

118TH CONGRESS
1ST 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, and Mr. BLUMENTHAL) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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”.

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

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

1 **“CHAPTER 5—ARBITRATION OF DISPUTES**
 2 **INVOLVING AGE DISCRIMINATION**

“Sec.

“501. Definitions.

“502. No validity or enforceability.

3 **“§ 501. Definitions**

4 “In this chapter:

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

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

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

19 “(a) IN GENERAL.—Notwithstanding any other pro-
 20 vision of this title, at the election of the person alleging
 21 conduct constituting an age discrimination dispute, or the
 22 named representative of a class or in a collective action
 23 alleging such conduct, no predispute arbitration agree-
 24 ment or predispute joint-action waiver shall be valid or

1 enforceable with respect to a case which is filed under
2 Federal, Tribal, or State law and relates to the age dis-
3 crimination dispute.

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

16 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

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

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

21 (B) in section 208, in the second sentence,
22 by inserting “or 5” before the period at the
23 end; and

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

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

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

7 **SEC. 3. APPLICABILITY.**

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

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