

COURT REFORM AND ACCESS TO JUSTICE ACT OF 1988

AUGUST 26, 1988.—Ordered to be printed

Mr. KASTENMEIER, from the Committee on the Judiciary,
submitted the following

REPORT

[To accompany H.R. 4807]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 4807) to amend title 28, United States Code, to make certain improvements with respect to the Federal judiciary, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Court Reform and Access to Justice Act of 1988”

(b) TABLE OF CONTENTS.—The table of contents is as follows:

- Sec. 1. Short title and table of contents.
Sec. 2. Reference to title 28, United States Code.

TITLE I—RULES ENABLING ACT

- Sec. 101. Rules Enabling Act Amendments
Sec. 102. Compilation and review of local rules.
Sec. 103. Rules by certain courts and orders by circuit judicial councils and the judicial conference.
Sec. 104. Conforming and other technical amendments.
Sec. 105. Tax court rule making not affected.
Sec. 106. Savings provision.
Sec. 107. Effective date.

TITLE II—ARBITRATION

- Sec. 201. Arbitration authorization by district courts.
Sec. 202. Model procedures.
Sec. 203. Reports.
Sec. 204. Effect on judicial rule making powers.
Sec. 205. Authorization of appropriations
Sec. 206. Repeal
Sec. 207. Appeals under title 9, United States Code.
Sec. 208. Effective date.

TITLE III—FEDERAL JURISDICTION REFORM

Subtitle A—Multiparty, Multiforum Jurisdiction

- Sec. 301. Jurisdiction of district courts.
Sec. 302. Venue.
Sec. 303. Multidistrict litigation.
Sec. 304. Removal of actions.
Sec. 305. Choice of law.
Sec. 306. Service of process.
Sec. 307. Effective date.

Subtitle B—Diversity Reforms

- Sec. 311. Amount in controversy; elimination of diversity.
Sec. 312. Diversity in cases involving multistate corporations or representative parties.

TITLE IV—FEDERAL JUDICIAL CENTER

- Sec. 401. Federal Judicial Center Foundation.
Sec. 402. Authority to implement history program.
Sec. 403. Authority to provide for training for persons outside the judicial branch.
Sec. 404. Appointment and compensation of the Deputy Director of the Center.

TITLE V—TEMPORARY EMERGENCY COURT OF APPEALS

- Sec. 501. Transfer of jurisdiction of the court.
Sec. 502. Abolition of the court.
Sec. 503. Effective date.

TITLE VI—JURISDICTION OF THE FEDERAL CIRCUIT

- Sec. 601. Interlocutory appeals.
Sec. 602. Clarification of jurisdiction.
Sec. 603. Effective date.

TITLE VII—STATE JUSTICE INSTITUTE AMENDMENTS

- Sec. 701. Rule making
Sec. 702. Civil service retirement.
Sec. 703. Use of funds under grants and contracts.
Sec. 704. Interim funding.
Sec. 705. Procedures for suspension of funding; restrictions on disclosure of information.
Sec. 706. Authorization of appropriations

TITLE VIII—COURT INTERPRETERS AMENDMENTS

- Sec. 801. Short title.
Sec. 802. Authority of the Director.
Sec. 803. Certification of interpreters; other qualified interpreters
Sec. 804. Lists of interpreters; responsibility for securing services of interpreters

Sec. 805. Authorization of appropriations; payment for services of interpreters.
 Sec. 806. Approval of compensation and expenses.
 Sec. 807. Definitions.
 Sec. 808. Technical amendment.

TITLE IX—JURY SELECTION AND SERVICE

Sec. 901. Excuse of jurors.
 Sec. 902. Jury selection plan.
 Sec. 903. Master jury wheel.
 Sec. 904. Technical amendment.

