

116TH CONGRESS
1ST SESSION

S. 1411

To amend title 28, United States Code, to require certain disclosures related to amicus activities.

IN THE SENATE OF THE UNITED STATES

MAY 9, 2019

Mr. WHITEHOUSE (for himself, Ms. HIRONO, and Mr. BLUMENTHAL) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend title 28, United States Code, to require certain disclosures related to amicus activities.

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 “Assessing Monetary
5 Influence in the Courts of the United States Act” or the
6 “AMICUS Act”.

7 **SEC. 2. DISCLOSURES RELATED TO AMICUS ACTIVITIES.**

8 (a) IN GENERAL.—Chapter 111 of title 28, United
9 States Code, is amended by adding at the end the fol-
10 lowing:

1 **“§ 1660. Disclosures related to amicus activities**

2 “(a) DEFINITION.—In this section, the term ‘covered
3 amicus’ means any person, including any affiliate of the
4 person, that files not fewer than 3 total amicus briefs in
5 any calendar year in the Supreme Court of the United
6 States and the courts of appeals of the United States.

7 “(b) DISCLOSURE.—

8 “(1) IN GENERAL.—Any covered amicus that
9 files an amicus brief in the Supreme Court of the
10 United States or a court of appeals of the United
11 States shall list in the amicus brief the name of any
12 person who—

13 “(A) contributed to the preparation or sub-
14 mission of the amicus brief;

15 “(B) contributed not less than 3 percent of
16 the gross annual revenue of the covered amicus
17 for the previous calendar year if the covered
18 amicus is not an individual; or

19 “(C) contributed more than \$100,000 to
20 the covered amicus in the previous year.

21 “(2) EXCEPTIONS.—The requirements of this
22 subsection shall not apply to amounts received by a
23 covered amicus described in paragraph (1) in com-
24 mercial transactions in the ordinary course of any
25 trade or business conducted by the covered amicus
26 or in the form of investments (other than invest-

ments by the principal shareholder in a limited liability corporation) in an organization if the amounts are unrelated to the amicus filing activities of the covered amicus.

“(c) REGISTRATION.—

“(1) IN GENERAL.—Each covered amicus shall register as a covered amicus with the Administrative Office of the United States Courts.

“(2) CONTENTS.—The registration described in paragraph (1) shall include—

“(A) the name of the registrant;

“(B) a general description of the business or activities of the registrant;

“(C) the name of any person described in subsection (b)(1);

“(D) a statement of the general issue areas in which the registrant expects to engage in amicus activities; and

“(E) to the extent practicable, specific issues that have, as of the date of the registration, already been addressed or are likely to be addressed in the amicus activities of the registrant.

“(3) DEADLINE.—Each amicus shall submit to the Administrative Office of the United States

1 Courts the registration required under this sub-
 2 section not later than—

3 “(A) 45 days after the date on which the
 4 amicus becomes a covered amicus; and

5 “(B) January 1 of the calendar year after
 6 the calendar year in which the amicus was a
 7 covered amicus.

8 “(d) AUDIT.—The Comptroller General of the United
 9 States shall conduct an annual audit to ensure compliance
 10 with this section.

11 “(e) PUBLICLY AVAILABLE LISTS.—The Administra-
 12 tive Office of the United States Courts shall periodically
 13 update the website of the Administrative Office of the
 14 United States Courts with the information described in
 15 subsection (c)(2), which shall be made publicly available
 16 indefinitely.

17 “(f) PROHIBITION ON PROVISION OF GIFTS OR TRAV-
 18 EL BY COVERED AMICI TO JUDGES AND JUSTICES.—

19 “(1) IN GENERAL.—Except as provided in para-
 20 graph (2), no covered amicus may make a gift or
 21 provide travel to a judge of a court of appeals of the
 22 United States, the Chief Justice of the United
 23 States, or an associate justice of the Supreme Court
 24 of the United States.

1 “(2) REIMBURSEMENT FOR TRAVEL FOR AP-
 2 PEARANCES AT ACCREDITED LAW SCHOOLS.—Para-
 3 graph (1) shall not apply to reimbursement for trav-
 4 el for an appearance at an accredited law school.

5 “(g) CIVIL FINES.—

6 “(1) IN GENERAL.—Whoever knowingly fails to
 7 comply with any provision of this section shall, upon
 8 proof of such knowing violation by a preponderance
 9 of the evidence, be subject to a civil fine of not more
 10 than \$200,000, depending on the extent and gravity
 11 of the violation.

12 “(2) USE OF FINES.—Amounts collected from
 13 fines issued under paragraph (1) may be used to
 14 maintain the website described in subsection (e)(2).

15 “(h) RULES OF CONSTRUCTION.—

16 “(1) CONSTITUTIONAL RIGHTS.—Nothing in
 17 this section shall be construed to prohibit or inter-
 18 fere with—

19 “(A) the right to petition the Government
 20 for the redress of grievances;

21 “(B) the right to express a personal opin-
 22 ion; or

23 “(C) the right of association, protected by
 24 the First Amendment to the Constitution of the
 25 United States.

1 “(2) PROHIBITION OF ACTIVITIES.—Nothing in
 2 this section shall be construed to prohibit, or to au-
 3 thorize any court to prohibit, amicus activities by
 4 any person or entity, regardless of whether such per-
 5 son or entity is in compliance with the requirements
 6 of this section.

7 “(i) SEVERABILITY.—If any provision of this section,
 8 or the application thereof, is held invalid, the validity of
 9 the remainder of this section and the application of such
 10 provision to other persons and circumstances shall not be
 11 affected thereby.”.

12 (b) TECHNICAL AND CONFORMING AMENDMENT.—
 13 The table of sections for chapter 111 of title 28, United
 14 States Code, is amended by adding at the end the fol-
 15 lowing:

“1660. Disclosures related to amicus activities.”.

