.

463 (d) If the court denies a motion to vacate an award, it shall confirm  
464 the award unless a motion to modify or correct the award is pending.

465 Sec. 24. (NEW) (*Effective October 1, 2018*) (a) Upon motion made  
466 within ninety days after the movant receives notice of the award  
467 pursuant to section 19 of this act or within ninety days after the  
468 movant receives notice of a modified or corrected award pursuant to  
469 section 20 of this act, the court shall modify or correct the award if:

470 (1) There was an evident mathematical miscalculation or an evident  
471 mistake in the description of a person, thing or property referred to in  
472 the award;

473 (2) The arbitrator has made an award on a claim not submitted to  
474 the arbitrator and the award may be corrected without affecting the



475 merits of the decision upon the claims submitted; or

476 (3) The award is imperfect in a matter of form not affecting the  
477 merits of the decision on the claims submitted.

478 (b) If a motion made under subsection (a) of this section is granted,  
479 the court shall modify or correct and confirm the award as modified or  
480 corrected. Otherwise, unless a motion to vacate is pending, the court  
481 shall confirm the award.

482 (c) A motion to modify or correct an award pursuant to this section  
483 may be joined with a motion to vacate the award.

484 Sec. 25. (NEW) (*Effective October 1, 2018*) (a) Upon granting an order  
485 confirming an award, vacating an award without directing a  
486 rehearing, modifying an award or correcting an award, the court shall  
487 enter a judgment in conformity therewith. The judgment may be  
488 recorded, docketed and enforced as any other judgment in a civil  
489 action.

490 (b) A court may allow reasonable costs of the motion and  
491 subsequent judicial proceedings.

492 Sec. 26. (NEW) (*Effective October 1, 2018*) (a) A court of this state  
493 having jurisdiction over the controversy and the parties may enforce  
494 an agreement to arbitrate.

495 (b) An agreement to arbitrate providing for arbitration in this state  
496 confers exclusive jurisdiction on the court to enter judgment on an  
497 award under sections 1 to 31, inclusive, of this act.

498 Sec. 27. (NEW) (*Effective October 1, 2018*) A motion pursuant to  
499 section 5 of this act shall be made in the court for the judicial district in  
500 which the agreement to arbitrate specifies the arbitration hearing is to  
501 be held or, if the hearing has been held, in the court for the judicial  
502 district in which it was held. Otherwise, the motion may be made in  
503 the court for any judicial district in which an adverse party resides or  
504 has a place of business or, if no adverse party has a residence or place

505 of business in this state, in the court for any judicial district in this  
506 state. All subsequent motions shall be made in the court hearing the  
507 initial motion unless the court otherwise directs.

508 Sec. 28. (NEW) (*Effective October 1, 2018*) (a) An appeal may be taken  
509 from: (1) An order denying a motion to compel arbitration; (2) an order  
510 granting a motion to stay arbitration; (3) an order confirming or  
511 denying confirmation of an award; (4) an order modifying or  
512 correcting an award; (5) an order vacating an award without directing  
513 a rehearing; or (6) a final judgment entered pursuant to sections 1 to  
514 31, inclusive, of this act.

515 (b) An appeal under this section must be taken as from an order or a  
516 judgment in a civil action.

517 Sec. 29. (NEW) (*Effective October 1, 2018*) In applying and construing  
518 the uniform provisions of sections 1 to 31, inclusive, of this act,  
519 consideration must be given to the need to promote uniformity of the  
520 law with respect to its subject matter among states that enact such  
521 uniform provisions.

522 Sec. 30. (NEW) (*Effective October 1, 2018*) The provisions of sections 1  
523 to 31, inclusive, of this act governing the legal effect, validity or  
524 enforceability of electronic records or signatures and of contracts  
525 formed or performed with the use of such records or signatures  
526 conform to the requirements of Section 102 of the Electronic Signatures  
527 in Global and National Commerce Act.

528 Sec. 31. (NEW) (*Effective October 1, 2018*) The provisions of sections 1  
529 to 30, inclusive, of this act do not affect an action or proceeding  
530 commenced or right accrued before October 1, 2018. Subject to section  
531 3 of this act, an arbitration agreement made before October 1, 2018, is  
532 governed by sections 52-408 to 52-424, inclusive, of the general  
533 statutes.