TITLE X—MISCELLANEOUS PROVISIONS

Sec. 1001. Divisional venue in civil cases.
 Sec. 1002. Registration of foreign judgments.
 Sec. 1003. Circuit judicial conference amendments.
 Sec. 1004. Judicial disqualification amendment.
 Sec. 1005. Court security.
 Sec. 1006. Court fees.
 Sec. 1007. Corporate venue.
 Sec. 1008. Method of recording.
 Sec. 1009. Improvements in removal procedure.
 Sec. 1010. Incentive awards.
 Sec. 1011. Waiver of claims for overpayment of judicial pay and allowances.
 Sec. 1012. Administrative office and circuit executive salaries.
 Sec. 1013. Cost-of-living adjustments for judicial survivors' annuities.
 Sec. 1014. Elimination of circuit executive board of certification procedure.
 Sec. 1015. Miscellaneous technical amendments.

SEC. 2. REFERENCE TO TITLE 28, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed as an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of title 28, United States Code.

TITLE I—RULES ENABLING ACT

SEC. 101. RULES ENABLING ACT AMENDMENTS.

(a) **IN GENERAL.**—Chapter 131 is amended by striking out section 2072 and all that follows through section 2076 and inserting in lieu thereof the following:

“§ 2072. Rules of procedure and evidence; power to prescribe

“(a) The Supreme Court shall have the power to prescribe general rules of practice and procedure and rules of evidence for cases (including all bankruptcy matters) in the United States district courts (including proceedings before magistrates thereof) and courts of appeals.

“(b) Such rules shall not abridge, enlarge, or modify any substantive right. Such rules may only supersede a rule of practice or procedure or evidence—

“(1) in effect on the day before the date of the enactment of the Court Reform and Access to Justice Act of 1988;

“(2) prescribed under this chapter; or

“(3) consisting of an amendment (including a new rule) made by Act of Congress to the rules described in paragraph (1) or (2) of this subsection.

“§ 2073. Rules of procedure and evidence; method of prescribing

“(a)(1) The Judicial Conference shall prescribe and publish the procedures for the consideration of proposed rules under this section.

“(2) The Judicial Conference may authorize the appointment of committees to assist the Conference by recommending rules to be prescribed under section 2072 of this title. Each such committee shall consist of a balanced cross section of bench and bar, and trial and appellate judges.

“(b) The Judicial Conference shall authorize the appointment of a standing committee on rules of practice, procedure, and evidence under subsection (a) of this section. Such standing committee shall review each recommendation of any other committees so appointed and recommend to the Judicial Conference rules of practice, procedure, and evidence and such changes in rules proposed by a committee appointed under subsection (a)(2) of this section as may be necessary to maintain consistency and otherwise promote the interest of justice.

“(c)(1) Each meeting for the transaction of business under this chapter by any committee appointed under this section shall be open to the public, except when the committee so meeting, in open session and with a majority present, determines that it is in the public interest that all or part of the remainder of the meeting on that day shall be closed to the public, and states the reason for so closing the meeting. Minutes of each meeting for the transaction of business under this chapter shall be maintained by the committee and made available to the public, except that any por-

tion of such minutes, relating to a closed meeting and made available to the public, may contain such deletions as may be necessary to avoid frustrating the purposes of closing the meeting.

"(2) Any meeting for the transaction of business under this chapter by a committee appointed under this section shall be preceded by sufficient notice to enable all interested persons to attend.

"(d) In making a recommendation under this section or under section 2072, the body making that recommendation shall provide a proposed rule, an explanatory note on the rule, and a written report explaining the body's action, including any minority or other separate views.

"(e) Failure to comply with this section does not invalidate a rule prescribed under section 2072 of this title.

"§ 2074. Rules of procedure and evidence; submission to Congress; effective date

"(a) The Supreme Court shall transmit to the Congress not later than May 1 of the year in which a rule prescribed under section 2072 is to become effective a copy of the proposed rule. Such rule shall take effect no earlier than December 1 of the year in which such rule is so transmitted unless otherwise provided by law. The Supreme Court may fix the extent such rule shall apply to proceedings then pending, except that the Supreme Court shall not require the application of such rule to further proceedings then pending to the extent that, in the opinion of the court in which such proceedings are pending, the application of such rule in such proceedings would not be feasible or would work injustice, in which event the former rule applies.

"(b) Any such rule creating, abolishing, or modifying an evidentiary privilege shall have no force or effect unless approved by Act of Congress."

