

**BILL ANALYSIS**

Senate Research Center  
80R2869 CAE-F

S.B. 539  
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Jurisprudence  
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**AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Currently, the state does not collect sufficient information to evaluate the effectiveness of arbitration services in the state. The public policies supporting the use of arbitration include a quicker and less expensive resolution of disputes than is generally available through litigation. However, without relative data to evaluate the process, ensuring accountability is almost impossible.

As proposed, S.B. 539 requires arbitrators or arbitration service providers to report certain information to the Office of Court Administration to be used in the evaluation of the arbitration system in the state. The necessary information would include the name of the arbitrator or arbitration service provider, a general statement of dispute and relief requested, the arbitration decision, and relevant dates of the arbitration.

**RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

**SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Title 7, Civil Practice and Remedies Code, by adding Chapter 181, as follows:

CHAPTER 181. ARBITRATOR REQUIREMENTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 181.001. POLICY; FINDINGS. Sets forth legislative intent relating to arbitration and the establishment of a basic system for evaluating and ensuring the accountability of arbitrators and arbitration services providers.

Sec. 181.002. DEFINITIONS. Defines "arbitration panel," "arbitration services provider," "arbitrator," "consumer arbitration," "employment arbitration," and "office of court administration."

Sec. 181.003. APPLICABILITY. (a) Provides that the requirements of this chapter apply to any consumer or employment arbitration conducted in this state that is subject to Chapter 171 (General Arbitration) or Chapter 1, Federal Arbitration Act, except as provided by Subsection (b).

(b) Provides that this chapter does not apply to an arbitration conducted or administered by a self-regulatory organization as defined by the Securities Exchange Act of 1934, the Commodity Exchange Act, adopted regulations thereof, or a residential construction arbitration to which Chapter 437 (Reporting Requirements), Property Code, applies.

[Reserves Sections 181.004-181.050 for expansion.]

SUBCHAPTER B. DISCLOSURE PROCEDURES

Sec. 181.051. DISCLOSURE FILING. Requires the arbitrator or arbitration services provider to file an arbitration disclosure with the office of court administration (office) before the 90th day after the date the arbitration award is signed for each consumer or employment arbitration conducted in this state.

Sec. 181.052. DISCLOSURE INFORMATION. (a) Prohibits the disclosure from revealing the name of any party to the arbitration.

(b) Sets forth specific content requirements for the disclosure.

Sec. 181.053. OPTION TO LIMIT DISCLOSURE. (a) Authorizes the parties to agree to except information regarding a description of the arbitrator's or arbitration panel's decision and award stating which party prevailed and if that party received the relief requested, notwithstanding Section 181.052.

(b) Prohibits an agreement to limit disclosure from being entered into before specified dates.

(c) Requires the parties entering into an agreement to limit disclosure to provide evidence of the agreement by signing a form adopted by the office of court administration, under the supervision of the chief justice.

(d) Requires the arbitrator to take certain action if the parties agree to limit disclosure.

Sec. 181.054. INTERNET SITE FOR INFORMATION. Requires the office to make the information collected under this subchapter available on its Internet website.

[Reserves Sections 181.055-181.100 for expansion.]

#### SUBCHAPTER C. ENFORCEMENT PROVISIONS

Sec. 181.101. LATE FILING FEE. (a) Requires the director of the office (director), under the supervision of the chief justice, to implement procedures for the collection of a fee for the late filing of an arbitration disclosure that is not to exceed \$100. Requires such procedures to be in accordance with rules established by the supreme court.

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

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

Sec. 181.102. LATE DISCLOSURE FILERS; INELIGIBILITY FOR ARBITRATION ADMINISTRATION. (a) Specifies that an arbitrator, member of an arbitration panel, or arbitration services provider is ineligible for court appointment to arbitrate or administer an arbitration during a period in which such persons fail to file an overdue arbitration disclosure or owe fees for late filing.

(b) Provides that an arbitrator, member of an arbitration panel, or arbitration services provider is ineligible for court appointment to arbitrate or administer an arbitration who has failed at least three times in the preceding 12 months to timely file arbitration disclosures. Provides that such ineligibility remain in effect until the first anniversary of the date the office receives the third report of an overdue filing with respect to that arbitrator or arbitration services provider.

(c) Requires the office to compile, maintain, and publish on the Internet an updated list of those persons ineligible to conduct or administer a court-ordered arbitration under this section.

(d) Requires the director, under the supervision of the chief justice, to implement a procedure by which an ineligible person can be removed from the published list, in accordance with rules adopted by the supreme court.

(e) Requires the office and the Texas Judicial Council to include the list of names described in Subsection (c) in the annual report required under Section 71.034 (Reports: Investigations), Government Code.

[Reserves Sections 181.103-181.150 for expansion.]

#### SUBCHAPTER D. IMMUNITY

Sec. 181.151. IMMUNITY FROM CIVIL LIABILITY. Provides an arbitrator or arbitration services provider with immunity from civil liability for providing information in 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) Specifies that the date an arbitrator is appointed is the date that an arbitration is commenced.

(b) Makes application of this Act prospective to January 1, 2008.

SECTION 3. Effective date: January 1, 2008.