534 Sec. 32. Section 37-3a of the general statutes is repealed and the  
535 following is substituted in lieu thereof (*Effective October 1, 2018*):

536 (a) Except as provided in sections 37-3b, 37-3c and 52-192a, interest  
 537 at the rate of ten per cent a year, and no more, may be recovered and  
 538 allowed in civil actions or arbitration proceedings under chapter 909 or  
 539 sections 1 to 31, inclusive, of this act, including actions to recover  
 540 money loaned at a greater rate, as damages for the detention of money  
 541 after it becomes payable. Judgment may be given for the recovery of  
 542 taxes assessed and paid upon the loan, and the insurance upon the  
 543 estate mortgaged to secure the loan, whenever the borrower has  
 544 agreed in writing to pay such taxes or insurance or both. Whenever the  
 545 maker of any contract is a resident of another state or the mortgage  
 546 security is located in another state, any obligee or holder of such  
 547 contract, residing in this state, may lawfully recover any agreed rate of  
 548 interest or damages on such contract until it is fully performed, not  
 549 exceeding the legal rate of interest in the state where such contract  
 550 purports to have been made or such mortgage security is located.

551 (b) In the case of a debt arising out of services provided at a  
 552 hospital, prejudgment and postjudgment interest shall be no more  
 553 than five per cent per year. The awarding of interest in such cases is  
 554 discretionary.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2018</i>	New section
Sec. 2	<i>October 1, 2018</i>	New section
Sec. 3	<i>October 1, 2018</i>	New section
Sec. 4	<i>October 1, 2018</i>	New section
Sec. 5	<i>October 1, 2018</i>	New section
Sec. 6	<i>October 1, 2018</i>	New section
Sec. 7	<i>October 1, 2018</i>	New section
Sec. 8	<i>October 1, 2018</i>	New section
Sec. 9	<i>October 1, 2018</i>	New section
Sec. 10	<i>October 1, 2018</i>	New section
Sec. 11	<i>October 1, 2018</i>	New section
Sec. 12	<i>October 1, 2018</i>	New section
Sec. 13	<i>October 1, 2018</i>	New section
Sec. 14	<i>October 1, 2018</i>	New section

Sec. 15	<i>October 1, 2018</i>	New section
Sec. 16	<i>October 1, 2018</i>	New section
Sec. 17	<i>October 1, 2018</i>	New section
Sec. 18	<i>October 1, 2018</i>	New section
Sec. 19	<i>October 1, 2018</i>	New section
Sec. 20	<i>October 1, 2018</i>	New section
Sec. 21	<i>October 1, 2018</i>	New section
Sec. 22	<i>October 1, 2018</i>	New section
Sec. 23	<i>October 1, 2018</i>	New section
Sec. 24	<i>October 1, 2018</i>	New section
Sec. 25	<i>October 1, 2018</i>	New section
Sec. 26	<i>October 1, 2018</i>	New section
Sec. 27	<i>October 1, 2018</i>	New section
Sec. 28	<i>October 1, 2018</i>	New section
Sec. 29	<i>October 1, 2018</i>	New section
Sec. 30	<i>October 1, 2018</i>	New section
Sec. 31	<i>October 1, 2018</i>	New section
Sec. 32	<i>October 1, 2018</i>	37-3a

**JUD**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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***OFA Fiscal Note***

***State Impact:*** None

***Municipal Impact:*** None

***Explanation***

The bill codifies arbitration rules and does not result in a fiscal impact as it involves arbitration between private parties.

In addition, the bill allows parties to file a motion for court relief. There is no impact to the Judicial Department as the number of motions is not anticipated to be great enough to need additional resources. The court system disposes over 650,000 cases annually.

***The Out Years***

***State Impact:*** None

***Municipal Impact:*** None

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**OLR Bill Analysis**

**sHB 5258**

***AN ACT ADOPTING THE REVISED UNIFORM ARBITRATION ACT.***

**SUMMARY**

This bill adopts the Revised Uniform Arbitration Act (RUAA). It codifies arbitration rules, standards, and common practices, some of which are currently not regulated by statute. It permits parties to waive or modify many of them, but specifically bars such waiver for other provisions or allows it only under specified circumstances (§ 4). The bill covers:

1. agreements to arbitrate and their enforceability;
2. notice requirements;
3. court jurisdiction and procedures before the completion of an arbitration;
4. arbitrators' qualifications, information they must disclose, and powers;
5. arbitration proceedings; and
6. court proceedings after an award has been issued.

