

**ARBITRATION - USE OF SUBPOENA**

**AUTHORIZED**

2005 GENERAL SESSION

STATE OF UTAH

**Sponsor: Dan R. Eastman**

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**LONG TITLE**

**General Description:**

This bill authorizes attorneys to issue subpoenas in arbitration cases.

**Highlighted Provisions:**

This bill:

- ▶ allows attorneys, upon stipulation of the parties, to issue subpoenas for witnesses and evidence in arbitration cases.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**78-31a-118**, as enacted by Chapter 326, Laws of Utah 2002

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **78-31a-118** is amended to read:

**78-31a-118. Witnesses -- Subpoenas -- Depositions -- Discovery.**

(1) An arbitrator may issue a subpoena for the attendance of a witness and for the production of records and other evidence at any hearing and may administer oaths. A subpoena must be served in the manner for service of subpoenas in a civil action and, upon motion to the court by a party to the arbitration proceeding or the arbitrator, enforced in the manner for enforcement of subpoenas in a civil action.

(2) In order to make the proceedings fair, expeditious, and cost-effective, upon request of a party to or a witness in an arbitration proceeding, an arbitrator may permit a deposition of any witness to be taken for use as evidence at the hearing, including a witness who cannot be subpoenaed for or is unable to attend a hearing. The arbitrator shall determine the conditions under which the deposition is taken.

(3) An arbitrator may permit any discovery the arbitrator decides is appropriate in the circumstances, taking into account the needs of the parties to the arbitration proceeding and other affected persons and the desirability of making the proceeding fair, expeditious, and cost-effective.

(4) If an arbitrator permits discovery under Subsection (3), the arbitrator may order a party to the arbitration proceeding to comply with the arbitrator's discovery-related orders, issue subpoenas for the attendance of a witness and for the production of records and other evidence at a discovery proceeding, and take action against a noncomplying party to the extent a court could if the controversy were the subject of a civil action in this state.

(5) An arbitrator may issue a protective order to prevent the disclosure of privileged information, confidential information, trade secrets, and other information protected from disclosure to the extent a court could if the controversy were the subject of a civil action in this state.

(6) All laws compelling a person under subpoena to testify and all fees for attending a judicial proceeding, a deposition, or a discovery proceeding as a witness apply to an arbitration proceeding as if the controversy were the subject of a civil action in this state.

(7) The court may enforce a subpoena or discovery-related order for the attendance of a witness within this state and for the production of records and other evidence issued by an arbitrator in connection with an arbitration proceeding in another state upon conditions determined by the court so as to make the arbitration proceeding fair, expeditious, and cost-effective. A subpoena or discovery-related order issued by an arbitrator in another state must be served in the manner provided by law for service of subpoenas in a civil action in this state and, upon motion to the court by a party to the arbitration proceeding or the arbitrator,

enforced in the manner provided by law for enforcement of subpoenas in a civil action in this state.

(8) Upon stipulation of the parties, or where a statute or the written agreement of the parties provides that discovery shall be conducted in accordance with the Rules of Civil Procedure, an attorney may issue a subpoena for the attendance of a witness and for the production of records and other evidence at any hearing. A subpoena must be served in the manner for service of subpoenas in a civil action and, upon motion to the court by a party to the arbitration proceeding, enforced in the manner for enforcement of subpoenas in a civil action.