

116TH CONGRESS  
1ST SESSION

# S. 1411

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

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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

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## 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-

1       ments by the principal shareholder in a limited li-  
2       ability corporation) in an organization if the  
3       amounts are unrelated to the amicus filing activities  
4       of the covered amicus.

5       “(c) REGISTRATION.—

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

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

11                   “(A) the name of the registrant;

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

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

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

19                   “(E) to the extent practicable, specific  
20      issues that have, as of the date of the registra-  
21      tion, already been addressed or are likely to be  
22      addressed in the amicus activities of the reg-  
23      istrant.

24               “(3) DEADLINE.—Each amicus shall submit to  
25      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.”.

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