

BILL ANALYSIS

Senate Research Center
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S.B. 328
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Jurisprudence
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DIGEST AND PURPOSE

Currently, Texas does not collect certain information to evaluate the effectiveness of arbitration services. As proposed, S.B. 328 requires arbitrators or arbitration service providers to report certain information to the office of court administration to be used by the legislature in the evaluation of the arbitration system in Texas.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Supreme Court of Texas is modified in Section 1 (Sections 177.101 and 177.102, Civil Practice and Remedies Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 7, Civil Practice and Remedies Code, by adding Chapter 177, as follows:

CHAPTER 177. ARBITRATOR REQUIREMENTS SUBCHAPTER A. GENERAL PROVISIONS

Sec. 177.001. POLICY; FINDINGS. (a) Provides that state and federal policy favors submitting disputes to arbitration and that benefits of arbitration include quicker and less expensive resolution of disputes than is generally available by litigation.

(b) Provides that it is this state's policy to ensure that a person's right to the fair and impartial hearing and resolution of a civil complaint is not infringed. Provides that to protect that right, it is in the public interest and is the purpose of this chapter to require the provision of information needed to evaluate whether the public policy supporting arbitration is being served and to establish a basic system for evaluating and ensuring the accountability of arbitrators and arbitration services providers.

Sec. 177.002. DEFINITIONS. Defines "arbitration panel," "arbitration services provider," "arbitrator," and "office of court administration."

Sec. 177.003. APPLICABILITY. Provides that the requirements of this chapter supplement, in any arbitration held in this state, the arbitration law of this state and any other state and the Federal Arbitration Act (9 U.S.C. Sections 1-16) and apply to any arbitration subject to those laws.

[Reserves Sections 177.004-177.050 for expansion]

SUBCHAPTER B. DISCLOSURE PROCEDURES

Sec. 177.051. DISCLOSURE FILING. Requires the arbitrator or arbitration panel that conducts the arbitration or, if an arbitration services provider administers the arbitration, the arbitration services provider to file an arbitration disclosure for each arbitration before the 31st day after the arbitration award is signed with the office of court administration.

Sec. 177.052. DISCLOSURE INFORMATION. Requires the disclosure to contain certain information.

[Reserves Sections 177.053-177.100 for expansion]

SUBCHAPTER C. ENFORCEMENT PROVISIONS

Sec. 177.101. LATE FILING FEE. (a) Requires the director of the office of court administration, under the supervision of the chief justice, to implement procedures for the collection of a fee not to exceed \$100 for the late filing of an arbitration disclosure in accordance with rules adopted by the supreme court for the efficient administration of justice.

(b) Authorizes a party to an arbitration, or an attorney for the party, to report an overdue filing of the arbitration disclosure to the office of court administration.

(c) Provides that an arbitration disclosure that is filed within the period specified by Section 177.051 is not subject to a filing fee.

Sec. 177.102. LATE DISCLOSURE FILERS; INELIGIBILITY FOR ARBITRATION ADMINISTRATION. (a) Provides that an arbitrator, including a member of an arbitration panel, or arbitration services provider is ineligible to conduct or administer a court-ordered arbitration during the period in which the arbitrator or panel of which the arbitrator is a member or arbitration services provider fails to file an overdue arbitration disclosure or owes a fee for late filing.

(b) Provides that an arbitrator who personally or as a member of an arbitration panel has failed, or an arbitration services provider that has failed, three times in the preceding 12-month period to timely file arbitration disclosures is ineligible to conduct or administer a court-ordered arbitration until the first anniversary of the date the office of court administration receives the third report of an overdue filing with respect to that arbitrator or arbitration services provider.

(c) Requires the office of court administration to compile, maintain, and publish on the Internet an updated list of arbitrators and arbitration services providers that are ineligible to conduct or administer a court-ordered arbitration under Subsection (a) or (b).

(d) Requires the director of the office of court administration, under the supervision of the chief justice, to implement a procedure by which an arbitrator or arbitration services provider can be removed from the published list, in accordance with rules adopted by the supreme court for the efficient administration of justice.

(e) Requires the office of court administration and the Texas Judicial Council to include in the annual report under Section 71.034, Government Code, a list of all the names of arbitrators or arbitration services providers who have been on the ineligible list during the period included in that report.

[Reserves Sections 177.103-177.150 for expansion]

SUBCHAPTER D. IMMUNITY

Sec. 177.151. IMMUNITY FROM CIVIL LIABILITY. Provides that an arbitrator or arbitration services provider is immune from civil liability for providing information required for compliance with this chapter unless the complaining party proves that the arbitrator or arbitration services provider recklessly or knowingly provided false information.

SECTION 2. (a) Provides that for the purpose of this section, the date an arbitration is commenced is the date an arbitrator, as defined by Section 177.002, Civil Practice and Remedies Code, as added by this Act, is selected or appointed.

(b) Effective date: January 1, 2004.

Makes application of this Act prospective to January 1, 2004.