

Second Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 18-0946.01 Jerry Barry x4341

**HOUSE BILL 18-1262**

**HOUSE SPONSORSHIP**

**Jackson and Roberts,**

**SENATE SPONSORSHIP**

**(None),**

---

**House Committees**  
Judiciary

**Senate Committees**

---

**A BILL FOR AN ACT**

101     **CONCERNING THE "ARBITRATION SERVICES PROVIDER**  
102     **TRANSPARENCY ACT".**

---

**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

The bill requires arbitration services providers that administer consumer or employment arbitrations to collect, publish, and make available specified information on those arbitrations administered in the previous 5 years. The bill amends a provision of the uniform arbitration act to make the bill effective.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters or bold & italic numbers indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

*Be it enacted by the General Assembly of the State of Colorado:*

2                   **SECTION 1.** In Colorado Revised Statutes, **add** part 7 to article  
3 22 of title 13 as follows:

## PART 7

## ARBITRATION SERVICES

## PROVIDER TRANSPARENCY ACT

7           **13-22-701. Short title.** THE SHORT TITLE OF THIS PART 7 IS THE  
8           "ARBITRATION SERVICES PROVIDER TRANSPARENCY ACT".

19 (2) (a) AN ARBITRATION SERVICES PROVIDER THAT ADMINISTERS  
20 AN ARBITRATION IN WHICH A CONSUMER OR EMPLOYEE ASSERTS A CLAIM  
21 OR COUNTERCLAIM SHALL COLLECT, PUBLISH AT LEAST QUARTERLY, AND  
22 MAKE EASILY AVAILABLE TO THE PUBLIC FOR NO CHARGE ON THE WEBSITE  
23 OF THE ARBITRATION SERVICES PROVIDER, IF ANY, AND IN WRITING UPON  
24 REQUEST, A SINGLE CUMULATIVE REPORT THAT CONTAINS ALL OF THE  
25 FOLLOWING INFORMATION REGARDING EACH CONSUMER OR EMPLOYMENT  
26 ARBITRATION WITHIN THE PRECEDING FIVE YEARS:

1                   (I) WHETHER ARBITRATION WAS DEMANDED PURSUANT TO A  
2                   PREDISPENSE ARBITRATION CLAUSE AND, IF SO, WHETHER THE PREDISPENSE  
3                   ARBITRATION CLAUSE DESIGNATED THE ADMINISTERING ARBITRATION  
4                   SERVICES PROVIDER;

5                   (II) THE NAME OF A NONCONSUMER PARTY OR EMPLOYER, IF THE  
6                   NONCONSUMER PARTY OR EMPLOYER IS A CORPORATION OR OTHER  
7                   BUSINESS ENTITY, AND WHETHER THE NONCONSUMER PARTY OR  
8                   EMPLOYER INITIATED THE ARBITRATION OR WAS THE RESPONDING PARTY,  
9                   IF KNOWN;

10                   (III) THE NATURE OF THE DISPUTE INVOLVED, CATEGORIZED AS  
11                   ONE OF THE FOLLOWING: GOODS; CREDIT; OTHER BANKING OR FINANCE;  
12                   INSURANCE; HEALTH CARE; CONSTRUCTION; REAL ESTATE;  
13                   TELECOMMUNICATIONS, INCLUDING SOFTWARE AND INTERNET USAGE;  
14                   DEBT COLLECTION; PERSONAL INJURY; EMPLOYMENT; OR OTHER;

15                   (IV) WHETHER THE CONSUMER, NONCONSUMER, EMPLOYEE, OR  
16                   EMPLOYER PARTY WAS THE PREVAILING PARTY;

17                   (V) THE TOTAL NUMBER OF OCCASIONS, IF ANY, THAT THE  
18                   NONCONSUMER OR EMPLOYER PARTY HAS PREVIOUSLY BEEN A PARTY IN  
19                   AN ARBITRATION ADMINISTERED BY THE ARBITRATION SERVICES  
20                   PROVIDER;