(b) **ADVISORY COMMITTEES FOR COURTS.**—Section 2077(b) is amended—

(1) by striking out "of appeals" the first place it appears and inserting in lieu thereof "except the Supreme Court, that is authorized to prescribe rules of the conduct of such court's business under section 2071 of this title"; and

(2) by striking out "the court of appeals" the second place it appears and inserting in lieu thereof "such court"

(c) **CLERICAL AMENDMENT.**—The table of sections at the beginning of chapter 131 is amended by striking out the item relating to section 2072 and all that follows through the item relating to section 2076 and inserting in lieu thereof the following:

"2072. Rules of procedure and evidence; power to prescribe.

"2073. Rules of procedure and evidence; method of prescribing.

"2074. Rules of procedure and evidence; submission to Congress; effective date."

SEC. 102. COMPILATION AND REVIEW OF LOCAL RULES.

(a) **COMPILATION.**—Section 604(a) is amended—

(1) by redesignating paragraph (18) as paragraph (19); and

(2) by inserting after paragraph (17) the following:

"(18) Periodically compile—

"(A) the rules which are prescribed under section 2071 of this title by courts other than the Supreme Court;

"(B) the rules which are prescribed under section 372(c)(11) of this title; and

"(C) the orders which are required to be publicly available under section 372(c)(15) of this title;

so as to provide a current record of such rules and orders;"

(b) **REVIEW.**—Section 331 is amended by inserting after the fifth paragraph the following:

"The Judicial Conference shall review rules prescribed under section 2071 of this title by the courts, other than the Supreme Court and the district courts, for consistency with Federal law. The Judicial Conference may modify or abrogate any such rule so reviewed found inconsistent in the course of such a review."

SEC. 103. RULES BY CERTAIN COURTS AND ORDERS BY CIRCUIT JUDICIAL COUNCILS AND THE JUDICIAL CONFERENCE.

(a) **RULES BY CERTAIN COURTS.**—(1) Section 2071 is amended—

(A) by inserting "(a)" before "The";

(B) by striking out "by the Supreme Court" and inserting in lieu thereof "under section 2072 of this title"; and

(C) by adding at the end the following:

"(b) Any rule prescribed by a court, other than the Supreme Court, under subsection (a) shall be prescribed only after giving appropriate public notice and an opportunity for comment. Such rule shall take effect upon the date specified by the pre-

scribing court and shall have such effect on pending proceedings as the prescribing court may order.

“(c)(1) A rule of a district court prescribed under subsection (a) shall remain in effect unless modified or abrogated by the judicial council of the relevant circuit.

“(2) Any other rule prescribed by a court other than the Supreme Court under subsection (a) shall remain in effect unless modified or abrogated by the Judicial Conference.

“(d) Copies of rules prescribed under subsection (a) by a district court shall be furnished to the judicial council, and copies of all rules prescribed by a court other than the Supreme Court under subsection (a) shall be furnished to the Director of the Administrative Office of the United States Courts and made available to the public.

“(e) If the prescribing court determines that there is an immediate need for a rule, such court may proceed under this section without public notice and opportunity for comment, but such court shall promptly thereafter afford such notice and opportunity for comment.

“(f) No rule may be prescribed by a district court other than under this section.”.

(2) Section 332(d) is amended by adding at the end the following new paragraph:

“(4) Each judicial council shall periodically review the rules which are prescribed under section 2071 of this title by district courts within its circuit for consistency with rules prescribed under section 2072 of this title. Each council may modify or abrogate any such rule found inconsistent in the course of such a review.”.

(b) ORDERS BY CIRCUIT JUDICIAL COUNCILS.—Section 332(d)(1) is amended by inserting after the first sentence the following new sentence: “Any general order relating to practice and procedure shall be made or amended only after giving appropriate public notice and an opportunity for comment. Any such order so relating shall take effect upon the date specified by such judicial council. Copies of such orders so relating shall be furnished to the Judicial Conference and the Administrative Office of the United States Courts and be made available to the public.”

