

115TH CONGRESS
1ST SESSION

H. R. 4570

To amend title 9 of the United States Code with respect to arbitration.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 6, 2017

Mrs. BUSTOS (for herself, Mr. JONES, Ms. JAYAPAL, and Ms. STEFANIK) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 9 of the United States Code with respect to arbitration.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Ending Forced Arbi-
5 tration of Sexual Harassment Act”.

6 **SEC. 2. ARBITRATION OF EMPLOYMENT DISPUTES.**

7 (a) IN GENERAL.—Title 9 of the United States Code
8 is amended by adding at the end the following:

1 **“CHAPTER 4—ARBITRATION OF**
2 **EMPLOYMENT DISPUTES**

3 **“SEC. 401. DEFINITIONS.**

4 “In this chapter—

5 “(1) the term ‘sex discrimination dispute’
6 means a dispute between an employer and employee
7 arising out of conduct that would form the basis of
8 a claim based on sex under title VII of the Civil
9 Rights Act of 1964 (42 U.S.C. 2000e et seq.) if the
10 employment were employment as defined in section
11 701(b) of that title regardless of whether a violation
12 of title VII is alleged; and

13 “(2) the term ‘predispute arbitration agree-
14 ment’ means any agreement to arbitrate a dispute
15 that had not yet arisen at the time of the making
16 of the agreement.

17 **“SEC. 402. VALIDITY AND ENFORCEABILITY.**

18 “(a) IN GENERAL.—Notwithstanding any other pro-
19 vision of this title, no predispute arbitration agreement
20 shall be valid or enforceable if it requires arbitration of
21 a sex discrimination dispute.

22 “(b) APPLICABILITY.—

23 “(1) IN GENERAL.—An issue as to whether this
24 chapter applies to an arbitration agreement shall be
25 determined under Federal law. The applicability of

1 this chapter to an agreement to arbitrate and the
2 validity and enforceability of an agreement to which
3 this chapter applies shall be determined by a court,
4 rather than an arbitrator, irrespective of whether the
5 party resisting arbitration challenges the arbitration
6 agreement specifically or in conjunction with other
7 terms of the contract containing such agreement.

8 “(2) COLLECTIVE BARGAINING AGREEMENTS.—
9 Nothing in this chapter shall apply to any arbitra-
10 tion provision in a contract between an employer and
11 a labor organization or between labor organizations,
12 except that no such arbitration provision shall have
13 the effect of waiving the right of an employee to
14 seek judicial enforcement of a right arising under a
15 provision of the Constitution of the United States, a
16 State constitution, or a Federal or State statute, or
17 public policy arising therefrom.”.

18 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

19 (1) IN GENERAL.—Title 9 of the United States
20 Code is amended—

21 (A) in section 1, by striking “of seamen,”
22 and all that follows through “interstate com-
23 merce”;

(B) in section 2, by inserting “or as otherwise provided in chapter 4” before the period at the end;

(C) in section 208—

(i) in the section heading, by striking **“CHAPTER 1; RESIDUAL APPLICATION”** and inserting **“APPLICATION”**; and

(ii) by adding at the end the following: “This chapter applies to the extent that this chapter is not in conflict with chapter 4.”; and

(D) in section 307—

(i) in the section heading, by striking **“CHAPTER 1; RESIDUAL APPLICATION”** and inserting **“APPLICATION”**; and

(ii) by adding at the end the following: “This chapter applies to the extent that this chapter is not in conflict with chapter 4.”.

(2) TABLE OF SECTIONS.—

(A) CHAPTER 2.—The table of sections for chapter 2 of title 9, United States Code, is

1 amended by striking the item relating to section
2 208 and inserting the following:

“208. Application.”.

3 (B) CHAPTER 3.—The table of sections for
4 chapter 3 of title 9, United States Code, is
5 amended by striking the item relating to section
6 307 and inserting the following:

“307. Application.”.

7 (3) TABLE OF CHAPTERS.—The table of chap-
8 ters for title 9, United States Code, is amended by
9 adding at the end the following:

“4. Arbitration of employment disputes.”.

10 **SEC. 3. EFFECTIVE DATE.**

11 This Act, and the amendments made by this Act,
12 shall take effect on the date of enactment of this Act and
13 shall apply with respect to any dispute or claim that arises
14 on or after such date.

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