

117TH CONGRESS  
1ST SESSION

# S. 840

To amend title 28, United States Code, to increase transparency and oversight of third-party litigation funding in certain actions, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 18, 2021

Mr. GRASSLEY (for himself, Mr. CORNYN, Mr. TILLIS, and Mr. SASSE) 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 increase transparency and oversight of third-party litigation funding in certain actions, and for other purposes.

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 “Litigation Funding  
5 Transparency Act of 2021”.

1 **SEC. 2. TRANSPARENCY AND OVERSIGHT OF THIRD-PARTY**  
2 **LITIGATION FUNDING IN CLASS ACTIONS.**

3 (a) IN GENERAL.—Chapter 114 of title 28, United  
4 States Code, is amended by adding at the end the fol-  
5 lowing:

6 **“§ 1716. Third-party litigation funding disclosure**

7 “(a) IN GENERAL.—In any class action, class counsel  
8 shall—

9 “(1) disclose in writing to the court and all  
10 other named parties to the class action the identity  
11 of any commercial enterprise, other than a class  
12 member or class counsel of record, that has a right  
13 to receive payment that is contingent on the receipt  
14 of monetary relief in the class action by settlement,  
15 judgment, or otherwise; and

16 “(2) produce for inspection and copying, except  
17 as otherwise stipulated or ordered by the court, any  
18 agreement creating the contingent right.

19 “(b) TIMING.—The disclosure required by subsection  
20 (a) shall be made not later than the later of—

21 “(1) 10 days after execution of any agreement  
22 described in subsection (a)(2); or

23 “(2) the time of service of the action.”.

24 (b) TECHNICAL AND CONFORMING AMENDMENT.—  
25 The table of sections for chapter 114 of title 28, United

1 States Code, is amended by adding at the end the fol-  
2 lowing:

“1716. Third-party litigation funding disclosure.”.

3 **SEC. 3. TRANSPARENCY AND OVERSIGHT OF THIRD-PARTY**  
4 **LITIGATION FUNDING IN MULTIDISTRICT**  
5 **LITIGATION.**

6 Section 1407 of title 28, United States Code, is  
7 amended—

8 (1) by redesignating subsections (g) and (h) as  
9 subsections (h) and (i), respectively; and

10 (2) by inserting after subsection (f) the fol-  
11 lowing:

12 “(g)(1) In any coordinated or consolidated pretrial  
13 proceedings conducted pursuant to this section, counsel  
14 for a party asserting a claim whose civil action is assigned  
15 to or directly filed in the proceedings shall—

16 “(A) disclose in writing to the court and all  
17 other parties the identity of any commercial enter-  
18 prise, other than the named parties or counsel, that  
19 has a right to receive payment that is contingent on  
20 the receipt of monetary relief in the civil action by  
21 settlement, judgment, or otherwise; and

22 “(B) produce for inspection and copying, except  
23 as otherwise stipulated or ordered by the court, any  
24 agreement creating the contingent right.

1       “(2) The disclosure required by paragraph (1) shall  
2 be made not later than the later of—

3               “(A) 10 days after execution of any agreement  
4 described in paragraph (1)(B); or

5               “(B) the time the civil action becomes subject  
6 to this section.”.

7 **SEC. 4. APPLICABILITY.**

8       The amendments made by this Act shall apply to any  
9 case pending on or commenced after the date of the enact-  
10 ment of this Act.

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