**South Carolina General Assembly**

121st Session, 2015-2016

**H. 4001**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Pitts, Hardwick, Goldfinch, Merrill, Burns, Loftis, Bales, Anthony, Gagnon, Gambrell, Lowe, Sandifer, Spires, Whitmire and Willis

Document Path: l:\council\bills\bh\26274vr15.docx

Introduced in the House on April 16, 2015

Currently residing in the House Committee on **Judiciary**

Summary: Family Law Arbitration Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

4/16/2015 House Introduced and read first time ([House Journal‑page 18](file:///h:\HJ%20Archive\2015\04-16-15.docx))

4/16/2015 House Referred to Committee on **Judiciary** ([House Journal‑page 18](file:///h:\HJ%20Archive\2015\04-16-15.docx))

1/20/2016 House Member(s) request name removed as sponsor: Horne

View the latest [legislative information](http://www.scstatehouse.gov/billsearch.php?billnumbers=4001&session=121&summary=B) at the website

**VERSIONS OF THIS BILL**

[4/16/2015](file:///p:\pprever\2015-16\4001_20150416.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE “SOUTH CAROLINA FAMILY LAW ARBITRATION ACT” BY ADDING CHAPTER 9 TO TITLE 20 SO AS TO PROVIDE FOR ARBITRATION AS A MEANS OF RESOLVING CERTAIN MATTERS RELATED TO MARITAL SEPARATION AND DIVORCE, CONSISTENT WITH TITLE 20, TITLE 63, AND CHAPTER 48, TITLE 15; TO PROVIDE FOR DEFAULT RULES FOR CONDUCTING ARBITRATION PROCEEDINGS; TO ASSURE ACCESS TO THE FAMILY COURTS OF THIS STATE FOR PROCEEDINGS ANCILLARY TO ARBITRATION; AND TO PROVIDE FOR THE AWARD OF CERTAIN COSTS AND INTEREST.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Title 20 of the 1976 Code is amended by adding:

“CHAPTER 9

South Carolina Family Law Arbitration Act

Section 20‑9‑10. (A) This chapter may be cited as the ‘South Carolina Family Law Arbitration Act’.

(B) It is the policy of this State to allow, by agreement of all parties, the arbitration of all issues arising from a marital separation or divorce, except for:

(1) the divorce itself;

(2) adoptions;

(3) termination of parental rights;

(4) allegations of child abuse and neglect;

(5) allegations of spousal abuse;

(6) criminal contempt or imposition of sanctions related thereto; and

(7) imposition of statutory civil contempt sanctions, pursuant to Section 63‑3‑620. A right of modification based on substantial change of circumstances related to alimony, child custody, and child support is preserved pursuant to Section 20‑9‑200.

(C) Pursuant to this policy, the purpose of this chapter is to provide for arbitration as an efficient and speedy means of resolving these disputes, consistent with Title 20, Title 63, and the Uniform Arbitration Act, Sections 15‑48‑10 through 15‑48‑240, to provide default rules for the conduct of arbitration proceedings, and to assure access to the family courts of this State for proceedings ancillary to this arbitration.

Section 20‑9‑20. (1) ‘Appealable arbitration’ means an alternative dispute resolution leading to an award which creates the law of the matter or matters in controversy with preservation of pre­appellate motions, pursuant to the South Carolina Rules of Civil Procedure, and with preservation of rights of appeal, pursuant to the South Carolina Appellate Court Rules, not limited by the appellate options set forth in Section 20‑9‑220.

(2) ‘Binding arbitration’ means an alternative dispute resolution leading to a conclusive award which creates the law of the matter in controversy without preservation of pre‑appellate motions, pursuant to the South Carolina Rules of Civil Procedure, or rights of appeal, pursuant to the South Carolina Appellate Court Rules, except under the limited circumstances set forth in Section 20‑9‑220.

(3) ‘Court’ means the South Carolina Family Court. Making an agreement in this State described in Section 20‑9‑30 or any agreement providing for arbitration in this State or under its laws confers jurisdiction on the court to enforce the agreement under this chapter and to enter judgment on an award under the agreement.

(4) ‘Person’ means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency or instrumentality, public corporation, or any other legal or commercial entity.