The bill generally applies to agreements to arbitrate made on or after October 1, 2018. It does not repeal the existing law on arbitration proceedings (Chapter 909). It provides that proceedings governed by any other laws (including those on highway and public works contract arbitrations; state and municipal employees; teachers and superintendents; and new car lemon law disputes) related to an agreement to arbitrate, whenever entered, are subject to the existing arbitration law unless:

1. all the parties agree in a record to be governed by the bill and the agreement is allowed by other law or
2. another law provides that the proceeding is governed by the bill's requirements.

The bill also specifies that it does not affect an action or proceeding begun, or right accrued, before the bill takes effect (§ 31).

The analysis below notes when the existing arbitration statutes contain provisions similar to the bill. It also indicates which of the bill's provisions cannot be waived or modified.

EFFECTIVE DATE: October 1, 2018

## **§ 2 — NOTICE**

The bill contains a general definition of notice. A person gives notice by taking reasonably necessary action to inform another in ordinary course, regardless of whether that person actually learns about it. A person has notice under this provision if he or she receives or learns about the notice.

Under the bill, a person receives notice when it is brought to the person's attention or is delivered to his or her home, office, or other location the person designated for delivery. "Persons" under the bill include people, government entities, businesses, and other legal and commercial entities.

Also, as described below, the bill has specific notice requirements, such as deadlines, in several of its provisions.

## **§ 5 — APPLICATIONS FOR JUDICIAL RELIEF**

The bill provides that applications for court relief under the bill, other than appeals, must be filed by motion in Superior Court and heard in the manner provided by law or court rule. Before a controversy arises, the parties may not waive or modify this provision.

The bill also specifies that, unless a civil action involving the

agreement to arbitrate is pending, notice of an initial court motion under the bill must be served in the manner provided by law for service of a summons in a civil action. Otherwise, notice of a motion must be given in the manner provided by law or court rules for serving motions in pending cases.

## **§ 6 — AGREEMENTS TO ARBITRATE**

The bill specifies that an agreement in a record to submit to arbitration any existing or future controversy between the parties to the agreement is valid, enforceable, and irrevocable except upon a ground that exists at law or in equity to revoke a contract. The parties may not waive this provision before a controversy arises.

Existing law specifies permissible methods for creating arbitration agreements (e.g., written contracts or other written agreements to submit controversies to arbitration) and similarly permits legal and equitable principles for the avoidance of written contracts to be grounds for making arbitration agreements invalid, revocable, and unenforceable (CGS § 52-408).

The bill directs courts to decide whether an agreement to arbitrate exists or a controversy is subject to an agreement to arbitrate. It directs arbitrators to decide whether a claim is ripe for arbitration and whether a contract containing an arbitration clause is enforceable.

The bill specifies that if a party to a court proceeding challenges the existence of an agreement to arbitrate, or claims that a controversy is not subject to the agreement, the arbitration may continue pending the court's final resolution of the issue, unless the court orders otherwise.

## **§ 7 — MOTION TO COMPEL OR STAY ARBITRATION**

Under the bill, if a party files a motion alleging another person's refusal to arbitrate under an agreement, the court must order the parties to arbitrate if (1) it finds there is an enforceable agreement and (2) the refusing party does not appear or does not oppose the motion. If the refusing party opposes the motion, the court must summarily decide the issue and order the parties to arbitrate, unless it finds that



there is no enforceable arbitration agreement.

Under the bill, the court may not refuse to order arbitration because the claim subject to arbitration lacks merit or grounds for the claim have not been established.

Existing law specifies that (1) applications for orders to proceed with (i.e., compel) arbitration must be made by writ of summons and complaint and (2) complaint allegations not answered within five days of the complaint's return date are deemed denied by operation of law. The court must hear the matter either at a short calendar session, as a privileged case, or otherwise, in order to dispose of the case with the least possible delay (CGS § 52-410).

The bill permits people to file motions when an arbitration proceeding has been threatened or initiated and they claim that there is no arbitration agreement. As with motions to compel, the court must decide this issue summarily. If it finds that there is an enforceable arbitration agreement, it must order arbitration to proceed.