(c) RULES BY JUDICIAL CONFERENCE AND CIRCUIT JUDICIAL COUNCILS.—Section 372(c)(11) is amended by inserting before “Any rule promulgated” the following new sentence: “Any such rule shall be made or amended only after giving appropriate public notice and an opportunity for comment.”

SEC. 104. CONFORMING AND OTHER TECHNICAL AMENDMENTS.

(a) CONFORMING REPEAL OF CRIMINAL RULES ENABLING PROVISIONS.—(1) Chapter 237 of title 18, United States Code, and the item relating to chapter 237 in the table of chapters for part II of such title, are repealed.

(b) CONFORMING AMENDMENTS RELATING TO MAGISTRATES.—(1) Section 636(d) is amended by striking out “section 3402 of title 18, United States Code” and inserting in lieu thereof “section 2072 of this title”

(2) Section 3402 of title 18, United States Code, is amended by striking out the second paragraph.

(c) CROSS REFERENCE TECHNICAL AMENDMENT.—Section 9 of the Act entitled “An Act to provide an adequate basis for the administration of the Lake Mead National Recreation Area, Arizona and Nevada, and for other purposes” approved October 8, 1964 (Public Law 88-639; 16 U.S.C. 460n-8) is amended by striking out the sentence beginning “The provisions of title 18, section 3402”

SEC. 105. TAX COURT RULEMAKING NOT AFFECTED.

The amendments made by this title shall not affect the authority of the Tax Court to prescribe rules under section 7453 of the Internal Revenue Code of 1986.

SEC. 106. SAVINGS PROVISION.

The rules prescribed in accordance with law before the effective date of this title and in effect on the date of such effective date shall remain in force until changed pursuant to the law as amended by this title.

SEC. 107. EFFECTIVE DATE.

This title shall take effect December 1, 1988.

TITLE II—ARBITRATION

SEC. 201. ARBITRATION AUTHORIZATION BY DISTRICT COURTS.

(a) IN GENERAL.—Title 28, United States Code, is amended by inserting after chapter 43 the following new chapter:

"CHAPTER 44—ARBITRATION

"Sec.

"651. Authorization of arbitration.

"652. Jurisdiction.

"653. Powers of arbitrator; arbitration hearing.

"654. Arbitration award and judgment.

"655. Trial de novo.

"656. Certification of arbitrators.

"657. Compensation of arbitrators.

"658. District courts that may authorize arbitration.

"§ 651. Authorization of arbitration

"(a) **AUTHORITY OF CERTAIN DISTRICT COURTS.**—Each United States district court described in section 658 may authorize by local rule the use of arbitration in any civil action, including an adversary proceeding in bankruptcy. Such arbitration shall be conducted in accordance with the provisions of this chapter.

"(b) **TITLE 9 NOT AFFECTED.**—This chapter shall not affect title 9.

"§ 652. Jurisdiction

"(a) **ACTIONS THAT MAY BE REFERRED TO ARBITRATION.**—(1) Notwithstanding any provision of law to the contrary and except as provided in subsections (b) and (c) of this section, a district court that authorizes arbitration under section 651 may—

"(A) allow the referral to arbitration of any civil action (including any adversary proceeding in bankruptcy) pending before it if the parties consent to arbitration, and

"(B) require the referral to arbitration of any civil action pending before it if the relief sought consists only of money damages not in excess of \$100,000 or such lesser amount as the district court may set, exclusive of interest and costs.

"(2) For purposes of paragraph (1)(B), a district court may presume damages are not in excess of \$100,000 unless counsel certifies that damages exceed such amount.

"(b) **ACTIONS THAT MAY NOT BE REFERRED WITHOUT CONSENT OF PARTIES.**—Referral to arbitration under subsection (a)(1)(B) may not be made—

"(1) of an action based on an alleged violation of a right secured by the Constitution of the United States, or

"(2) if jurisdiction is based in whole or in part on section 1343 of this title.

"(c) **EXCEPTIONS FROM ARBITRATION.**—Each district court shall establish by local rule procedures for exempting, sua sponte or on motion of a party, any case from arbitration in which the objectives of arbitration would not be realized—

"(1) because the case involves complex or novel legal issues,

"(2) because legal issues predominate over factual issues, or

"(3) for other good cause.