Section 20‑9‑30. (A) During or after marriage, parties may agree in writing to submit to arbitration any controversy, except for the divorce itself or other issues set forth in Section 20‑9‑10, arising out of the marital relationship. This agreement is valid, enforceable, and irrevocable, except with both parties’ consent, without regard to the justiciable character of the controversy and without regard to whether litigation is pending as to the controversy.

(B) This chapter does not apply to an agreement to arbitrate in which a provision stipulates that this chapter does not apply or to any arbitration or award under an agreement in which a provision stipulates that this chapter does not apply.

(C) A consent order to arbitrate executed by all parties must be filed with the South Carolina family court, along with the agreement to arbitrate.

Section 20‑9‑40. (A) Except as otherwise provided in this chapter, a party to an agreement to arbitrate or an arbitration proceeding may waive, or the parties may vary the effect of, the requirements of this chapter to the extent provided by law. Any waiver or agreement must be in writing.

(B) Before a controversy arises that is subject to an agreement to arbitrate, a party to the agreement must not:

(1) waive or agree to vary the effect of the requirements of Sections 20‑9‑30, 20‑9‑130(A), (B), or (C), and 20‑9‑220;

(2) agree to unreasonably restrict the right to notice of the initiation of an arbitration proceeding, pursuant to Section 20‑9‑50; or

(3) agree to unreasonably restrict the right to disclose any facts by a neutral arbitrator, pursuant to Section 20‑9‑90.

(C) Except as otherwise provided in this chapter, a party to an agreement to arbitrate or an arbitration proceeding may not waive, and the parties shall not vary the effect of, the requirements of this section or Sections 20‑9‑60, 20‑9‑80(F), 20‑9‑160 through 20‑9‑210, and 20‑9‑220 through 20‑9‑240.

(D) A waiver contrary to this section is not effective but does not have the effect of voiding the agreement to arbitrate.

Section 20‑9‑50. A person initiates an arbitration proceeding by giving written notice to the other parties to the agreement to arbitrate in the manner in which the parties have agreed as to date, time, place and neutral.

Section 20‑9‑60. (A) On a party’s application showing an agreement, pursuant to Section 20‑9‑30, and an opposing party’s refusal to arbitrate, the court shall order the parties to proceed with the arbitration. If an opposing party denies existence of an agreement to arbitrate, the court shall proceed summarily to determine whether a valid agreement exists and shall order arbitration if it finds for the moving party; otherwise, the application must be denied.

(B) Upon the application of a party, the court may stay an arbitration proceeding commenced or threatened on a showing that there is no agreement to arbitrate. This issue, when in substantial and bona fide dispute, must be immediately and summarily tried, and the court shall order a stay if it finds for the moving party. If the court finds for the opposing party, the court shall order the parties to go to arbitration. An arbitrator shall decide whether a condition precedent to arbitration has been fulfilled and whether a contract containing a valid agreement to arbitrate is enforceable. If a party to a judicial proceeding challenges the existence of, or claims that a controversy is not subject to, an agreement to arbitrate, the arbitration proceeding may continue pending final resolution of the issue by the court, unless the court otherwise orders. When there are issues arising from a marital separation or divorce that are subject to an agreement to arbitrate and also an allegation of child abuse or neglect or an allegation of spousal abuse, the court must not compel the parties to arbitrate the issues subject to the agreement.

(C) An order for arbitration must not be refused, and a stay of arbitration must not be granted on the ground that the claim in issue lacks merit or because grounds for the claim have not been shown.

(D) Upon request by either party, in cases involving allegations of spousal abuse or child abuse or neglect, the court shall order a stay of the arbitration proceeding.

Section 20‑9‑70. (A) In the case of an arbitration when an arbitrator has not been appointed, and when the arbitrator is unavailable, a party may seek interim relief directly from a court, pursuant to subsection (C). Enforcement must be granted as provided by the law applicable to the type of interim relief sought.

(B) In all other cases, a party shall seek interim measures, as described in subsection (D) from the arbitrator. A party has no right to seek interim relief from a court, except that a party to an arbitration governed by this chapter may request from the court enforcement of the arbitrator’s award granting interim measures.

