

## CHAPTER 572

### ARBITRATION; MEDIATION

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**572.01-572.07** [Repealed, 1957 c 633 s 24]

#### UNIFORM ARBITRATION ACT

#### **572.08 VALIDITY OF ARBITRATION AGREEMENTS, APPLICATION TO SPECIFIC AGREEMENTS.**

A written agreement to submit any existing controversy to arbitration or a provision in a written contract to submit to arbitration any controversy thereafter arising between the parties is valid, enforceable, and irrevocable, save upon such grounds as exist at law or in equity for the revocation of any contract. The provisions of sections 572.08 to 572.30 shall apply to controversies arising out of any contract for the construction or repair of state trunk highways when such contract specifically provides for arbitration or when the parties agree to submit an existing controversy to arbitration. Sections 572.08 to 572.30 also apply to arbitration agreements between employers and employees or between their respective representatives unless otherwise provided in the agreement.

**History:** 1957 c 633 s 1; 1963 c 656 s 1

**572.09 PROCEDURE TO COMPEL OR STAY ARBITRATION.**

(a) On application of a party showing an agreement described in section 572.08, and the opposing party's refusal to arbitrate, the court shall order the parties to proceed with arbitration, but if the opposing party denies the existence of the agreement to arbitrate, the court shall proceed summarily to the determination of the issue so raised and shall order arbitration if found for the moving party, otherwise, the application shall be denied.

(b) On application, the court may stay an arbitration proceeding commenced or threatened on a showing that there is no agreement to arbitrate. Such an issue, when in substantial and bona fide dispute, shall be forthwith and summarily tried and the stay ordered if found for the moving party. If found for the opposing party, the court shall order the parties to proceed to arbitration.

(c) If an issue referable to arbitration under the alleged agreement is in an action or proceeding pending in a court having jurisdiction to hear applications under clause (a), the application shall be made therein. Otherwise and subject to section 572.25, the application may be made in any court of competent jurisdiction.

(d) Any action or proceeding involving an issue subject to arbitration shall be stayed if an order for arbitration or an application therefor has been made under this section or, if the issue is severable, the stay may be with respect thereto only. When the application is made in such action or proceeding, the order for arbitration shall include such stay.

(e) An order for arbitration shall not be refused on the ground that the claim in issue lacks merit or bona fides or because any fault or grounds for the claim sought to be arbitrated have not been shown.

**History:** 1957 c 633 s 2

**572.10 APPOINTMENT OF ARBITRATORS; DISCLOSURE REQUIRED.**

Subdivision 1. **Appointment by the court.** If the arbitration agreement provides a method of appointment of arbitrators, this method shall be followed. In the absence thereof, or if the agreed method fails or for any reason cannot be followed, or when an arbitrator appointed fails or is unable to act and a successor has not been duly appointed, the court on application of a party shall appoint one or more arbitrators. An arbitrator so appointed has all the powers of one specifically named in the agreement.

Subd. 2. **Disclosure by a neutral arbitrator.** (a) A "neutral arbitrator" is the only arbitrator in a case or is one appointed by the court, by the other arbitrators, or by all parties together in agreement. A neutral arbitrator does not include one selected by fewer than all parties even though no other party objects.

(b) Except for arbitrations under the American Arbitration Association, prior to selection, a neutral arbitrator shall disclose any relationships the person has with any of the parties, their

counsel, insurers, or representatives and any conflict of interest, or potential conflict of interest, the person may have.

(c) In all arbitrations:

(1) after a neutral arbitrator has been selected, any relationship, conflict of interest, or potential conflict of interest that arises must be immediately disclosed by the arbitrator in writing to all parties, and a party may move the district court or the arbitration tribunal for removal of the neutral arbitrator;

(2) the disclosure required under this section is in addition to that which may be required by applicable rules of law, ethics, or procedure; and

(3) if the neutral arbitrator fails to disclose a conflict of interest or material relationship, it is grounds for vacating an award for fraud as provided in section 572.19.

**History:** 1957 c 633 s 3; 1986 c 444; 1991 c 321 s 8

#### **572.11 MAJORITY ACTION BY ARBITRATORS.**

The powers of the arbitrators may be exercised by a majority unless otherwise provided by the agreement or by sections 572.08 to 572.30.

