

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 495

SHORT TITLE: Family Law Arbitration Act

SPONSOR(S): Rep. Joe Hackney and Rep. Charlotte Gardner

FISCAL IMPACT

Yes () No (X) No Estimate Available (X)

FY 1999-00 FY 2000-01 FY 2001-02 FY 2002-03 FY 2003-04

REVENUES

There may be a minimal impact on the Judicial system.

EXPENDITURES

Please see the **Assumptions and Methodology** section.

POSITIONS:

**PRINCIPAL DEPARTMENT(S) &
PROGRAM(S) AFFECTED:** Judicial Branch

EFFECTIVE DATE: October 1, 1999

BILL SUMMARY:

FAMILY LAW ARBITRATION ACT. TO PROVIDE FOR THE ARBITRATION OF ALL ISSUES ARISING FROM A MARITAL SEPARATION OR DIVORCE, EXCEPT FOR THE DIVORCE ITSELF, UPON THE AGREEMENT OF ALL PARTIES; AND TO AMEND G.S. 1-567.57. Enacts a new Family Law Arbitration Act as Art. 3 of GS Ch. 50. The purpose of the new act is to permit, by agreement of the parties, all issues incident to the breakup of a marriage, except the divorce itself, to be submitted to binding arbitration. Marital dissolution issues subject to arbitration include child custody, child support, alimony, and equitable distribution. An agreement to arbitrate may be entered into in connection with a premarital agreement, an agreement entered into during the marriage for the distribution of property, or an agreement made after the parties' separation. Parties may agree to arbitration either before or after an action for divorce or other family law issues is filed. The new act is modeled on the Uniform Arbitration Act and the International Commercial Arbitration and Conciliation Act with special added provisions that allow an arbitrator or the court to modify an otherwise final award for postseparation support, alimony, child support, or child custody in the same situations that state

law allows modification of such orders by the court. Includes provisions making arbitration agreements valid, irrevocable, and enforceable; regarding interim relief granted by arbitrators or the court; regarding appointment of arbitrators; regarding rules for conducting arbitration; regarding arbitration hearings; regarding representation by attorneys; regarding witnesses, subpoenas, and depositions in arbitration proceedings; regarding awards and costs in arbitration proceedings; regarding confirmation of arbitration awards by the court; regarding entry of judgment on arbitration awards; and regarding vacation, correction, or modification of arbitration awards by the court under specified circumstances. New act applies to arbitration agreements made on or after Oct. 1, 1999, unless parties by separate agreement after that date agree that act applies to agreements entered before Oct. 1, 1999.

Amends GS 1-567.57(b) (international arbitration) to allow court to take specified actions with respect to consolidation of arbitrations upon application of any party when parties have agreed in their respective arbitration agreements or otherwise to consolidation of arbitrations.

Effective Oct. 1, 1999.

Source: Institute of Government, Daily Bulletin, March 18, 1999.

ASSUMPTIONS AND METHODOLOGY:

Judicial Branch

The Administrative Office of the Courts (AOC) believes the act would alleviate some court workload when private arbitration is used as an alternative to what might have been an adversarial trial or series of court hearings on such difficult issues as custody, support, and division of property. The courts have not previously been involved with private arbitration. An estimate of the impact is unavailable because it is not known how often parties will agree to arbitration and how long those cases would have been in court.

Some part of the reduction in workload may be offset by the new requirements for the courts under the bill to provide support throughout the process. Court involvement in the process includes court orders, appointment of arbitrators, court assistance with legal documents, and appeals of court orders. The Fiscal Research Division agrees with the AOC analysis but is unable to provide an accurate estimate of the fiscal impact.

TECHNICAL CONSIDERATIONS: none

FISCAL RESEARCH DIVISION 733-4910

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DATE: Monday, April 12, 1999



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