(C) In connection with an agreement to arbitrate or a pending arbitration, the court may grant pursuant to subsection (A) any of the following:

(1) an order of attachment or garnishment;

(2) a temporary restraining order or preliminary injunction; (3) an order for claim and delivery;

(4) appointment of a sequestrator;

(5) delivery of money or other property into court;

(6) notice of lis pendens;

(7) relief permitted by federal law or treaties to which the United States is a party; and

(8) another order necessary to ensure preservation or availability of assets or documents, the destruction or absence of which would likely prejudice the conduct or effectiveness of the arbitration.

(D) The arbitrator may, at a party’s request, order a party to take interim measures of protection that the arbitrator considers necessary with respect to the subject matter of the dispute, including interim measures analogous to interim relief specified in subsection (C). The arbitrator may require a party to provide appropriate security, including security for costs pursuant to Section 20‑9‑150, in connection with interim measures.

(E) In considering a request for interim relief or enforcement of interim relief, a finding of fact of the arbitrator in the proceeding is binding on the court for purposes of this interim proceeding, including a finding regarding the probable validity of the claim that is the subject of the interim relief sought or granted.

(F) When the arbitrator has not ruled on an objection to jurisdiction, the findings of the arbitrator must not be binding on the court until the court has made an independent finding as to the arbitrator’s jurisdiction. If the court rules that the arbitrator does not have jurisdiction, the application for interim relief must be denied.

(G) Availability of interim relief or interim measures under this section may be limited by the parties’ prior written agreement, except for relief pursuant to Sections 20‑3‑160, 20‑3‑670, 63‑3‑510(A)(l)(e), 63‑3‑530(A)(11), 63‑17‑400, 63‑19‑810, 63‑19‑820, and 63‑19‑830, Articles 1 and 3, Chapter 4, Title 20, Article 23, Chapter 17, Title 63, federal law, and treaties to which the United States is a party and the purpose is to provide immediate, emergency relief or protection.

(H)(1) An arbitrator who has cause to suspect that a child is abused or neglected, as that term is defined in Section 63‑7‑20, shall report the case of that child to the Department of Social Services of the county where the child resides or, if the child resides out‑of‑state, of the county where the arbitration is conducted.

(2) An arbitrator must not arbitrate issues related to an allegation of child abuse or neglect or an allegation of spousal abuse in accordance with Section 20‑9‑10.

(3) In cases involving a history or allegations of spousal abuse or child abuse or neglect, or where an order of protection is in effect, the arbitrator shall meet with the parties separately and at separate times.

(I) A party seeking interim measures, or any other proceeding before the arbitrator, shall proceed in accordance with the agreement to arbitrate. If the agreement to arbitrate does not provide for a method of seeking interim measures, or for other proceedings before the arbitrator, the party shall request interim measures or a hearing by notifying the arbitrators and all other parties of the request. The arbitrator shall notify the parties of the date, time, and place of the hearing.

(J) A party does not waive the right to arbitrate by proceeding pursuant to this section.

Section 20‑9‑80. (A) Unless the parties otherwise agree in writing, the parties shall choose a single arbitrator to arbitrate all matters in dispute. The parties may agree for a panel of three arbitrators, one chosen by each party and one chosen either by the court or the other two arbitrators, to arbitrate all matters in the dispute.

(B) If the arbitration agreement provides a method of appointment of arbitrators, this method must be followed. The agreement may provide for the appointment of one or more arbitrators. Upon the application of a party, the court shall appoint arbitrators in any of the following situations:

(1) The method agreed upon by the parties in the arbitration agreement fails or for any reason cannot be followed.

(2) An arbitrator who has already been appointed fails or is unable to act, and a successor has not been chosen by the parties.

(3) The parties cannot agree on an arbitrator.

(C) The court shall appoint arbitrators from the South Carolina Family Law Arbitrator Registry who shall have all the powers of those arbitrators specifically named in the agreement. In appointing arbitrators, a court shall consult the prospective arbitrators as to their availability and shall refer to each of the following:

(1) the positions and desires of the parties;

(2) the issues in dispute;

(3) the skill, substantive training, and experience of prospective arbitrators in those issues, including their skill, substantive training, and experience in family law issues; and

(4) the availability of prospective arbitrators.