**History:** 1957 c 633 s 4

#### **572.12 HEARING.**

Unless otherwise provided by the agreement:

(a) The arbitrators shall appoint a time and place for the hearing and cause notification to the parties to be served personally or by certified mail not less than five days before the hearing. Appearance at the hearing waives such notice. The arbitrators may adjourn the hearing from time to time as necessary and, on a request of a party and for good cause, or upon their own motion may postpone the hearing to a time not later than the date fixed by the agreement for making the award unless the parties consent to a later date. The arbitrators may hear and determine the controversy upon the evidence produced notwithstanding the failure of a party duly notified to appear. The court on application may direct the arbitrators 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.

(c) The hearing shall be conducted by all the arbitrators but a majority may determine any question and render a final award. If, during the course of the hearing, an arbitrator for any reason ceases to act, the remaining arbitrator or arbitrators appointed to act as neutrals may continue with the hearing and determination of the controversy.

**History:** 1957 c 633 s 5; 1978 c 674 s 60

**572.13 REPRESENTATION BY ATTORNEY.**

A party has the right to be represented by an attorney at any proceeding or hearing under sections 572.08 to 572.30. A waiver thereof prior to the proceeding or hearing is ineffective.

**History:** *1957 c 633 s 6*

**572.14 WITNESSES, SUBPOENAS, DEPOSITIONS.**

(a) The arbitrators may issue subpoenas for the attendance of witnesses and for the production of books, records, documents and other evidence, and shall have the power to administer oaths. Subpoenas so issued shall be served, and upon application to the court by a party or the arbitrators, enforced, in the manner provided by law for the service and enforcement of subpoenas in a civil action.

(b) On application of a party and for use as evidence, the arbitrators may permit a deposition to be taken, in the manner and upon the terms designated by the arbitrators, of a witness who cannot be subpoenaed or is unable to attend the hearing.

(c) All provisions of law compelling a person under subpoena to testify are applicable.

(d) Fees for attendance as a witness shall be the same as for a witness in the district court.

**History:** *1957 c 633 s 7*

**572.15 AWARD.**

(a) The award shall be in writing and signed by the arbitrators joining in the award. The award must include interest, except this does not apply to arbitrations between employers and employees under chapter 179 or 179A. An arbitrator is neither required to nor prohibited from awarding interest under chapter 179 or under section 179A.16 for essential employees. The arbitrators shall deliver a copy to each party personally or by certified mail, or as provided in the agreement.

(b) An award shall be made within the time fixed therefor by the agreement or, if not so fixed, within such time as the court orders on application of a party. The parties may extend the time in writing either before or after the expiration thereof. A party waives the objection that an award was not made within the time required unless the party notifies the arbitrators of an objection prior to the delivery of the award to the party.

**History:** *1957 c 633 s 8; 1978 c 674 s 60; 1986 c 444; 1991 c 321 s 9*

**572.16 CHANGE OF AWARD BY ARBITRATORS.**

Subdivision 1. **Application of party.** On application of a party, the arbitrator may modify or correct the award:

(1) upon the grounds stated in section 572.20, subdivision 1;

- (2) for the purpose of clarifying the award; or
- (3) where the award is based on an error of law.

Subd. 2. **Submission by court.** If an application to the court is pending under section 572.18, 572.19, or 572.20, on submission to the arbitrators by the court under such conditions as the court may order, the arbitrators may modify or correct the award upon the grounds stated in section 572.20, subdivision 1, or for the purpose of clarifying the award.

Subd. 3. **Procedure.** For purposes of subdivision 1 or 2, the application shall be made within 20 days after delivery of the award to the applicant. Written notice thereof shall be given forthwith to the opposing party, stating that the opposing party must serve objections thereto, if any, within ten days from the notice. The award so modified or corrected is subject to the provisions of sections 572.18, 572.19 and 572.20.

**History:** 1957 c 633 s 9; 1986 c 444; 1991 c 321 s 10

#### **572.17 FEES AND EXPENSES OF ARBITRATION.**

Unless otherwise provided in the agreement to arbitrate, the arbitrators' expenses and fees, together with other expenses, not including counsel fees, incurred in the conduct of the arbitration, shall be paid as provided in the award.

