

S 417

State Secrets Protection Act

Congress: 111 (2009–2011, Ended)

Chamber: Senate

Policy Area: Law

Introduced: Feb 11, 2009

Current Status: Read twice and referred to the Committee on the Judiciary. (text of measure as introduced: CR S2155-

Latest Action: Read twice and referred to the Committee on the Judiciary. (text of measure as introduced: CR S2155-2157) (Feb 11, 2009)

Official Text: <https://www.congress.gov/bill/111th-congress/senate-bill/417>

Sponsor

Name: Sen. Leahy, Patrick J. [D-VT]

Party: Democratic • **State:** VT • **Chamber:** Senate

Cosponsors (9 total)

Cosponsor	Party / State	Role	Date Joined
Sen. Feingold, Russell D. [D-WI]	D · WI		Feb 11, 2009
Sen. Kennedy, Edward M. [D-MA]	D · MA		Feb 11, 2009
Sen. McCaskill, Claire [D-MO]	D · MO		Feb 11, 2009
Sen. Specter, Arlen [R-PA]	R · PA		Feb 11, 2009
Sen. Whitehouse, Sheldon [D-RI]	D · RI		Feb 11, 2009
Sen. Tester, Jon [D-MT]	D · MT		Feb 12, 2009
Sen. Cardin, Benjamin L. [D-MD]	D · MD		May 6, 2009
Sen. Dodd, Christopher J. [D-CT]	D · CT		May 6, 2009
Sen. Kaufman, Edward E. [D-DE]	D · DE		Jun 25, 2009

Committee Activity

Committee	Chamber	Activity	Date
Judiciary Committee	Senate	Referred To	Feb 11, 2009

Subjects & Policy Tags

Policy Area:

Law

Related Bills

No related bills are listed.

State Secrets Protection Act - Amends the federal judicial code to: (1) require a federal court to determine which filings, motions, and affidavits (or portions) submitted under this Act shall be submitted ex parte; (2) allow a federal court to order a party to provide a redacted, unclassified, or summary substitute of a filing, motion, or affidavit to other parties; and (3) require a federal court to make decisions under this Act, taking into consideration the interests of justice and national security.

Requires any hearing under this Act to be conducted in camera. Prohibits an in camera hearing, however, based on the assertion of the state secrets privilege, if the court determines that the hearing relates only to a question of law and does not present a risk of revealing state secrets.

Allows a federal court to conduct hearings (or portions) ex parte if the court determines, following in camera review of the evidence, that the interests of justice and national security cannot adequately be protected through attorney security clearances, protective orders, sealed opinions or orders, and special masters.

Authorizes a court, if the United States fails to provide an attorney or guardian ad litem with necessary security clearance in a reasonable period of time, to review in camera and ex parte the reasons for denying or delaying the clearance, in order to ensure that the United States is not withholding a security clearance from a particular attorney or class of attorneys for any reason other than protection of national security.

Authorizes the United States to intervene in any civil action in order to protect information that may be subject to the state secrets privilege. Declares, however, that the state secrets privilege shall not constitute grounds for dismissal of a case or claim.

Prescribes procedures for: (1) determining whether evidence is protected from disclosure by the state secrets privilege; and (2) when evidence protected by the state secrets privilege is necessary for adjudication of a claim or counterclaim.

Requires the court to give substantial weight to an assertion by the United States relating to why public disclosure of an item of evidence would be reasonably likely to cause significant harm to the national defense or foreign relations of the United States.

Grants courts of appeal jurisdiction of an appeal by any party from any interlocutory decision or order of a U.S. district court.

Requires the Attorney General within 30 days to report in writing to Congress on any case in which the United States asserts the state secrets privilege.

Applies this Act to civil cases pending on or after the enactment of this Act.

Actions Timeline

- **Feb 11, 2009:** Introduced in Senate
- **Feb 11, 2009:** Sponsor introductory remarks on measure. (CR S2155)
- **Feb 11, 2009:** Read twice and referred to the Committee on the Judiciary. (text of measure as introduced: CR S2155-2157)