(D) The South Carolina Family Law Arbitration Registry must consist of former family court judges, or arbitrators certified by the American Arbitration Association, the American Bar Association, the South Carolina Bar Association, or the American Academy of Matrimonial Lawyers.

(E) The parties may agree in writing on rules for conducting the arbitration. If the parties cannot agree on rules for conducting the arbitration, the arbitrator shall select the rules for conducting the arbitration after hearing all parties and taking particular reference to model rules developed by arbitration institutions or similar sources. If the arbitrator cannot decide on rules for conducting the arbitration, upon application by a party, the court may order use of rules for conducting the arbitration, taking particular reference to model rules developed by arbitration institutions or similar sources.

(F) Arbitrators and established arbitration institutions, whether chosen by the parties or appointed by the court, have the same immunity as judges from civil liability for their conduct in the arbitration.

(G) The court may award costs pursuant to Section 20‑9‑150(D)‑(F) in connection with applications and other proceedings pursuant to this section.

Section 20‑9‑90. (A) Before accepting appointment, an individual who is requested to serve as an arbitrator, after making a reasonable inquiry, shall disclose to all parties to the agreement to arbitrate and to the arbitration proceeding and to any other arbitrators any known facts that a reasonable person would consider likely to affect the impartiality of the arbitrator in the arbitration proceeding, including:

(1) a financial or personal interest in the outcome of the arbitration proceeding; and

(2) an existing or past relationship with any of the parties to the agreement to arbitrate or to the arbitration proceeding, their counsel or representatives, a witness, or other arbitrators.

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

(C) If an arbitrator discloses a fact required by subsection (A) or (B) to be disclosed and a party timely objects to the appointment or continued service of the arbitrator based upon the fact disclosed, the objection may be grounds for vacating an award made by the arbitrator, pursuant to Section 20‑9‑160(A)(2).

(D) If the arbitrator did not disclose a fact as required by subsection (A) or (B) of this section, upon timely objection by a party, the court may vacate an award pursuant to Section 20‑9‑180(A)(2).

(E) An arbitrator appointed as a neutral arbitrator who does not disclose a known, direct, and material interest in the outcome of the arbitration proceeding or a known, existing, and substantial relationship with a party is presumed to act with evident partiality, pursuant to Section 20‑9‑180(A)(2).

(F) If the parties to an arbitration proceeding agree to the procedures of an arbitration institution or any other procedures for challenges to arbitrators before an award is made, substantial compliance with those procedures is a condition precedent to a motion to vacate an award on those grounds pursuant to Section 20‑9‑180(A)(2).

Section 20‑9‑100. The arbitrators’ powers must be exercised by a majority, unless otherwise provided by the parties’ written arbitration agreement or this chapter. A single arbitrator is the sole neutral with the power to make decisions related to the issue or issues in controversy.

Section 20‑9‑110. Unless otherwise provided by the parties’ written agreement:

(A) The arbitrator shall appoint a time and place for the hearing and notify the parties or their counsel. Appearance of a party at the hearing waives any claim of deficiency of notice. The arbitrator may adjourn the hearing from time to time as necessary and, on request of a party and for good cause shown, or upon the arbitrator’s own motion, may postpone the hearing to a time not later than the date fixed by the written agreement for making the award unless the parties consent to a later date. The arbitrator may hear and determine the controversy upon the evidence produced notwithstanding the failure of a party duly notified to appear. Upon application of a party, the court may direct the arbitrator to proceed promptly with the hearing and determination of the controversy.

(B) The parties are entitled to be heard, to present evidence material to the controversy, and to cross‑examine witnesses appearing at the hearing unless a different format has been agreed upon.

(C) In the case of an arbitration panel, the arbitrators conduct the hearing, but a majority may determine any question and may render a final award. If, during the course of the hearing, an arbitrator for any reason ceases to act, the remaining arbitrators appointed to act as neutrals may continue with the hearing and determination of the controversy.

