

Union Calendar No. 322

113TH CONGRESS
2^D SESSION

H. R. 2919

[Report No. 113-434]

To amend titles 5 and 28, United States Code, to require annual reports to Congress on, and 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.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 1, 2013

Mrs. LUMMIS (for herself, Mr. COHEN, Mr. GARCIA, and Mr. COLLINS of Georgia) introduced the following bill; which was referred to the Committee on the Judiciary

MAY 6, 2014

Additional sponsors: Mr. DAINES, Mr. SCHRADER, Mr. PETERSON, and Mr. BISHOP of Utah

MAY 6, 2014

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

To amend titles 5 and 28, United States Code, to require annual reports to Congress on, and 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”.

6 **SEC. 2. MODIFICATION OF EQUAL ACCESS TO JUSTICE**
7 **PROVISIONS.**

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

10 (1) in subsection (c)(1), by striking “, United
11 States Code”;

12 (2) by redesignating subsection (f) as sub-
13 section (i); and

14 (3) by striking subsection (e) and inserting the
15 following:

16 “(e)(1) The Chairman of the Administrative Con-
17 ference of the United States, after consultation with the
18 Chief Counsel for Advocacy of the Small Business Admin-
19 istration, shall report to the Congress, not later than
20 March 31 of each year, on the amount of fees and other
21 expenses awarded during the preceding fiscal year pursu-
22 ant to this section. The report shall describe the number,
23 nature, and amount of the awards, the claims involved in
24 the controversy, and any other relevant information that
25 may aid the Congress in evaluating the scope and impact

1 of such awards. The report shall be made available to the
2 public online.

3 “(2)(A) The report required by paragraph (1) shall
4 account for all payments of fees and other expenses
5 awarded under this section that are made pursuant to a
6 settlement agreement, regardless of whether the settle-
7 ment agreement is sealed or otherwise subject to non-
8 disclosure provisions.

9 “(B) The disclosure of fees and other expenses re-
10 quired under subparagraph (A) does not affect any other
11 information that is subject to nondisclosure provisions in
12 the settlement agreement.

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

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

20 “(2) The name of the agency involved in the
21 adversary adjudication.

22 “(3) A description of the claims in the adver-
23 sary adjudication.

24 “(4) The name of each party to whom the
25 award was made.

1 “(5) The amount of the award.

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

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

8 “(h) The head of each agency shall provide to the
9 Chairman of the Administrative Conference in a timely
10 manner all information requested by the Chairman to
11 comply with the requirements of subsections (e), (f), and
12 (g).”.

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)(A) The Chairman of the Administrative Con-
17 ference of the United States shall submit to the Congress,
18 not later than March 31 of each year, a report on the
19 amount of fees and other expenses awarded during the
20 preceding fiscal year pursuant to this subsection. The re-
21 port shall describe the number, nature, and amount of the
22 awards, the claims involved in each controversy, and any
23 other relevant information that may aid the Congress in
24 evaluating the scope and impact of such awards. The re-
25 port shall be made available to the public online.

1 “(B)(i) The report required by subparagraph (A)
2 shall account for all payments of fees and other expenses
3 awarded under this subsection that are made pursuant to
4 a settlement agreement, regardless of whether the settle-
5 ment agreement is sealed or otherwise subject to non-
6 disclosure provisions.

7 “(ii) The disclosure of fees and other expenses re-
8 quired under clause (i) does not affect any other informa-
9 tion that is subject to nondisclosure provisions in the set-
10 tlement agreement.

11 “(C) The Chairman of the Administrative Conference
12 shall include and clearly identify in the annual report
13 under subparagraph (A), for each case in which an award
14 of fees and other expenses is included in the report—

15 “(i) any amounts paid from section 1304 of
16 title 31 for a judgment in the case;

17 “(ii) the amount of the award of fees and other
18 expenses; and

19 “(iii) the statute under which the plaintiff filed
20 suit.

21 “(6) The Chairman of the Administrative Conference
22 shall create and maintain online a searchable database
23 containing the following information with respect to each
24 award of fees and other expenses under this subsection:

1 “(A) The case name and number, hyperlinked
2 to the case, if available.

3 “(B) The name of the agency involved in the
4 case.

5 “(C) The name of each party to whom the
6 award was made.

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

8 “(E) The amount of the award.

9 “(F) The basis for the finding that the position
10 of the agency concerned was not substantially justi-
11 fied.

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

15 “(8) The head of each agency shall provide to the
16 Chairman of the Administrative Conference of the United
17 States in a timely manner all information requested by
18 the Chairman to comply with the requirements of para-
19 graphs (5), (6), and (7), including the Attorney General
20 of the United States and the Director of the Administra-
21 tive Office of the United States Courts.”.

22 (c) CLERICAL AMENDMENTS.—Section 2412 of title
23 28, United States Code, is amended—

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

1 (2) in subsection (e)—

2 (A) by striking “of section 2412 of title
3 28, United States Code,” and inserting “of this
4 section”; and

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

7 (d) EFFECTIVE DATE.—

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

12 (2) INITIAL REPORTS.—The first reports re-
13 quired by section 504(e) of title 5, United States
14 Code, and section 2412(d)(5) of title 28, United
15 States Code, shall be submitted not later than
16 March 31 of the calendar year following the first
17 calendar year in which a fiscal year begins after the
18 date of the enactment of this Act.

19 (3) ONLINE DATABASES.—The online databases
20 required by section 504(f) of title 5, United States
21 Code, and section 2412(d)(6) of title 28, United
22 States Code, shall be established as soon as prac-
23 ticable after the date of the enactment of this Act,
24 but in no case later than the date on which the first
25 reports under section 504(e) of title 5, United States

1 Code, and section 2412(d)(5) of title 28, United
2 States Code, are required to be submitted under
3 paragraph (2) of this subsection.

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