

117TH CONGRESS
1ST SESSION

S. 3385

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

IN THE SENATE OF THE UNITED STATES

DECEMBER 14, 2021

Mr. WHITEHOUSE (for himself, Mr. SANDERS, Mr. BLUMENTHAL, Ms. HIRONO, Ms. WARREN, and Mr. LUJÁN) 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 an amicus brief in a calendar year in
5 the Supreme Court of the United States or a courts of
6 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 calendar
21 year.

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

1 or in the form of investments (other than invest-
 2 ments by the principal shareholder in a limited li-
 3 ability corporation) in an organization if the
 4 amounts are unrelated to the amicus filing activities
 5 of the covered amicus.

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

9 “(d) PROHIBITION ON PROVISION OF GIFTS OR
 10 TRAVEL BY COVERED AMICI TO JUDGES AND JUS-
 11 TICES.—

12 “(1) IN GENERAL.—Except as provided in para-
 13 graph (2), no covered amicus may make a gift or
 14 provide travel to a judge of a court of appeals of the
 15 United States, the Chief Justice of the United
 16 States, or an associate justice of the Supreme Court
 17 of the United States.

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

22 “(e) CIVIL FINES.—Whoever knowingly fails to com-
 23 ply with any provision of this section shall, upon proof of
 24 such knowing violation by a preponderance of the evi-

1 dence, be subject to a civil fine of not more than \$200,000,
 2 depending on the extent and gravity of the violation.

3 “(f) RULES OF CONSTRUCTION.—

4 “(1) CONSTITUTIONAL RIGHTS.—Nothing in
 5 this section shall be construed to prohibit or inter-
 6 fere with—

7 “(A) the right to petition the Government
 8 for the redress of grievances;

9 “(B) the right to express a personal opin-
 10 ion; or

11 “(C) the right of association, protected by
 12 the First Amendment to the Constitution of the
 13 United States.

14 “(2) PROHIBITION OF ACTIVITIES.—Nothing in
 15 this section shall be construed to prohibit, or to au-
 16 thorize any court to prohibit, amicus activities by
 17 any person or entity, regardless of whether such per-
 18 son or entity is in compliance with the requirements
 19 of this section.

20 “(g) SEVERABILITY.—If any provision of this section,
 21 or the application thereof, is held invalid, the validity of
 22 the remainder of this section and the application of such
 23 provision to other persons and circumstances shall not be
 24 affected thereby.”.

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

“1660. Disclosures related to amicus activities.”.