(D) Upon request of any party or at the election of any arbitrator, the arbitrators shall cause to be made a record of testimony and evidence introduced at the hearing. The arbitrators shall decide how the cost of the record must be apportioned, including the cost of a certified court reporter. Record of testimony and evidence must be required to be taken and preserved in any arbitration where appellate preservation has been elected by the parties, pursuant to Section 20‑9‑20(A).

Section 20‑9‑120. A party has the right to be represented by counsel at any proceeding or hearing, pursuant to this chapter. A waiver of representation prior to a proceeding or hearing must be made in writing and questioned by the arbitrator prior to a proceeding or hearing being conducted.

Section 20‑9‑130. (A) The arbitrator has the power to administer oaths and may issue or enforce subpoenas for attendance of witnesses and for production of books, records, documents, and other evidence. Subpoenas issued by the arbitrator must be served and, upon application to the court by a party or the arbitrator, enforced in the manner provided by law for service and enforcement of subpoenas in a civil action.

(B) On the application of a party and for use as evidence, the arbitrator may permit depositions to be taken in the manner and upon the terms the arbitrator designates. Sworn affidavits may be utilized by written consent.

(C) All provisions of law compelling a person, pursuant to subpoena to testify apply.

(D) The arbitrator or a party with the approval of the arbitrator may request assistance from the court in obtaining discovery and taking evidence, in which event the South Carolina Rules of Civil Procedure, the South Carolina Rules of Family Court, and Titles 20 and 63 apply. The arbitrator or the court may execute the request within its competence and according to its rules on discovery and evidence and may impose sanctions for failure to comply with its orders.

(E) All provisions of law compelling a person under subpoena to testify are applicable. Fees for attendance as a witness must be the same as set forth in the South Carolina Rules of Civil Procedure.

Section 20‑9‑140. (A) Except as otherwise provided in subsection (C), upon motion of a party to an agreement or arbitration proceeding, the court may order consolidation of separate arbitration proceedings as to all or some of the claims if all of the following apply:

(1) There are separate agreements to arbitrate or separate arbitration proceedings between the same parties or one of them is a party to a separate agreement to arbitrate or a separate arbitration with a third party.

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

(3) The existence of a common issue of law or fact creates the possibility of conflicting decisions in the separate arbitration proceedings.

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

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

(C) The court shall not order consolidation of the claims of a party to an agreement to arbitrate if the agreement prohibits consolidation.

Section 20‑9‑150. (A) The award must be in writing, dated and signed by the arbitrator or arbitrators joining in the award, with a statement of the place where the arbitration was conducted and the place where the award was made. Where there is more than one arbitrator, the signatures of a majority of the arbitrators suffice, but the reason for any omitted signature must be stated. The arbitrators shall deliver a copy of the award to each party by and through respective counsel of record, or personally if not represented by counsel, or as provided in the parties’ written agreement. Time of delivery must be computed from the date of personal delivery or date of mailing.

(B) Unless the parties otherwise agree in writing;

(1) the award must state the reasons upon which it is based;

(2) the arbitrator may award interest as provided by law; and

(3) awarding of costs of an arbitration is in the arbitrator’s discretion.

(C) In making an award of costs, the arbitrators may include any or all of the following as costs:

(1) fees and expenses of the arbitrator, expert witnesses, translators, and certified court reporters;

(2) fees and expenses of counsel, to the extent allowed by law unless the parties otherwise agree in writing, and of an institution supervising the arbitration, if any;

(3) any other expenses incurred in connection with the arbitration proceedings;

(4) sanctions awarded by the arbitrator or the court, including those provided by Rules 11 and 37 of the South Carolina Rules of Civil Procedure; and

(5) costs allowed by Chapter 21, Title 8.

(D) In making an award of costs, the arbitrators shall specify each of the following:

(1) the party entitled to costs;

(2) the party who shall pay costs;

(3) the amount of costs or method of determining that amount; and

(4) the manner in which costs must be paid.

(E) An award must be made within the time fixed by the agreement. The parties may extend the time in writing either before or after the expiration of this time. A party waives objection that an award was not made within the time required unless that party notifies the arbitrators of his or her objection prior to delivery of the award to that party.

