

cluding, but not limited to, mediation, early neutral evaluation, minitrial, and arbitration as authorized in sections 654 through 658. Any district court that elects to require the use of alternative dispute resolution in certain cases may do so only with respect to mediation, early neutral evaluation, and, if the parties consent, arbitration.

(b) ACTIONS EXEMPTED FROM CONSIDERATION OF ALTERNATIVE DISPUTE RESOLUTION.—Each district court may exempt from the requirements of this section specific cases or categories of cases in which use of alternative dispute resolution would not be appropriate. In defining these exemptions, each district court shall consult with members of the bar, including the United States Attorney for that district.

(c) AUTHORITY OF THE ATTORNEY GENERAL.—Nothing in this section shall alter or conflict with the authority of the Attorney General to conduct litigation on behalf of the United States, with the authority of any Federal agency authorized to conduct litigation in the United States courts, or with any delegation of litigation authority by the Attorney General.

(d) CONFIDENTIALITY PROVISIONS.—Until such time as rules are adopted under chapter 131 of this title providing for the confidentiality of alternative dispute resolution processes under this chapter, each district court shall, by local rule adopted under section 2071(a), provide for the confidentiality of the alternative dispute resolution processes and to prohibit disclosure of confidential dispute resolution communications.

(Added Pub. L. 100-702, title IX, §901(a), Nov. 19, 1988, 102 Stat. 4659; amended Pub. L. 105-315, §4, Oct. 30, 1998, 112 Stat. 2994.)

AMENDMENTS

1998—Pub. L. 105-315 amended section generally, substituting provisions relating to alternative dispute resolution jurisdiction for provisions relating to arbitration jurisdiction.

EXCEPTION TO LIMITATION ON MONEY DAMAGES

Pub. L. 100-702, title IX, §901(c), Nov. 19, 1988, 102 Stat. 4663, provided that notwithstanding establishment by former section 652 of this title of a \$100,000 limitation on money damages with respect to cases referred to arbitration, a district court listed in former section 658 of this title whose local rule on Nov. 19, 1988, provided for a limitation on money damages of not more than \$150,000, could continue to apply the higher limitation, prior to repeal by Pub. L. 105-315, §12(a), Oct. 30, 1998, 112 Stat. 2998.

§ 653. Neutrals

(a) PANEL OF NEUTRALS.—Each district court that authorizes the use of alternative dispute resolution processes shall adopt appropriate processes for making neutrals available for use by the parties for each category of process offered. Each district court shall promulgate its own procedures and criteria for the selection of neutrals on its panels.

(b) QUALIFICATIONS AND TRAINING.—Each person serving as a neutral in an alternative dispute resolution process should be qualified and trained to serve as a neutral in the appropriate alternative dispute resolution process. For this purpose, the district court may use, among others, magistrate judges who have been trained to

serve as neutrals in alternative dispute resolution processes, professional neutrals from the private sector, and persons who have been trained to serve as neutrals in alternative dispute resolution processes. Until such time as rules are adopted under chapter 131 of this title relating to the disqualification of neutrals, each district court shall issue rules under section 2071(a) relating to the disqualification of neutrals (including, where appropriate, disqualification under section 455 of this title, other applicable law, and professional responsibility standards).

(Added Pub. L. 100-702, title IX, §901(a), Nov. 19, 1988, 102 Stat. 4660; amended Pub. L. 105-315, §5, Oct. 30, 1998, 112 Stat. 2995.)

AMENDMENTS

1998—Pub. L. 105-315 amended section generally, substituting provisions relating to neutrals in alternative dispute resolution process for provisions relating to powers of arbitrator and arbitration hearing.

§ 654. Arbitration

(a) REFERRAL OF ACTIONS TO ARBITRATION.—Notwithstanding any provision of law to the contrary and except as provided in subsections (a), (b), and (c) of section 652 and subsection (d) of this section, a district court may allow the referral to arbitration of any civil action (including any adversary proceeding in bankruptcy) pending before it when the parties consent, except that referral to arbitration may not be made where—

- (1) the action is based on an alleged violation of a right secured by the Constitution of the United States;
- (2) jurisdiction is based in whole or in part on section 1343 of this title; or
- (3) the relief sought consists of money damages in an amount greater than \$150,000.

(b) SAFEGUARDS IN CONSENT CASES.—Until such time as rules are adopted under chapter 131 of this title relating to procedures described in this subsection, the district court shall, by local rule adopted under section 2071(a), establish procedures to ensure that any civil action in which arbitration by consent is allowed under subsection (a)—

- (1) consent to arbitration is freely and knowingly obtained; and
- (2) no party or attorney is prejudiced for refusing to participate in arbitration.

(c) PRESUMPTIONS.—For purposes of subsection (a)(3), a district court may presume damages are not in excess of \$150,000 unless counsel certifies that damages exceed such amount.

(d) EXISTING PROGRAMS.—Nothing in this chapter is deemed to affect any program in which arbitration is conducted pursuant to section¹ title IX of the Judicial Improvements and Access to Justice Act (Public Law 100-702), as amended by section 1 of Public Law 105-53.

(Added Pub. L. 100-702, title IX, §901(a), Nov. 19, 1988, 102 Stat. 4660; amended Pub. L. 105-315, §6, Oct. 30, 1998, 112 Stat. 2995.)

¹So in original. The word "section" probably should not appear.