If a proceeding involving a claim referable to arbitration under an alleged agreement to arbitrate is pending in court, the bill requires a motion under these provisions to be made in that court. Otherwise, a motion may be made in the appropriate court as provided below (see § 27).

The bill provides that if a party makes a court motion to order arbitration, the court "on just terms" must stay any judicial proceeding that involves a claim alleged to be subject to the arbitration, until the court decides the matter.

Similarly, if a court orders arbitration, the court on just terms must stay any court proceeding that involves a claim subject to the arbitration. If some claims are not subject to arbitration, the court may order a partial stay, permitting the lawsuit to continue with respect to non-arbitrable issues.

The parties cannot waive or modify these provisions of the bill.

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Existing law permits the filing of motions to stay court proceedings. It has a similar standard for granting them, but unlike the bill, specifically requires the moving party to show that he or she is ready and willing to proceed with the arbitration (CGS § 52-409).

### **§ 8 — PROVISIONAL REMEDIES**

Under the bill, before an arbitrator is appointed and authorized to act, the court, upon motion and for good cause shown, may enter orders for provisional remedies. The court may do so to protect the effectiveness of the arbitration proceeding. The bill specifies that the court's authority is the same as if the controversy were the subject of a civil action.

After an arbitrator has been appointed and is authorized to act, the bill provides that he or she can order provisional remedies, including interim awards, as necessary to protect the effectiveness of the proceeding and to promote the fair and expeditious resolution of the controversy, to the same extent as if it were a court case.

Under the bill, a party to an arbitration proceeding can make a court motion for provisional remedies only if the matter is urgent and the arbitrator is not able to act in a timely manner or the arbitrator cannot provide an adequate remedy.

The bill specifies that a party filing a court motion for provisional relief does not waive his or her right to arbitration by doing so.

Parties to arbitration agreements can waive the bill's provisional remedy provisions, or make other agreements on such issues, only after a particular controversy arises.

Under existing law, courts have the authority to issue provisional remedies (i.e., pendente lite orders) throughout the arbitration process to protect parties' rights and secure enforcement if an award in their favor is ultimately issued and confirmed (CGS § 52-422).

### **§ 9 — INITIATION OF ARBITRATION**

The bill creates an exception to the general rule for notices when a party seeks to initiate an arbitration proceeding. It specifies that unless the parties have agreed otherwise, they must do this by certified or registered mail, return receipt requested and obtained, or by a service method (such as personal delivery) permitted for beginning a civil lawsuit. The notice must describe the controversy and the requested remedy. It allows parties, by agreement, to use a different notice arrangement that is not unreasonably restrictive.

Parties who appear at the arbitration hearing waive objections based on lack or insufficiency of notice unless they object by the beginning of the hearing.

### **§ 10 — CONSOLIDATION OF SEPARATE PROCEEDINGS**

Unless the arbitration agreement prohibits it, the bill permits the court to order consolidation of separate arbitration proceedings as to all or some claims, upon motion of a party. The bill allows this if:

1. there are separate agreements to arbitrate or separate arbitration proceedings between the same people or entities or one of them is a party to a separate agreement to arbitrate or a separate arbitration with a third person;
2. the claims arise in substantial part from the same transaction or series of related transactions;
3. the existence of a common issue creates the possibility of conflicting decisions in the separate proceedings; and
4. prejudice from a failure to consolidate is not outweighed by the risk of undue delay, prejudice, or hardship to parties opposing consolidation.

### **§§ 11-14 — ARBITRATORS**

#### ***Appointing Arbitrators (§ 11)***

The bill permits parties to agree on a method for appointing an arbitrator or arbitration panel and requires them to follow it unless the

method fails. But it specifies that the court must appoint arbitrators on motion of any party if (1) the parties cannot agree, (2) the agreed-upon method fails, or (3) an appointed arbitrator fails or is unable to act and a successor has not been appointed. Court-appointed arbitrators have all the powers of the arbitrator designated in the arbitration agreement or appointed pursuant to the agreed-upon method.

The bill's provisions are similar to existing law, although existing law specifies that such proceedings be initiated and decided in the same way as applications to proceed with arbitrations (CGS § 52-411). Existing law also specifies that when a substitute or additional arbitrator is appointed to a case where evidence has already been presented, the matter must be reheard unless the parties agree in writing otherwise (CGS § 52-414).

