

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 1224

To amend subchapter IV of chapter 5 of title 5, United States Code, relating to alternative means of dispute resolution in the administrative process, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 8 (legislative day, SEPTEMBER 5), 1995

Mr. GRASSLEY (for himself and Mr. LEVIN) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

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## A BILL

To amend subchapter IV of chapter 5 of title 5, United States Code, relating to alternative means of dispute resolution in the administrative process, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

### 3   **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Administrative Dispute  
5   Resolution Act of 1995”.

### 6   **SEC. 2. AMENDMENT TO DEFINITIONS.**

7       Section 571 of title 5, United States Code, is amend-  
8   ed—

1 (1) in paragraph (3) by striking out “settle-  
2 ment negotiations,”; and

3 (2) in paragraph (8)—

4 (A) in subparagraph (B) by striking out  
5 “decision,” and inserting in lieu thereof “dec-  
6 sion.”; and

7 (B) by striking out the matter following  
8 subparagraph (B).

9 **SEC. 3. AMENDMENTS TO CONFIDENTIALITY PROVISIONS.**

10 (a) TERMINATION OF AVAILABILITY EXEMPTION TO  
11 CONFIDENTIALITY.—Section 574(b) of title 5, United  
12 States Code, is amended—

13 (1) in paragraph (5) by adding “or” at the end  
14 thereof;

15 (2) in paragraph (6) by striking out “; or” and  
16 inserting in lieu thereof a period; and

17 (3) by striking out paragraph (7).

18 (b) LIMITATION OF CONFIDENTIALITY APPLICATION  
19 TO COMMUNICATION.—Section 574 of title 5, United  
20 States Code, is amended—

21 (1) in subsection (a) in the matter before para-  
22 graph (1) by striking out “any information concern-  
23 ing”; and

1           (2) in subsection (b) in the matter before para-  
 2       graph (1) by striking out “any information concern-  
 3       ing”.

4       (c) ALTERNATIVE CONFIDENTIALITY PROCE-  
 5 DURES.—Section 574(d) of title 5, United States Code,  
 6 is amended—

7           (1) by inserting “(1)” after “(d)”; and

8           (2) by adding at the end thereof the following  
 9       new paragraph:

10       “(2) For purposes of the application of section  
 11 552(b)(3), an alternative confidential procedure under this  
 12 subsection may not provide for less disclosure than the  
 13 confidential procedures otherwise provided under this sec-  
 14 tion.”.

15       (d) EXEMPTION FROM DISCLOSURE BY STATUTE.—  
 16 Section 574 of title 5, United States Code, is amended  
 17 by striking out subsection (j) and inserting in lieu thereof  
 18 the following:

19       “(j)(1) A record described under paragraph (2) shall  
 20 be specifically exempted from disclosure under section  
 21 552(b)(3).

22       “(2) Paragraph (1) applies to any record that—

23           “(A) is—

24               “(i) generated by an agency in a dispute  
 25               resolution proceeding; or

1           “(ii) initially provided to an agency in a  
2           dispute resolution proceeding; and

3           “(B) may not be disclosed under this section.”.

4   **SEC. 4. ADMINISTRATIVE CONFERENCE REPORTING RE-**  
5           **QUIREMENTS.**

6           On the date occurring 3 years after the date of the  
7   enactment of this Act, the Chairman of the Administrative  
8   Conference of the United States shall submit a report to  
9   Congress concerning implementation of subchapter IV of  
10   chapter 5 of title 5, United States Code (as amended by  
11   this Act) relating to alternative means of dispute resolu-  
12   tion, by Federal agencies, including, to the extent avail-  
13   able, information relating to the costs and benefits of  
14   using alternative means of dispute resolution.

15   **SEC. 5. AMENDMENTS TO SUPPORT SERVICE PROVISION.**

16           Section 583 of title 5, United States Code, is amend-  
17   ed by inserting “State, local, and tribal governments,”  
18   after “other Federal agencies,”.

19   **SEC. 6. AMENDMENTS TO THE CONTRACT DISPUTES ACT.**

20           Section 6 of the Contract Disputes Act of 1978 (41  
21   U.S.C. 605) is amended—

22           (1) in subsection (d) by striking out the second  
23   sentence and inserting in lieu thereof: “The contrac-  
24   tor shall certify the claim when required to do so as

1 provided under subsection (c)(1) or as otherwise re-  
2 quired by law.”; and

3 (2) in subsection (e) by striking out the first  
4 sentence.

5 **SEC. 7. AMENDMENTS ON ACQUIRING NEUTRALS.**

6 (a) COMPETITIVE REQUIREMENTS IN DEFENSE  
7 AGENCY CONTRACTS.—Section 2304 of title 10, United  
8 States Code, is amended by adding at the end thereof the  
9 following new subsection:

10 “(k) For the purpose of applying subsection  
11 (c)(3)(C), the head of an agency may procure expert serv-  
12 ices without regard to sections 8, 9, and 15 of the Small  
13 Business Act (15 U.S.C. 637, 638, and 644).”.

14 (b) COMPETITIVE REQUIREMENTS IN FEDERAL CON-  
15 TRACTS.—Section 303(c) of the Federal Property and Ad-  
16 ministrative Services Act of 1949 (41 U.S.C. 253(c)), is  
17 amended by inserting at the end thereof the following new  
18 subsection:

19 “(i) For the purpose of applying subsection (c)(3)(C),  
20 an agency may procure expert services without regard to  
21 sections 8, 9, and 15 of the Small Business Act (15 U.S.C.  
22 637, 638, and 644).”.

1 **SEC. 8. PERMANENT AUTHORIZATION OF THE ALTER-**  
2 **NATIVE DISPUTE RESOLUTION PROVISIONS**  
3 **OF TITLE 5, UNITED STATES CODE.**

4 The Administrative Dispute Resolution Act (Public  
5 Law 101-552; 104 Stat. 2747; 5 U.S.C. 581 note) is  
6 amended by striking out section 11.

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