**History:** 1957 c 633 s 10

#### **572.18 CONFIRMATION OF AN AWARD.**

Upon application of a party, the court shall confirm an award, unless within the time limits hereinafter imposed grounds are urged for vacating or modifying or correcting the award, in which case the court shall proceed as provided in sections 572.19 and 572.20.

**History:** 1957 c 633 s 11

#### **572.19 VACATING AN AWARD.**

Subdivision 1. **Application.** Upon application of a party, the court shall vacate an award where:

- (1) The award was procured by corruption, fraud or other undue means;
- (2) There was evident partiality by an arbitrator appointed as a neutral or corruption in any of the arbitrators or misconduct prejudicing the rights of any party;
- (3) The arbitrators exceeded their powers;
- (4) The arbitrators refused to postpone the hearing upon sufficient cause being shown therefor or refused to hear evidence material to the controversy or otherwise so conducted the hearing, contrary to the provisions of section 572.12, as to prejudice substantially the rights of a party; or

(5) There was no arbitration agreement and the issue was not adversely determined in proceedings under section 572.09 and the party did not participate in the arbitration hearing without raising the objection;

But the fact that the relief was such that it could not or would not be granted by a court of law or equity is not ground for vacating or refusing to confirm the award.

Subd. 2. **Time limit for application.** An application under this section shall be made within 90 days after delivery of a copy of the award to the applicant, except that, if predicated upon corruption, fraud or other undue means, it shall be made within 90 days after such grounds are known or should have been known.

Subd. 3. **Rehearings.** In vacating the award on grounds other than stated in clause (5) of subdivision 1, the court may order a rehearing before new arbitrators chosen as provided in the agreement, or in the absence thereof, by the court in accordance with section 572.10, or, if the award is vacated on grounds set forth in clauses (3) and (4) of subdivision 1, the court may order a rehearing before the arbitrators who made the award or their successors appointed in accordance with section 572.10. The time within which the agreement requires the award to be made is applicable to the rehearing and commences from the date of the order.

Subd. 4. **Confirm award.** If the application to vacate is denied and no motion to modify or correct the award is pending, the court shall confirm the award.

**History:** 1957 c 633 s 12

#### **572.20 MODIFICATION OR CORRECTION OF AWARD.**

Subdivision 1. **Modification of award.** Upon application made within 90 days after delivery of a copy of the award to the applicant, the court shall modify or correct the award where:

(1) There was an evident miscalculation of figures or an evident mistake in the description of any person, thing or property referred to in the award;

(2) The arbitrators have awarded upon a matter not submitted to them and the award may be corrected without affecting the merits of the decision upon the issues submitted; or

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

Subd. 2. **Court disposition.** If the application is granted, the court shall modify and correct the award so as to effect its intent and shall confirm the award as so modified and corrected. Otherwise, the court shall confirm the award as made.

Subd. 3. **Joinder in alternative.** An application to modify or correct an award may be joined in the alternative with an application to vacate the award.

**History:** 1957 c 633 s 13

**572.21 JUDGMENT OR DECREE ON AWARD.**

Upon the granting of an order confirming, modifying or correcting an award, judgment or decree shall be entered in conformity therewith and be enforced as any other judgment or decree. Costs of the application and of the proceedings subsequent thereto, and disbursements may be awarded by the court.

**History:** 1957 c 633 s 14

**572.22 JUDGMENT ROLL, DOCKETING.**

Subdivision 1. **Judgment roll.** On entry of judgment or decree, the court administrator shall prepare the judgment roll consisting, to the extent filed, of the following:

- (1) the agreement and each written extension of the time within which to make the award;
- (2) the award;
- (3) a copy of the order confirming, modifying or correcting the award; and
- (4) the judgment or decree.

Subd. 2. **Docketed; action.** The judgment or decree may be docketed as if rendered in an action.

**History:** 1957 c 633 s 15; 1981 c 121 s 6; 1Sp1986 c 3 art 1 s 82

**572.23 APPLICATIONS TO COURT.**

Except as otherwise provided, an application to the court under this chapter shall be by motion and shall be heard in the manner and upon the notice provided by law or rule of court for the making and hearing of motions. Unless the parties have agreed otherwise, notice of an initial application for an order shall be served in the manner provided by law for the service of a summons in an action.