The bill prohibits a person with a known, direct, and material interest in the outcome of the proceeding, or a known, existing, and substantial relationship with a party, to serve as a neutral arbitrator.

### ***Required Disclosures by Arbitrators (§ 12)***

Under the bill, before accepting appointment to serve as arbitrator, a person must make reasonable inquiry and disclose to all parties and to any other arbitrators any known facts that a reasonable person would consider likely to affect his or her impartiality. This includes any (1) financial or personal interest in the outcome and (2) existing or past relationship with any of the parties, their counsel or representatives, a witness, or another arbitrator.

Arbitrators must continue to disclose facts that they learn after accepting appointment that a reasonable person would consider likely to affect the arbitrator's impartiality.

The bill specifies that before a controversy arises, the parties may not agree to unreasonably restrict the right to disclosure by a neutral arbitrator under these provisions.

The bill allows a court, upon a timely objection, to vacate an

arbitration award if the arbitrator (1) does not disclose a fact that he or she should have or (2) discloses such a fact and the party, based upon that disclosure, objects to the arbitrator's appointment or continued service.

The bill provides that a person appointed as a neutral arbitrator who does not disclose a known, direct, and material interest in the proceeding's outcome or a known, existing, and substantial relationship with a party is presumed to have acted with evident partiality. It also specifies that parties who have agreed to the procedures of an arbitration organization or any other procedures for challenges to arbitrators before an award is made must comply substantially with those before asking a court to vacate an award on evident partiality grounds.

#### ***Arbitration Panels – Decision by Majority (§ 13)***

Unless the parties agree otherwise, the bill specifies that when more than one arbitrator is designated to decide an issue (i.e., a panel), the decision of a majority must be obtained. But all must conduct an arbitration hearing. This is consistent with existing law (CGS § 52-414).

#### ***Immunity and Related Issues (§ 14)***

The bill provides that an arbitrator and an arbitration organization, acting in those capacities, have the same immunity in civil lawsuits as Superior Court judges have when acting in their judicial capacity. (By law, judges are immune from liability for actions taken in their judicial capacity.) The bill specifies that this immunity supplements any immunity under other law. It also specifies that an arbitrator's failure to disclose required personal or financial information to the parties or other arbitrators does not strip him or her of this immunity.

The bill provides that arbitrators and arbitration organization representatives (1) are not competent to (i.e., cannot) testify in judicial, administrative, or similar proceedings and (2) may not be required to produce records concerning any statement, conduct, decision, or ruling occurring during the proceeding to the same extent as a judge acting in

a judicial capacity. But this does not apply (1) if testimony or records are needed to determine an arbitrator's or arbitration organization's claim against a party to the proceeding (such as for unpaid fees) or (2) to a hearing on a motion to vacate when the moving party establishes a prima facie case (i.e., makes a preliminary showing) of arbitrator misconduct.

The bill requires courts to award arbitrators and arbitration organizations or their representatives attorney's fees and other reasonable costs of litigation when they are sued or a person seeks to compel them to testify or produce records but the court finds they are immune from civil liability or incompetent to testify.

These provisions of the bill cannot be waived or modified.

### **§§ 15-21 — ARBITRATION PROCEEDINGS**

The bill permits arbitrators to handle proceedings in the manner they consider appropriate for a fair and expeditious disposition. They may hold conferences before the hearing and, among other things, determine the admissibility, relevance, material value, and weight of evidence (§ 15(a)).

#### ***Summary Disposition (§ 15(b))***

Under the bill, arbitrators may decide claims or issues summarily (1) if all interested parties agree or (2) when one party requests this and gives notice of the request to all other parties and the other parties have a reasonable opportunity to respond.

#### ***Hearings (§ 15(c) and (d))***

Under the bill, if the arbitrator orders a hearing, he or she must set a time and place and give notice at least five days in advance. Unless a party objects to the lack or insufficiency of notice by the beginning of the hearing, his or her appearance at the hearing waives the objection. Existing statutes do not (1) specify how much advance notice parties must receive or (2) provide for the waiver of objections to the adequacy of hearing notices (CGS § 52-413).

The bill specifies that a party to an arbitration hearing has a right to be heard, to present evidence material to the controversy, and to cross-examine witnesses.