"(d) **SAFEGUARDS IN CONSENT CASES.**—In any civil action in which arbitration by consent is allowed under subsection (a)(1)(A), the district court shall by local rule establish procedures to ensure that—

"(1) consent to arbitration is freely and knowingly obtained, and

"(2) no party or attorney is prejudiced for refusing to participate in arbitration.

"§ 653. Powers of arbitrator; arbitration hearing

"(a) **POWERS.**—An arbitrator to whom an action is referred under section 652 shall have, within the judicial district of the district court which referred the action to arbitration, the power—

"(1) to conduct arbitration hearings,

"(2) to administer oaths and affirmations, and

"(3) to make awards.

"(b) **TIME FOR BEGINNING ARBITRATION HEARING.**—An arbitration hearing under this chapter shall begin within a time period specified by the district court, but in no event later than 180 days after the filing of an answer, except that the arbitration proceeding shall not, in the absence of the consent of the parties, commence until 30 days after the disposition by the district court of any motion to dismiss the complaint, motion for judgment on the pleadings, motion to join necessary parties, or motion for summary judgment, if the motion was filed during a time period specified by the district court. The 180-day and 30-day periods specified in the preceding sentence may be modified by the court for good cause shown.

"(c) **SUBPOENAS.**—Rule 45 of the Federal Rules of Civil Procedure (relating to subpoenas) applies to subpoenas for the attendance of witnesses and the production of documentary evidence at an arbitration hearing under this chapter.

"§ 654. Arbitration award and judgment

"(a) **FILING AND EFFECT OF ARBITRATION AWARD.**—An arbitration award made by an arbitrator under this chapter, along with proof of service of such award on the other party by the prevailing party or by the plaintiff, shall, promptly after the ar-

bitration hearing is concluded, be filed with the clerk of the district court that referred the case to arbitration. Such award shall be entered as the judgment of the court after the time has expired for requesting a trial de novo under section 655. The judgment so entered shall be subject to the same provisions of law and shall have the same force and effect as a judgment of the court in a civil action, except that the judgment shall not be subject to review in any other court by appeal or otherwise.

“(b) SEALING OF ARBITRATION AWARD.—The district court shall provide by local rule that the contents of any arbitration award made under this chapter shall not be made known to any judge who might be assigned to the case—

“(1) except as necessary for the court to determine whether to assess costs or attorney fees under section 655,

“(2) until the district court has entered final judgment in the action or the action has been otherwise terminated, or

“(3) except for purposes of preparing the report required by section 203(b) of the Court Reform and Access to Justice Act of 1988.

“(c) TAXATION OF COSTS.—The district court may by rule allow for the inclusion of costs as provided in section 1920 of this title as a part of the arbitration award.

“§ 655. Trial de novo

“(a) TIME FOR DEMAND.—Within 30 days after the filing of an arbitration award with a district court under section 654, any party may file a written demand for a trial de novo in the district court.

“(b) RESTORATION TO COURT DOCKET.—Upon a demand for a trial de novo, the action shall be restored to the docket of the court and treated for all purposes as if it had not been referred to arbitration. In such a case, any right of trial by jury that a party otherwise would have had, as well as any place on the court calendar which is no later than that which a party otherwise would have had, are preserved.

“(c) LIMITATION ON ADMISSION OF EVIDENCE.—The court shall not admit at the trial de novo any evidence that there has been an arbitration proceeding, the nature or amount of any award, or any other matter concerning the conduct of the arbitration proceeding, unless—

“(1) the evidence would otherwise be admissible in the court under the Federal Rules of Evidence, or

“(2) the parties have otherwise stipulated.

“(d) TAXATION OF ARBITRATOR FEES AS COST.—(1)(A) A district court may provide by rule that, in any trial de novo under this section, arbitrator fees paid under section 657 may be taxed as costs against the party demanding the trial de novo.

“(B) Such rule may provide that a party demanding a trial de novo under subsection (a), other than the United States or its agencies or officers, shall deposit a sum equal to such arbitrator fees as advanced payment of such costs, unless the party is permitted to proceed in forma pauperis.