**History:** 1957 c 633 s 16

**572.24 COURT, JURISDICTION.**

The term "court" means any court of competent jurisdiction of this state. The making of an agreement described in section 572.08 providing for arbitration in this state confers jurisdiction on the court to enforce the agreement under sections 572.08 to 572.30 and to enter judgment on an award thereunder.

**History:** 1957 c 633 s 17

**572.25 VENUE.**

An initial application shall be made to the court of the county in which the agreement provides the arbitration hearing shall be held or, if the hearing has been held, in the county in

which it was held. Otherwise the application shall be made in the county where the adverse party resides or has a place of business if there is one or the other in this state; if not, then to the court of any county. All subsequent applications shall be made to the court hearing the initial application unless the court otherwise directs.

**History:** 1957 c 633 s 18; 1986 c 444

#### **572.26 APPEALS.**

Subdivision 1. **Authorization of appeal.** An appeal may be taken from:

- (1) an order denying an application to compel arbitration made under section 572.09;
- (2) an order granting an application to stay arbitration made under section 572.09(b);
- (3) an order confirming or denying confirmation of an award;
- (4) an order modifying or correcting an award;
- (5) an order vacating an award without directing a rehearing; or
- (6) a judgment or decree entered pursuant to the provisions of this chapter.

Subd. 2. **Manner.** The appeal shall be taken in the manner and to the same extent as from orders or judgments in a civil action.

**History:** 1957 c 633 s 19

#### **572.27 ACT NOT RETROACTIVE.**

This chapter applies only to agreements made subsequent to the taking effect of this chapter.

**History:** 1957 c 633 s 20

#### **572.28 UNIFORMITY OF INTERPRETATION.**

This chapter shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

**History:** 1957 c 633 s 21

#### **572.29 SEVERABILITY.**

If any provision of sections 572.08 to 572.30 or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the chapter which can be given without the invalid provision or application, and to this end the provisions of this chapter are severable.

**History:** 1957 c 633 s 22

#### **572.30 CITATION, UNIFORM ARBITRATION ACT.**

Subdivision 1. **Citation.** Sections 572.08 to 572.30 may be cited as the Uniform Arbitration



Act.

Subd. 2. **Nonapplication.** Section 358.06 does not apply to an arbitration proceeding coming within the provisions of this chapter.

Subd. 3. **Superseding court rule.** Rule 26.07, Rules of Civil Procedure for district courts, is superseded by the provisions of this chapter, insofar as inconsistent therewith.

**History:** 1957 c 633 s 23,24

## MINNESOTA CIVIL MEDIATION ACT

### 572.31 MINNESOTA CIVIL MEDIATION ACT, CITATION.

Sections 572.31 to 572.40 may be cited as the "Minnesota Civil Mediation Act."

**History:** 1984 c 646 s 1

### 572.33 DEFINITIONS.

Subdivision 1. **Scope.** When used in sections 572.31 to 572.40 the terms defined in this section have the meanings given them.

Subd. 2. **Mediator.** "Mediator" means a third party with no formal coercive power whose function is to promote and facilitate a voluntary settlement of a controversy identified in an agreement to mediate.

Subd. 3. **Agreement to mediate.** "Agreement to mediate" means a written agreement which identifies a controversy between the parties to the agreement, states that the parties will seek to resolve the controversy through mediation, provides for termination of mediation upon written notice from either party or the mediator delivered by certified mail or personally to the other people who signed the agreement, is signed by the parties and mediator and is dated.

Subd. 4. **Mediated settlement agreement.** "Mediated settlement agreement" means a written agreement setting out the terms of a partial or complete settlement of a controversy identified in an agreement to mediate, signed by the parties, and dated.

Subd. 5. **Nonprofit regional alternative dispute resolution corporation.** "Nonprofit regional alternative dispute resolution corporation" has the meaning given in section 480.24, subdivision 5.