It provides that hearings may be adjourned on the arbitrator's initiative or if any party requests it and shows good cause. It specifies that hearings cannot be postponed to a time later than that fixed by the arbitration agreement for making the award unless the parties consent. Existing law contains similar provisions (CGS § 52-413).

The bill gives the arbitrator the authority to proceed and decide controversies upon the evidence presented even if a duly notified party does not appear. These provisions are consistent with existing law (CGS § 52-414).

The bill specifies that a party may request the court to direct an arbitrator to conduct the hearing promptly and render a timely decision.

Existing law also specifies that an arbitrator, upon request of all parties, may request the court to give a decision on any question arising at the hearing, if the parties agree in writing to be bound by the court's decision (CGS § 52-415).

### ***Representation by Attorney (§ 16)***

The bill specifies that a lawyer may represent a party to an arbitration proceeding, but it permits post-controversy agreements to the contrary. The bill also allows employers and labor organizations to waive their right to a lawyer in a labor arbitration.

### ***Subpoenas, Depositions, and Discovery (§ 17)***

As under existing law (CGS §§ 52-412 & 514), the bill gives arbitrators the power to administer oaths and issue subpoenas directing witnesses to attend and produce documents at any hearing. It directs them to serve subpoenas in the same way as for civil actions, and it permits parties or the arbitrator to file a court motion and have a judge enforce the subpoena in the same manner as in a civil action.

Under existing law, both arbitrators and others legally authorized to issue subpoenas (such as a party's lawyer) may issue these subpoenas (CGS § 52-412). It appears that, under the bill, only arbitrators may do so unless the parties agree otherwise after a controversy has arisen.

The bill permits arbitrators, in order to make the proceedings fair, expeditious, and cost-effective, to allow the taking of depositions for use as evidence at the hearing, including depositions of witnesses who cannot be subpoenaed for, or are unable to attend, a hearing. The arbitrator must specify the conditions for the depositions.

Parties can waive these rules or make other agreements after a controversy arises.

Under the bill, arbitrators may also permit the parties to engage in discovery that is appropriate under the circumstances. The arbitrator must consider the needs of the parties and other affected persons and the desirability of making the proceeding fair, expeditious, and cost-effective. When discovery is permitted, arbitrators can order parties to comply, issue discovery subpoenas, and take action against people who fail to comply to the extent a court could in a civil action.

The bill gives the arbitrator the authority to issue a protective order to prevent the disclosure of privileged or confidential information, trade secrets, and other information protected from disclosure to the extent a court could in a civil action. It specifies that all laws compelling a person under subpoena to testify and all witness fees applicable in court proceedings also apply to arbitrations.

The bill permits courts to enforce an arbitrator's subpoena or discovery-related orders for the attendance of witnesses within the state or for the production of records or other evidence in connection with out-of-state arbitrations, upon conditions the court sets to make the arbitration proceeding fair, expeditious, and cost-effective. Existing law does not directly reference out-of-state arbitrations (CGS § 52-414).

The bill requires subpoenas or discovery-related orders from out-of-



state arbitrators to be served in the manner provided under Connecticut law for serving subpoenas in a civil action. A party or the arbitrator can bring a motion to enforce the order in the same manner under law as for enforcement of subpoenas in civil actions in the state.

***Pre-award Rulings (§ 18)***

Under the bill, if an arbitrator makes a pre-award ruling (i.e., an interim ruling disposing of only some issues or claims), the party may request the arbitrator to incorporate that ruling into the arbitration award. The prevailing party may file a court motion for an expedited order confirming the award, which the court must decide summarily. The court must issue an order to confirm the award unless the court vacates, modifies, or corrects it on grounds specified by the bill (see below, §§ 23 and 24). These provisions of the bill cannot be waived or altered by agreement.

***Awards (§ 19)***

Under the bill, the arbitrator must make a record of his or her award. Any arbitrator concurring with it must either sign or otherwise authenticate it. Either the arbitrator or the arbitration organization must give notice and a copy of the award to each party. The award must be made within the time specified by the agreement to arbitrate, or if not specified, within the time ordered by the court.

These provisions are generally consistent with existing law, although existing law specifies that when the parties' agreement is silent, the time limit is 30 days from the close of the hearing or from the date fixed for the submission of materials to the arbitrator (such as briefs) after the hearing concludes (CGS § 52-416).

