

## S 623

Sunshine in Litigation Act of 2011

**Congress:** 112 (2011–2013, Ended)

**Chamber:** Senate

**Policy Area:** Law

**Introduced:** Mar 17, 2011

**Current Status:** By Senator Leahy from Committee on the Judiciary filed written report. Report No. 112-45. Minority v

**Latest Action:** By Senator Leahy from Committee on the Judiciary filed written report. Report No. 112-45. Minority views filed. (Aug 2, 2011)

**Official Text:** <https://www.congress.gov/bill/112th-congress/senate-bill/623>

### Sponsor

**Name:** Sen. Kohl, Herb [D-WI]

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

### Cosponsors (3 total)

| Cosponsor                     | Party / State | Role | Date Joined  |
|-------------------------------|---------------|------|--------------|
| Sen. Graham, Lindsey [R-SC]   | R · SC        |      | Mar 28, 2011 |
| Sen. Leahy, Patrick J. [D-VT] | D · VT        |      | Apr 8, 2011  |
| Sen. Feinstein, Dianne [D-CA] | D · CA        |      | May 19, 2011 |

### Committee Activity

| Committee           | Chamber | Activity    | Date         |
|---------------------|---------|-------------|--------------|
| Judiciary Committee | Senate  | Reported By | May 19, 2011 |

### Subjects & Policy Tags

#### Policy Area:

Law

### Related Bills

| Bill       | Relationship | Last Action   |
|------------|--------------|---|
| 112 HR 592 | Related bill | <b>Feb 14, 2011:</b> Referred to the Subcommittee on Courts, Commercial and Administrative Law. |

Sunshine in Litigation Act of 2011 - (Sec. 2) Amends the federal judicial code to prohibit a court, in any civil action in which the pleadings state facts relevant to protecting public health or safety, from entering an order restricting the disclosure of information obtained through discovery, approving a settlement agreement that would restrict such disclosure, or restricting access to court records, subject to exceptions, unless the court has first made independent findings of fact that: (1) the order would not restrict the disclosure of information relevant to the protection of public health or safety; or (2) the public interest in the disclosure of past, present, or potential health or safety hazards is outweighed by a specific and substantial interest in maintaining the confidentiality of the information, and the requested protective order is no broader than necessary to protect the confidentiality interest asserted. Prohibits a court from approving any party's stipulation or request to stipulate to an order that would violate this Act.

Prohibits such a court from: (1) approving or enforcing any provision of an agreement between or among parties, or an order entered under this Act, to the extent that it restricts a party from disclosing information to any federal or state agency with authority to enforce laws regulating an activity relating to such information (requires such information disclosed to a federal or state agency to be confidential to the extent provided by law); or (2) enforcing any provision of a settlement agreement described under this Act between or among parties to such civil action that prohibits a party from disclosing that a settlement was reached or the terms of the settlement, other than the amount paid, or from discussing the civil action, or evidence produced in it, that involves matters relevant to the protection of public health or safety. Excepts from this enforcement prohibition (thus allowing enforcement of) a settlement agreement provision about which the court finds that the public interest in the disclosure of past, present, or potential health or safety hazards is outweighed by a specific and substantial interest in maintaining the confidentiality of the information or records in question, and the requested protective order is no broader than necessary to protect the confidentiality interest asserted.

Creates a rebuttable presumption that the interest in protecting personally identifiable information relating to an individual's financial, health, or other similar information outweighs the public interest in disclosure.

Declares that nothing in this Act shall be construed to permit, require, or authorize the disclosure of, and no court shall be prohibited from restricting disclosure of or access to: (1) information classified under a secret Executive order concerning national defense or foreign policy, or (2) intelligence sources and methods.

(Sec. 3) Bars this Act from providing a basis for: (1) granting a motion to reconsider, modify, amend, or vacate a protective or settlement order entered before the effective date of this Act; or (2) reversing such an order retroactively on appeal.

### **Actions Timeline**

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- **Aug 2, 2011:** By Senator Leahy from Committee on the Judiciary filed written report. Report No. 112-45. Minority views filed.
- **May 19, 2011:** Committee on the Judiciary. Ordered to be reported with an amendment in the nature of a substitute favorably.
- **May 19, 2011:** Committee on the Judiciary. Reported by Senator Leahy with an amendment in the nature of a substitute. Without written report.
- **May 19, 2011:** Placed on Senate Legislative Calendar under General Orders. Calendar No. 64.
- **Mar 17, 2011:** Introduced in Senate
- **Mar 17, 2011:** Sponsor introductory remarks on measure. (CR S1836-1838)
- **Mar 17, 2011:** Read twice and referred to the Committee on the Judiciary. (text of measure as introduced: CR S1838)

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