“(2) Arbitrator fees shall not be taxed as costs under paragraph (1)(A), and any sum deposited under paragraph (1)(B) shall be returned to the party demanding the trial de novo, if—

“(A) the party demanding the trial de novo obtains a final judgment more favorable than the arbitration award, or

“(B) the court determines that the demand for the trial de novo was made for good cause.

“(2) Any arbitrator fees taxed as costs under paragraph (1)(A), and any sum deposited under paragraph (1)(B) that is not returned to the party demanding the trial de novo, shall be paid to the Treasury of the United States.

“(3) Any rule under this subsection shall provide that no penalty for demanding a trial de novo, other than that provided in this subsection, shall be assessed by the court.

“(e) ASSESSMENT OF COSTS AND ATTORNEY FEES.—In any trial de novo demanded under subsection (a) in which arbitration was done by consent of the parties, a district court may assess costs, as provided in section 1920 of this title, and reasonable attorney fees against the party demanding the trial de novo if—

“(1) such party fails to obtain a judgment, exclusive of interest and costs, in the court which is substantially more favorable to such party than the arbitration award, and

“(2) the court determines that the party’s conduct in seeking a trial de novo was in bad faith.

“§ 656. Certification of arbitrators

“(a) STANDARDS FOR CERTIFICATION.—Each district court listed in section 658 shall establish standards for the certification of arbitrators and shall certify arbitrators to

perform services in accordance with such standards and this chapter. The standards shall include provisions requiring that any arbitrator—

“(1) shall take the oath or affirmation described in section 453, and

“(2) shall be subject to the disqualification rules of section 455.

“(b) **TREATMENT OF ARBITRATOR AS INDEPENDENT CONTRACTOR AND SPECIAL GOVERNMENT EMPLOYEE.**—An arbitrator is an independent contractor and is subject to the provisions of sections 201 through 211 of title 18 to the same extent as such provisions apply to a special Government employee of the executive branch. A person may not be barred from the practice of law because such person is an arbitrator.

“§ 657. Compensation of arbitrators

“(a) **COMPENSATION.**—The district court may, subject to limits set by the Judicial Conference of the United States, establish and pay the amount of compensation, if any, that each arbitrator shall receive for services rendered in each case.

“(b) **TRANSPORTATION ALLOWANCES.**—Under regulations prescribed by the Director of the Administrative Office of the United States Courts, a district court may reimburse arbitrators for actual transportation expenses necessarily incurred in the performance of duties under this chapter.

“§ 658. District courts that may authorize arbitration

“The district courts for the following judicial districts may authorize the use of arbitration under this chapter:

“(1) Northern District of California, District of Connecticut, Middle District of Florida, Western District of Michigan, Western District of Missouri, District of New Jersey, Eastern District and Southern District of New York, Middle District of North Carolina, Western District of Oklahoma, Eastern District of Pennsylvania, and Southern District and Western District of Texas.

“(2) Ten additional judicial districts, which shall be approved by the Judicial Conference of the United States. The Judicial Conference shall give notice of the 10 districts approved under this paragraph to the Federal Judicial Center and to the public.”

(b) **CONFORMING AMENDMENT.**—The table of chapters at the beginning of part III is amended by inserting after the item relating to chapter 43 the following new item:

“44 Arbitration 651”.

(c) **EXCEPTION TO LIMITATION ON MONEY DAMAGES.**—Notwithstanding section 652 of title 28, United States Code (as added by subsection (a) of this section), establishing a limitation of \$100,000 in money damages with respect to cases referred to arbitration, a district court listed in section 658 of title 28, United States Code (as added by subsection (a) of this section), whose local rule on the date of the enactment of this Act provides for a limitation on money damages, with respect to such cases, of not more than \$150,000, may continue to apply the higher limitation.

SEC. 202. MODEL PROCEDURES.

The Judicial Conference of the United States may develop model rules relating to procedures for arbitration under chapter 44 of title 28, United States Code, as added by section 201 of this Act. No model rule may supersede any provision of such chapter 44, this title, or any law of the United States.

SEC. 203. REPORTS.