21                   (VI) THE TOTAL NUMBER OF OCCASIONS, IF ANY, THAT THE  
22                   NONCONSUMER OR EMPLOYER PARTY HAS PREVIOUSLY BEEN A PARTY IN  
23                   A MEDIATION ADMINISTERED BY THE ARBITRATION SERVICES PROVIDER;

24                   (VII) THE NAME OF THE ATTORNEY AND THE FULL NAME OF THE  
25                   LAW FIRM THAT EMPLOYS THE ATTORNEY WHO REPRESENTED A PARTY, IF  
26                   ANY;

27                   (VIII) THE DATE THE ARBITRATION SERVICES PROVIDER RECEIVED

1 THE DEMAND FOR ARBITRATION, THE DATE THE ARBITRATOR WAS  
2 APPOINTED, AND THE DATE OF DISPOSITION BY THE ARBITRATOR OR  
3 ARBITRATION SERVICES PROVIDER;

4 (IX) THE TYPE OF DISPOSITION OF THE DISPUTE, IF KNOWN,  
5 IDENTIFIED AS ONE OF THE FOLLOWING: WITHDRAWAL, ABANDONMENT,  
6 SETTLEMENT, AWARD AFTER HEARING, AWARD WITHOUT HEARING,  
7 DEFAULT, OR DISMISSAL WITHOUT HEARING;

8 (X) IF A CASE WAS ADMINISTERED IN A HEARING, WHETHER THE  
9 HEARING WAS CONDUCTED IN PERSON, BY TELEPHONE OR VIDEO  
10 CONFERENCE, OR BY DOCUMENTS ONLY;

11 (XI) THE AMOUNT OF THE CLAIM, WHETHER EQUITABLE RELIEF  
12 WAS REQUESTED OR AWARDED, THE AMOUNT OF ANY MONETARY AWARD,  
13 THE AMOUNT OF ANY ATTORNEY FEES AWARD, AND ANY OTHER RELIEF  
14 GRANTED, IF ANY; AND

15 (XII) THE NAME OF THE ARBITRATOR, HIS OR HER TOTAL FEE FOR  
16 THE CASE, THE PERCENTAGE OF THE ARBITRATOR'S FEE ALLOCATED TO  
17 EACH PARTY, WHETHER A WAIVER OF ANY FEES WAS GRANTED, AND, IF SO,  
18 THE AMOUNT OF THE WAIVER.

19 (b) THE INFORMATION REQUIRED BY SUBSECTION (2)(a) OF THIS  
20 SECTION MUST BE MADE AVAILABLE IN A FORMAT THAT ALLOWS THE  
21 PUBLIC TO SEARCH AND SORT THE INFORMATION USING READILY  
22 AVAILABLE SOFTWARE AND BE DIRECTLY ACCESSIBLE FROM A  
23 CONSPICUOUSLY DISPLAYED LINK ON THE WEBSITE OF THE ARBITRATION  
24 SERVICES PROVIDER WITH THE IDENTIFYING DESCRIPTION: "CONSUMER  
25 CASE INFORMATION".

26 (c) AN ARBITRATION SERVICES PROVIDER IS NOT LIABLE IN A CLAIM  
27 FOR DAMAGES FOR FAILURE TO COLLECT, PUBLISH, OR DISTRIBUTE THE

1 INFORMATION REQUIRED BY THIS SECTION.

2 (d) (I) AN ARBITRATION SERVICES PROVIDER SHALL NOT CONDUCT  
3 ARBITRATIONS UNLESS THE ARBITRATION SERVICES PROVIDER HAS  
4 SUBSTANTIALLY COMPLIED WITH THIS SECTION.

5 (II) A PARTY TO AN ARBITRATION AGREEMENT IS ENTITLED TO  
6 APPROPRIATE INJUNCTIVE RELIEF AGAINST ANY ARBITRATION SERVICES  
7 PROVIDER WHO FAILS TO SUBSTANTIALLY COMPLY WITH THIS SECTION.