Section 20‑9‑160. (A) On a party’s application to the arbitrators or, if an application to the court is pending, pursuant to Sections 20‑9‑170 through 20‑9‑200, on submission to the arbitrator by the court under the conditions ordered by the court, the arbitrators may modify or correct the award for any of the following reasons:

(1) upon grounds stated in Section 20‑9‑190(A)(l) and (3);

(2) if the arbitrators have not made a final and definite award upon a claim submitted by the parties to the arbitration proceeding; or

(3) to clarify the award.

(B) The application must be made within ten days after delivery of the award to the opposing party. The application must include a statement that the opposing party shall serve any objections to the application within ten days from notice. An award modified or corrected under this section is subject to the provisions of Section 20‑9‑150 and Sections 20‑9‑170 through 20‑9‑200.

Section 20‑9‑170. (A) Unless the parties otherwise agree in writing that part or all of an award must not be confirmed by the court, upon a party’s application or upon presentation of a consent order, the court shall confirm an award, except when, within time limits imposed, pursuant to Sections 20‑9‑180 through 20‑9‑200, grounds are requested for vacating or modifying or correcting the award, in which case the court shall proceed as provided in Sections 20‑9‑180 through 20‑9‑200.

(B) The court may award costs, as provided in Section 20‑9‑150(D)‑(F), of the application and subsequent proceedings.

Section 20‑9‑180. (A) Upon a party’s application, the family court shall vacate an award for any of the following reasons:

(1) The award was procured by corruption, fraud, or other undue means.

(2) There was evident partiality by an arbitrator appointed as a neutral, corruption of an arbitrator, or misconduct prejudicing the rights of a party.

(3) The arbitrator exceeded the arbitrator’s powers.

(4) The arbitrator refused to postpone the hearing upon a showing of sufficient cause for the postponement, refused to hear evidence material to the controversy, or otherwise conducted the hearing contrary to the provisions of Section 20‑9‑110.

(5) There was no arbitration agreement, the issue was not adversely determined in proceedings pursuant to Section 20‑9‑60, and the party did not participate in the arbitration hearing without raising the objection. The fact that the relief awarded either could not or would not be granted by a court is not a ground for vacating or refusing to confirm the award.

(B) An application under this section must be made within ten days after delivery of a copy of the award to the applicant. If the application is predicated on corruption, fraud, or other undue means, it must be made within ten days after these grounds are known or should have been known.

(C) In vacating an award on grounds other than stated in subsection (A)(5), the court may order a rehearing before arbitrators chosen as provided in the agreement, or in the absence of a provision regarding the appointment of arbitrators, by the court in accordance with Section 20‑9‑80, except in the case of a vacated award for child support or child custody in which case the court may proceed to hear and determine all such issues. The time within which the agreement requires an award to be made applies to the rehearing and commences from the date of the order.

(D) The court shall confirm the award and may award costs of the application and subsequent proceedings pursuant to Section 20‑9‑150(D)‑(F) if an application to vacate is denied, no motion to modify or correct the award is pending, and the parties have not agreed in writing that the award must not be confirmed, pursuant to Section 20‑9‑170.

Section 20‑9‑190. (A) Upon application made within ten days after delivery of a copy of an award to an applicant, the arbitrator shall modify or correct the award where at least one of the following occurs:

(1) There is an evident miscalculation of figures or an evident mistake in the description of a person, thing, or property referred to in the award.

(2) The arbitrator has awarded upon a matter not submitted to the arbitrator, and the award may be corrected without affecting the merits of the decision upon the issues submitted.

(3) The award is imperfect in a matter of form, not affecting the merits of the controversy.

(B) If the application is granted, the arbitrator shall modify or correct the award to effect its intent, and the court shall confirm the award as modified or corrected. Otherwise, the court shall confirm the award as made.

(C) An application to modify or correct an award may be joined in the alternative with an application to vacate the award.

(D) The court may award costs, as provided in Section 20‑9‑150(D)‑(F), of the application and subsequent proceedings.

Section 20‑9‑200. (A) A court or arbitrator may modify an award for post‑separation support, alimony, child support, or child custody under conditions stated in Sections 20‑3‑130, 20‑3‑150, 20‑3‑160, 20‑3‑170, 63‑15‑334, 63‑17‑310, and 63‑17‑320, as provided in subsections (B) through (F).

