

115TH CONGRESS  
1ST SESSION

# S. 378

To amend titles 5 and 28, United States Code, to require the maintenance of databases on awards of fees and other expenses to prevailing parties in certain administrative proceedings and court cases to which the United States is a party, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 14, 2017

Mr. BARRASSO (for himself, Mr. GRASSLEY, Mr. FLAKE, Mr. RISCH, and Mr. ENZI) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To amend titles 5 and 28, United States Code, to require the maintenance of databases on awards of fees and other expenses to prevailing parties in certain administrative proceedings and court cases to which the United States is a party, 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 “Open Book on Equal  
5       Access to Justice Act”.

1 **SEC. 2. MODIFICATION OF EQUAL ACCESS TO JUSTICE**  
2 **PROVISIONS.**

3 (a) AGENCY PROCEEDINGS.—Section 504 of title 5,  
4 United States Code, is amended—

5 (1) in subsection (c)(1), by striking “, United  
6 States Code”;

7 (2) by redesignating subsection (f) as sub-  
8 section (h); and

9 (3) by striking subsection (e) and inserting the  
10 following:

11 “(e) The Chairman of the Administrative Conference  
12 of the United States shall create and maintain online a  
13 searchable database containing the following information  
14 with respect to each award of fees and other expenses  
15 under this section:

16 “(1) The case name and number of the adver-  
17 sary adjudication, if available.

18 “(2) The name of the agency involved in the  
19 adversary adjudication.

20 “(3) A description of the claims in the adver-  
21 sary adjudication.

22 “(4) The name of each party to whom the  
23 award was made, as such party is identified in the  
24 order or other agency document making the award.

25 “(5) The amount of the award.

1           “(6) The basis for the finding that the position  
2           of the agency concerned was not substantially justi-  
3           fied.

4           “(f) The online searchable database described in sub-  
5           section (f) may not reveal any information the disclosure  
6           of which is prohibited by law or court order.

7           “(g) The head of each agency shall provide to the  
8           Chairman of the Administrative Conference of the United  
9           States all information requested by the Chairman to com-  
10          ply with the requirements of subsections (e) and (f) not  
11          later than 60 days after the date on which the request  
12          is made.”.

13          (b) COURT CASES.—Section 2412(d) of title 28,  
14          United States Code, is amended by adding at the end the  
15          following:

16          “(5) The Chairman of the Administrative Conference  
17          shall create and maintain online a searchable database  
18          containing the following information with respect to each  
19          award of fees and other expenses under this section:

20                  “(A) The case name and number.

21                  “(B) The name of the agency involved in the  
22          case.

23                  “(C) The name of each party to whom the  
24          award was made, as such party is identified in the  
25          order or other court document making the award.

1 “(D) A description of the claims in the case.

2 “(E) The amount of the award.

3 “(F) The basis for the finding that the position  
4 of the agency concerned was not substantially justi-  
5 fied.

6 “(6) The online searchable database described in  
7 paragraph (5) may not reveal any information the dislo-  
8 sure of which is prohibited by law or court order.

9 “(7) The head of each agency (including the Attorney  
10 General of the United States) shall provide to the Chair-  
11 man of the Administrative Conference of the United  
12 States all information requested by the Chairman to com-  
13 ply with the requirements of paragraphs (5) and (6) not  
14 later than 60 days after the date on which the request  
15 is made.”.

16 (c) CLERICAL AMENDMENTS.—Section 2412 of title  
17 28, United States Code, is amended—

18 (1) in subsection (d)(3), by striking “United  
19 States Code,”; and

20 (2) in subsection (e)—

21 (A) by striking “of section 2412 of title  
22 28, United States Code,” and inserting “of this  
23 section”; and

24 (B) by striking “of such title” and insert-  
25 ing “of this title”.

1 (d) EFFECTIVE DATE.—

2 (1) IN GENERAL.—The amendments made by  
3 subsections (a) and (b) shall first apply with respect  
4 to awards of fees and other expenses that are made  
5 on or after the date of the enactment of this Act.

6 (2) ONLINE DATABASES.—The online databases  
7 required by section 504(e) of title 5, United States  
8 Code, and section 2412(d)(5) of title 28, United  
9 States Code, shall be established as soon as prac-  
10 ticable after the date of the enactment of this Act,  
11 but in no case later than 1 year after the date of  
12 enactment of this Act.

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