8 **SECTION 2.** In Colorado Revised Statutes, 13-22-223, **add** (1.3)  
9 as follows:

10 **13-22-223. Vacating award - definitions.** (1.3) (a) AS USED IN  
11 SUBSECTION (1)(b)(I) OF THIS SECTION, "EVIDENT PARTIALITY" INCLUDES  
12 CIRCUMSTANCES WHEN:

13 (I) AN ARBITRATION SERVICES PROVIDER FAILS TO SUBSTANTIALLY  
14 COMPLY WITH THE DISCLOSURE REQUIREMENTS IMPOSED BY SECTION  
15 13-22-701 (2)(a); AND

16 (II) A PARTY DISCOVERS EVIDENCE OF THE ARBITRATION SERVICES  
17 PROVIDER'S POTENTIAL PARTIALITY AFTER SELECTION OF THE  
18 ARBITRATOR.

19 (b) (I) "POTENTIAL PARTIALITY" MEANS THAT, BASED ON THE  
20 TOTALITY OF THE FACTS AND CIRCUMSTANCES, A REASONABLE PERSON  
21 WOULD CONCLUDE THAT THE IMPARTIALITY OF AN ARBITRATOR OR  
22 ARBITRATION SERVICES PROVIDER MAY BE COMPROMISED OR UNDULY  
23 INFLUENCED IF HE OR SHE IS ASKED TO DECIDE ONE OR MORE MATTERS  
24 SUBJECT TO THE ARBITRATION DUE TO AN ACTUAL OR POTENTIAL  
25 CONFLICT OF INTEREST, INCLUDING, WITHOUT LIMITATION, A PECUNIARY  
26 INTEREST, A BUSINESS RELATIONSHIP, A FAMILIAL RELATIONSHIP, AN  
27 ADVERSARIAL OR SYMPATHETIC RELATIONSHIP, OR A LEGAL ISSUE

1 CONFLICT ON THE PART OF THE ARBITRATOR OR ARBITRATION SERVICES  
2 PROVIDER.

3 (II) "POTENTIAL PARTIALITY" INCLUDES A CIRCUMSTANCE WHEN  
4 A JUDICIAL OFFICER'S SIMILAR INTEREST IN THE OUTCOME OF A DISPUTE  
5 BEFORE THAT OFFICER WOULD DISQUALIFY HIM OR HER UNDER THE  
6 COLORADO CODE OF JUDICIAL CONDUCT FROM PRESIDING OVER A  
7 PROCEEDING OR WOULD DISQUALIFY HIM OR HER UNDER THE COLORADO  
8 RULES OF PROFESSIONAL CONDUCT FROM REPRESENTING A CLIENT.

9 (III) "POTENTIAL PARTIALITY" ALSO MEANS AN ARBITRATION  
10 SERVICES PROVIDER'S FAILURE TO MAKE THE DISCLOSURES REQUIRED IN  
11 SECTION 13-22-701 (2)(a).

12 (c) AS USED IN SUBSECTION (1.3)(b)(I) OF THIS SECTION:

13 (I) "ADVERSARIAL OR SYMPATHETIC RELATIONSHIP" INCLUDES A  
14 SIGNIFICANT PERSONAL OR PROFESSIONAL EXPERIENCE ALIGNED WITH  
15 FEWER THAN ALL OF THE PARTIES TO THE DISPUTE.

16 (II) "LEGAL ISSUE CONFLICT" MEANS A LEGAL ISSUE THAT WILL  
17 LIKELY BE PRESENTED TO THE ARBITRATOR, THE RESOLUTION OF WHICH  
18 LEGAL ISSUE BY THE ARBITRATOR LIKELY WOULD BE CONTRARY TO THE  
19 INTERESTS OF ONE OR MORE OF THE ARBITRATORS OR ARBITRATION  
20 SERVICES PROVIDERS OR THE ARBITRATOR'S, ARBITRATOR'S EMPLOYER'S,  
21 OR ARBITRATION SERVICES PROVIDER'S CURRENT CLIENTS OR A CLIENT'S  
22 INDUSTRY OR TRADE GROUP.

23 **SECTION 3. Severability.** Every provision of this act and each  
24 of its subsections is severable.

25 **SECTION 4. Effective date.** This act takes effect upon passage.

26 **SECTION 5. Safety clause.** The general assembly hereby finds,

1      determines, and declares that this act is necessary for the immediate  
2      preservation of the public peace, health, and safety.