Under the bill, courts can extend the time for the arbitrator to make the award or the parties may agree in a record to extend it. The court or the parties may do so within or after the time specified or ordered. A party waives any objection that the award was not timely unless he or she objects to the arbitrator before receiving notice of the award. Existing law specifies that an award issued after time limits have

expired has no legal effect unless the parties have agreed in writing to be bound by it (CGS § 52-416).

***Motions to the Arbitrator to Modify or Correct (§ 20)***

Under the bill, parties may ask the arbitrator by motion to modify or correct an award for the following reasons:

1. evident mathematical miscalculation or mistake in the description of a person, thing, or property referred to in the award;
2. the award is imperfect in a matter of form not affecting the merits of the decision;
3. the arbitrator has not made a final and definite award on a claim that was submitted for arbitration; or
4. to clarify the award.

Motions must be filed within 20 days after the moving party receives notice of the award, and he or she must give notice to all parties within that time. Objections must be filed within 10 days of receipt.

When a party has filed a court motion to confirm, vacate, modify, or correct an award (see below, §§ 22, 23, & 24), the bill allows the court to return the matter to the arbitrator to consider whether to modify or correct the award for any of the reasons specified above for such motions to the arbitrator. Parties cannot waive or vary this provision.

***Remedies (§ 21)***

The bill permits arbitrators to award punitive damages or other exemplary relief when such an award is authorized by law in a civil action involving the same claim and the evidence justifies the award under the legal standards that otherwise apply. The award must specify the factual justification and legal authorization. It must also state separately the amount of the punitive damages or other exemplary relief. For all other remedies, the bill authorizes arbitrators

to fashion such remedies as they consider just and appropriate under the circumstances.

The bill also permits arbitrators to award reasonable attorney's fees and other arbitration costs if this is authorized by law in a civil action involving the same claim or by the agreement of the parties. It specifies that an arbitrator's expenses and fees, together with other expenses, must be paid as provided in the award.

Existing law does not expressly address remedies. Parties may raise this issue in a motion to vacate, claiming that the arbitrator did not have the authority to order a particular remedy.

## **§§ 22-25 — POST-ARBITRATION COURT PROCEEDINGS**

### ***Motion to Confirm (§ 22)***

The bill permits parties to file court motions to confirm an arbitrator's award and requires courts to grant them unless the (1) arbitrator or court has modified or corrected the award or (2) court has vacated the award. This rule cannot be waived or modified.

Existing law requires such motions to be filed within one year of the award (CGS § 52-417), but the bill does not specify a time limit. Existing law also requires parties applying for these orders (and for orders to modify or vacate an award) to include various specified documents with the motion (CGS § 52-421).

### ***Motion to Vacate (§ 23)***

The bill generally requires parties to file motions to vacate within 30 days of receiving notice of the original, modified, or corrected award. Where the moving party alleges that the award was procured by corruption, fraud, or other undue means, he or she must file the motion within 30 days after learning, or in the exercise of reasonable care would have learned, this information.

Under existing law, motions to vacate must be filed within 30 days of receipt of the notice of an award (CGS § 52-420).

The bill requires courts to vacate an award if:

1. it was procured by corruption, fraud, or other undue means;
2. there was (a) evident partiality by an arbitrator appointed as a neutral arbitrator, (b) corruption by an arbitrator, or (c) misconduct by an arbitrator prejudicing the rights of a party;
3. an arbitrator refused to postpone the hearing upon showing of sufficient cause, refused to consider material evidence, or otherwise substantially prejudiced a party's rights by the manner of conducting the hearing;
4. an arbitrator exceeded his or her powers;
5. there was no agreement to arbitrate, unless the person participated in the proceeding without raising this objection before or when the hearing began; or
6. the arbitration was conducted without proper notice and a party's rights were substantially prejudiced as a result.

Existing law establishes the first four criteria as grounds for vacating an award. It also requires the court to vacate an award when an arbitrator carried out his or her authority so imperfectly that the resulting award is not mutual, final, or definite (CGS § 52-418).