(B) Unless the parties have agreed in writing that an award for post‑separation support or alimony is nonmodifiable, an award by arbitrator for post‑separation support or alimony, pursuant to Section 20‑3‑130, 20‑3‑135, or 20‑3‑140 may be modified if a court order for alimony or post‑separation support could be modified pursuant to Section 20‑3‑130, 20‑3‑150 or 20‑3‑170.

(C) An award by arbitrator for child support or child custody may be modified if a court order for child support or child custody could be modified pursuant to Section 20‑3‑160, 63‑15‑334, 63‑17‑310, or 63‑17‑320 based on substantial change of circumstances.

(D) If an award for modifiable post‑separation support or alimony, or an award for child support or child custody, has not been confirmed, pursuant to Section 20‑9‑170, upon the parties’ written agreement these matters may be submitted to an arbitrator chosen by the parties, pursuant to Section 20‑9‑80. Sections 20‑9‑160 through 20‑9‑200 must apply to this modified award.

(E) If an award for modifiable post‑separation support or alimony, or an award for child support or child custody has been confirmed pursuant to Section 20‑9‑170, upon the parties’ agreement in writing and joint motion, the court may remit these matters to an arbitrator chosen by the parties as provided in Section 20‑9‑80, in which case Sections 20‑9‑160 through 20‑9‑200 apply to this modified award.

(F) Except as otherwise provided in this section, the provisions of Section 20‑9‑190 apply to modifications or corrections of awards for post‑separation support, alimony, child support, or child custody.

Section 20‑9‑210. (A) Upon granting an order confirming, modifying, or correcting an award, an order or judgment must be entered in conformity with the order and docketed and enforced as any other order or judgment. The court may award costs, as provided in Section 20‑9‑150(A)‑(F), of the application and of proceedings subsequent to the application and disbursements.

(B) Notwithstanding Section 20‑3‑220, Rule 6 of the South Carolina Rules of Family Court, or similar law, the court, in its discretion, may order that any arbitration award or order or any judgment or court order entered as a court order or judgment under this chapter, or any part of the arbitration award or order or judgment or court order, be sealed, to be opened only upon order of the court upon good cause shown. Upon good cause shown, the court may order resealing of the opened arbitration awards or orders or judgments or court orders. The court, in its discretion, may order that any arbitration award or order or any judgment or court order entered as a court order or judgment under this chapter, or any part of the arbitration award or order or judgment or court order, be redacted, the redactions to be opened only upon order of the court upon good cause shown. Upon good cause shown, the court may order redaction of the previously redacted arbitration awards or orders or judgments or court orders opened under the court’s order.

Section 20‑9‑220. (A) An appeal may be taken from:

(1) an order denying an application to compel arbitration made pursuant to Section 20‑9‑60;

(2) an order granting an application to stay arbitration made pursuant to Section 20‑9‑60(B);

(3) an order confirming an award, except as set forth in Section 20‑9‑20(A);

(4) an order modifying or correcting an award, except as set forth in Section 20‑9‑20(A);

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

(6) a judgment or decree entered pursuant to the provisions of this chapter, as set forth in Section 20‑9‑20(B).

(B) The appeal must be taken in the manner and to the same extent as from orders or judgments in a civil action.

(C) An appellate record must be maintained to the same extent as required for any other matter appealed pursuant to Section 20‑9‑110(4).

(D) An appeal from a single arbitrator may be submitted to a panel of three arbitrators as set forth in Section 20‑9‑80 upon agreement of the parties.

Section 20‑9‑230. This chapter applies only to agreements made subsequent to the effective date of this chapter except by written agreement.

Section 20‑9‑240. (A) Certain provisions of this chapter have been adapted from Chapter 48, Title 15. This chapter must be construed to effect its general purpose to make uniform provisions of these acts and Titles 20 and 63.

(B) The provisions of this chapter governing the legal effect, validity, or enforceability of electronic records or electronic signatures, or of contracts performed with the use of these records or signatures, conform to the requirements of section 102 of the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001, et seq., or as otherwise authorized by federal or state law governing these electronic records or electronic signatures.”

SECTION 2. This act takes effect upon approval by the Governor.

‑‑‑‑XX‑‑‑‑