(a) **ANNUAL REPORT BY DIRECTOR OF ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.**—The Director of the Administrative Office of the United States Courts shall include in the annual report of the activities of the Administrative Office required under section 604(a)(3) of title 28, United States Code, statistical information about the implementation of chapter 44 of title 28, United States Code, as added by section 201 of this Act.

(b) **REPORT BY FEDERAL JUDICIAL CENTER.**—Not later than 5 years after the date of the enactment of this Act, the Federal Judicial Center, in consultation with the Director of the Administrative Office of the United States Courts, shall submit to the Congress a report on the implementation of chapter 44 of title 28, United States Code, as added by section 201 of this Act, which shall include the following:

(1) A description of the arbitration programs authorized by such chapter, as conceived and as implemented in the judicial districts in which such programs are authorized.

(2) A determination of the level of satisfaction with the arbitration programs in those judicial districts by a sampling of court personnel, attorneys, and litigants whose cases have been referred to arbitration.

(3) A summary of those program features that can be identified as being related to program acceptance both within and across judicial districts.

(4) A description of the levels of satisfaction relative to the cost per hearing of each program.

(5) Recommendations to the Congress on whether to terminate or continue chapter 44 of title 28, United States Code, or, alternatively, to enact an arbitration provision in title 28, United States Code, authorizing arbitration in all Federal district courts.

(c) **IMPACT ANALYSIS BY FEDERAL JUDICIAL CENTER.**—Not later than 5 years after the date of the enactment of this Act, the Federal Judicial Center shall submit to the Congress an analysis of issues relating to the satisfaction of litigants, particularly women, low-income persons, and minority group members, who have participated in arbitration under chapter 44 of title 28, United States Code, and an examination of the participation of persons as arbitrators under such chapter, setting forth a list of such arbitrators by sex, age, and race.

SEC. 204. EFFECT ON JUDICIAL RULEMAKING POWERS.

Nothing in this title, or in chapter 44 of title 28, United States Code, as added by section 201 of this Act, is intended to abridge, modify, or enlarge the rule making powers of the Federal judiciary.

SEC. 205. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for the fiscal year ending September 30, 1989, to the judicial branch such sums as may be necessary to carry out the purposes of chapter 44 of title 28, United States Code, as added by section 201 of this Act. Funds appropriated under this section shall be allocated by the Administrative Office of the United States Courts to Federal judicial districts and the Federal Judicial Center. The funds so appropriated are authorized to remain available until expended, except that such funds may not be expended for the arbitration of actions referred to arbitration after the date of repeal set forth in section 206 of this Act.

SEC. 206. REPEAL.

Effective 5 years after the date of the enactment of this Act, chapter 44 of title 28, United States Code, as added by section 201 of this Act, and the item relating to that chapter in the table of chapters at the beginning of part III of such title, are repealed, except that the provisions of that chapter shall continue to apply through final disposition of all actions in which referral to arbitration was made before the date of repeal.

SEC. 207. APPEALS UNDER TITLE 9, UNITED STATES CODE.

(a) **IN GENERAL.**—Chapter 1 of title 9, United States Code, is amended by adding at the end thereof the following new section:

“§ 15. Appeals

“(a) An appeal may be taken from—

“(1) an order—

“(A) refusing a stay of any action under section 3 of this title,

“(B) denying a petition under section 4 of this title to order arbitration to proceed,

“(C) denying an application under section 206 of this title to compel arbitration,

“(D) confirming or denying confirmation of an award or partial award, or

“(E) modifying, correcting, or vacating an award;

“(2) an interlocutory order granting, continuing, or modifying an injunction against an arbitration that is subject to this title; or

“(3) a final decision with respect to an arbitration that is subject to this title.

“(b) Except as otherwise provided in section 1292(b) of title 28, an appeal may not be taken from an interlocutory order—

“(1) granting a stay of any action under section 3 of this title;

“(2) directing arbitration to proceed under section 4 of this title;

“(3) compelling arbitration under section 206 of this title; or

“(4) refusing to enjoin an arbitration that is subject to this title.”

(b) **CLERICAL AMENDMENT.**—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“15. Appeals.”

