

Calendar No. 396

118TH CONGRESS
2D SESSION

S. 1979

To amend title 9 of the United States Code with respect to arbitration of disputes involving age discrimination.

IN THE SENATE OF THE UNITED STATES

JUNE 14, 2023

Mrs. GILLIBRAND (for herself, Mr. GRAHAM, Mr. DURBIN, Mr. PADILLA, Mr. MENENDEZ, Mr. BLUMENTHAL, Mr. GRASSLEY, Mr. BOOKER, Mr. OSSOFF, Mr. COONS, Ms. BUTLER, Mr. WHITEHOUSE, Ms. HIRONO, and Mr. HAWLEY) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

MAY 16, 2024

Reported by Mr. DURBIN, without amendment

A BILL

To amend title 9 of the United States Code with respect to arbitration of disputes involving age discrimination.

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 “Protecting Older
5 Americans Act of 2023”.

1 **SEC. 2. PREDISPUTE ARBITRATION OF DISPUTES INVOLV-**
 2 **ING AGE DISCRIMINATION.**

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

5 **“CHAPTER 5—ARBITRATION OF DISPUTES**
 6 **INVOLVING AGE DISCRIMINATION**

“Sec.

“501. Definitions.

“502. No validity or enforceability.

7 **“§ 501. Definitions**

8 “In this chapter:

9 “(1) AGE DISCRIMINATION DISPUTE.—The
 10 term ‘age discrimination dispute’ means a dispute
 11 relating to conduct that is alleged to constitute age
 12 discrimination against a person who is not less than
 13 40 years of age in any form, including disparate
 14 treatment, disparate impact, harassment, and retal-
 15 iation, that is prohibited under applicable Federal,
 16 Tribal, or State law (including local law).

17 “(2) PREDISPUTE ARBITRATION AGREEMENT;
 18 PREDISPUTE JOINT-ACTION WAIVER.—The terms
 19 ‘predispute arbitration agreement’ and ‘predispute
 20 joint-action waiver’ have the meanings given the
 21 terms in section 401.

22 **“§ 502. No validity or enforceability**

23 “(a) IN GENERAL.—Notwithstanding any other pro-
 24 vision of this title, at the election of the person alleging

1 conduct constituting an age discrimination dispute, or the
 2 named representative of a class or in a collective action
 3 alleging such conduct, no predispute arbitration agree-
 4 ment or predispute joint-action waiver shall be valid or
 5 enforceable with respect to a case which is filed under
 6 Federal, Tribal, or State law and relates to the age dis-
 7 crimination dispute.

8 “(b) DETERMINATION OF APPLICABILITY.—An issue
 9 as to whether this chapter applies with respect to a dispute
 10 shall be determined under Federal law. The applicability
 11 of this chapter to an agreement to arbitrate and the valid-
 12 ity and enforceability of an agreement to which this chap-
 13 ter applies shall be determined by a court, rather than
 14 an arbitrator, irrespective of whether the party resisting
 15 arbitration challenges the arbitration agreement specifi-
 16 cally or in conjunction with other terms of the contract
 17 containing such agreement, and irrespective of whether
 18 the agreement purports to delegate such determinations
 19 to an arbitrator.”.

20 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

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

23 (A) in section 2, by inserting “or 5” before
 24 the period at the end;

1 (B) in section 208, in the second sentence,
2 by inserting “or 5” before the period at the
3 end; and

4 (C) in section 307, in the second sentence,
5 by inserting “or 5” before the period at the
6 end.

7 (2) 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:

“5. Arbitration of disputes involving age discrimination 501.”.

10 **SEC. 3. APPLICABILITY.**

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

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