Under the bill, courts that grant a motion to vacate may order re-hearings unless the reason for vacating the award is lack of agreement to arbitrate. If the reason for vacating is the arbitrator's corruption, misconduct, or similar reasons under (1) or (2) above, a different arbitrator must conduct the rehearing. Otherwise, the court may permit the initial arbitrator to conduct the rehearing. Arbitrators must render decisions on rehearings within the deadlines for issuing an original award (see § 19).

Under existing law, courts may direct rehearings when the time limits for issuing an award have not expired. They must do so in labor

arbitration proceedings, regardless of these time limits, unless a party shows that there is no issue in dispute (CGS § 52-418).

Under the bill, courts that deny a motion to vacate must simultaneously confirm the award, unless a motion to modify or correct has been filed within the bill's time limits.

The bill provides that the parties cannot waive or modify these provisions by agreement.

#### ***Motions to Modify or Correct (§ 24)***

Under the bill, courts must grant motions to modify or correct for some of the same reasons that arbitrators can grant such motions (i.e., evident mathematical errors or mistaken identifications in the award, and formal defects). Courts must also do so when the arbitrator makes an award on a claim that the parties did not submit to him or her, so long as the award can be corrected without affecting the merits of the arbitrator's decision on the submitted claims. Existing law contains similar provisions (CGS § 52-419).

These court motions must be filed within 90 days of receiving notice of (1) the original award or (2) the award as modified or corrected by the arbitrator. If the court grants the motion, it must modify or correct the award and confirm it. If it denies the motion, it must confirm the award unless a motion to vacate is pending. The existing limitation period for filing these motions is 30 days from notice of the award (CGS § 52-420).

Under the bill, courts may join proceedings arising from motions to vacate and to modify or correct.

The parties cannot waive or modify these provisions.

#### ***Judgment and Costs (§ 25)***

Similar to existing law (CGS § 52-421), the bill provides that a court order confirming, modifying, or correcting an award, or vacating an award without directing a rehearing, may be enforced as any other

judgment in a civil action.

The bill allows the court to award reasonable costs of the motion and subsequent court proceedings to the prevailing party.

The parties cannot waive or modify these provisions.

### **§ 26 — COURT JURISDICTION**

The Superior Court has exclusive jurisdiction to enter judgment on arbitration awards under the bill when the arbitration agreement provides for arbitration in the state. The Superior Court can enforce other arbitration agreements if it has jurisdiction over the dispute and the parties. Once a controversy arises, parties can make other agreements about jurisdiction.

### **§ 27 — VENUE**

Motions for judicial relief under the bill must be filed in (1) the judicial district where the arbitration agreement specifies the hearing will be held or (2) the district where it was held. Otherwise, motions may be filed (1) in any judicial district in Connecticut where an adverse party resides or has an office or (2) if no adverse party has a residence or office in Connecticut, in any Connecticut Superior Court. Unless the court directs otherwise, subsequent motions must be made in the court hearing the initial motion.

### **§ 28 — APPEALS**

Unless the parties have agreed otherwise in a particular controversy, the bill allows appeals to be taken from a Superior Court order:

1. denying a motion to compel arbitration,
2. granting a stay of arbitration proceedings,
3. confirming or denying confirmation of an award,
4. modifying or correcting an award,

- 5. vacating an award without directing a rehearing, or
- 6. of final judgment in a covered proceeding.

It specifies that the same rules that apply to appeals from court orders or judgments in civil matters apply to these appeals.

Existing law does not address appeals from the denial of a motion to compel arbitration or the granting of a stay of arbitration proceedings (CGS § 52-423).

**§ 29 — UNIFORM CONSTRUCTION**

The bill directs that, in applying and construing this uniform act, consideration be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it. This provision cannot be waived or modified by the parties.

**§ 30 — RELATIONSHIP TO E-SIGN ACT**

The bill provides that its provisions governing the legal effect, validity, or enforceability of electronic records or signatures and of contracts that contain them conform with § 102 of the federal Electronic Signatures in Global and National Commerce Act (P.L. 106-229), which regulates the use of electronic records and signatures in interstate and foreign commerce.

This provision cannot be waived or modified by the parties.

**§ 32 — INTEREST ON AWARDS**

The bill sets the interest rate of 10% on arbitration awards owed but not paid. This is the same rate that applies to other types of arbitration awards and unpaid civil damages under existing law. The parties cannot waive or modify this provision.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute  
 Yea 38 Nay 0 (04/02/2018)