**History:** 1984 c 646 s 2; 1986 c 398 art 17 s 3,4

### 572.35 EFFECT OF MEDIATED SETTLEMENT AGREEMENT.

Subdivision 1. **General.** The effect of a mediated settlement agreement shall be determined under principles of law applicable to contract. A mediated settlement agreement is not binding unless:

(1) it contains a provision stating that it is binding and a provision stating substantially that the parties were advised in writing that (a) the mediator has no duty to protect their interests or provide them with information about their legal rights; (b) signing a mediated settlement agreement may adversely affect their legal rights; and (c) they should consult an attorney before signing a mediated settlement agreement if they are uncertain of their rights; or

(2) the parties were otherwise advised of the conditions in clause (1).

Subd. 2. **Debtor and creditor mediation.** In addition to the requirements of subdivision 1, a mediated settlement agreement between a debtor and creditor is not binding until 72 hours after it is signed by the debtor and creditor, during which time either party may withdraw consent to the binding character of the agreement.

**History:** 1984 c 646 s 3; 1986 c 398 art 17 s 5; 1999 c 190 s 1

### **572.36 SETTING ASIDE OR REFORMING A MEDIATED SETTLEMENT AGREEMENT.**

In any action, a court of competent jurisdiction shall set aside or reform a mediated settlement agreement if appropriate under the principles of law applicable to contracts, or if there was evident partiality, corruption, or misconduct by a mediator prejudicing the rights of a party. That the relief could not or would not be granted by a court of law or equity is not ground for setting aside or reforming the mediated settlement agreement unless it violates public policy.

**History:** 1984 c 646 s 4

### **572.37 PRESENTATION OF MEDIATOR TO PUBLIC.**

No individual may act as a mediator pursuant to the Minnesota Civil Mediation Act for compensation without providing the individuals to the conflict with a written statement of qualifications prior to beginning mediation. The statement shall describe educational background and relevant training and experience in the field.

Nothing in this section shall limit the pursuits of professionals consistent with their training and code of ethics; nor shall this section apply to service provided through a governmental agency. The requirement of this section may be satisfied by a nonprofit corporation on behalf of its service providers by providing a statement of the education, training, and experience requirements for eligibility on its mediation panel.

A person who violates this section is guilty of a petty misdemeanor.

**History:** 1984 c 646 s 5; 1986 c 444

**572.39 STATUTES OF LIMITATION.**

The running of the limitation of time within which an action may be brought is suspended from the date of the agreement to mediate until 20 days after notice of termination of mediation is delivered by certified mail or personally delivered as provided in the agreement to mediate.

**History:** 1984 c 646 s 6

**572.40 SCOPE.**

Sections 572.31 to 572.36 do not apply to proceedings relating to the determination of criminal liability or proceedings brought under chapters 518, 518A, 518B, and 518C, or proceedings relating to guardianship, conservatorship, or civil commitment.

**History:** 1984 c 646 s 7

**DEBTOR AND CREDITOR MEDIATION****572.41 DEBTOR AND CREDITOR MEDIATION.**

Subdivision 1. **General.** The debtor and creditor in any transaction may request the other party to the transaction to enter mediation concerning possible adjustment, refinancing, or payment under this section and sections 572.31 to 572.40.

Subd. 2. **Mediators.** An individual who meets the qualifications established under subdivision 5 and who is willing to mediate in matters involving debtors and creditors may register with a nonprofit regional alternative dispute resolution corporation or, in a county where one does not exist, with the court administrator. The court administrator shall develop a list of mediators available in the county. It is desirable but not necessary that mediators under this section have knowledge of debtor and creditor law and relevant areas of finance. A mediator must not mediate a matter involving a debtor or creditor with whom the mediator has or has had a credit relationship.

Subd. 3. **Request for mediator.** A debtor and creditor who agree to mediate may submit a written request for referral to a mediator to the court administrator in the county where either party resides or has a place of business. The court administrator shall assign a mediator from the list developed under subdivision 2. The court administrator may charge a fee for the referral not to exceed the conciliation court fee in that county.

Subd. 4. **Compensation.** Prior to commencing mediation the debtor and creditor shall agree with each other and the mediator on the amount and allocation between them of any fee for the mediator's services.

Subd. 5. **Rules.** The state court administrator, in consultation with the Bureau of Mediation Services, shall adopt rules to implement this section and may use portions of existing rules on certification of alternative dispute resolution programs that satisfy the purposes of this section.

The rules must include qualifications of mediators under this section and grounds for challenging and removing mediators.

**History:** *1986 c 398 art 17 s 6*