

(P.26) 1/10/94 judiciary

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SENATE FILE 2002  
BY DIELEMAN

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to public access to court records and providing  
2 for the Act's applicability.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 2002

1 Section. 1. NEW SECTION. 624B.1 TITLE -- DEFINITIONS.

2 1. This chapter shall be known as the "Sunshine in  
3 Litigation Act."

4 2. For the purposes of this chapter, unless the context  
5 otherwise requires, "court records" means any of the  
6 following:

7 a. All documents of any nature filed in connection with  
8 any matter before any civil court, except any of the  
9 following:

10 (1) Documents filed with a court in camera, only for the  
11 purpose of obtaining a ruling on the discoverability of such  
12 documents.

13 (2) Documents in court files to which access is otherwise  
14 restricted by law.

15 b. Settlement agreements, not filed of record, that seek  
16 to restrict disclosure of information concerning matters that  
17 have a probable adverse effect upon the general public health  
18 or safety, the administration of public office, or the  
19 operation of government.

20 c. Discovery, not filed of record, concerning matters that  
21 have a probable adverse effect upon the general health or  
22 safety, the administration of public office, or the operation  
23 of government, except discovery not filed of record in cases  
24 originally initiated to preserve bona fide trade secrets or  
25 other intangible property rights.

26 Sec. 2. NEW SECTION. 624B.2 SEALING RECORDS.

27 A court order or opinion issued in the adjudication of a  
28 case shall not be sealed. Other court records are presumed to  
29 be open to the general public but may be sealed only upon a  
30 showing pursuant to the procedures of this chapter and all of  
31 the following:

32 1. A specific, serious, and substantial interest which  
33 clearly outweighs the presumption of openness and any probable  
34 adverse effect that sealing will have upon the general public  
35 health or safety.

1 2. No less restrictive means than sealing the records will  
2 adequately and effectively protect the specific interest  
3 asserted.

4 Sec. 3. NEW SECTION. 624B.3 COERCION.

5 A person shall not offer an inducement to a party to a  
6 civil action designed to influence that party in regard to the  
7 sealing of any court record. Violation of this section is  
8 punishable as a contempt of court.

9 Sec. 4. NEW SECTION. 624B.4 NOTICE.

10 Court records may be sealed only upon a party's written  
11 motion, which shall be open to public inspection. The person  
12 seeking to have court records sealed shall post a public  
13 notice in the manner that notices for meetings of county  
14 governmental bodies are required to be posted. The notice  
15 shall contain the content of the motion, identify the case in  
16 which the motion has been filed, and state that a hearing will  
17 be held in open court on the motion and that any person may  
18 intervene and be heard concerning the motion. The notice  
19 shall also contain the date and time of the hearing and a  
20 brief but specific description of the nature of the case, the  
21 court records sought to be sealed, and the identity of the  
22 person seeking to have court records sealed. A verified copy  
23 of the notice shall be filed by the person seeking to have  
24 court records sealed with the clerk of the supreme court.

25 Sec. 5. NEW SECTION. 624B.5 HEARING.

26 A hearing shall be held in open court on a motion to seal  
27 court records as soon as practicable but not less than  
28 fourteen days after notice is posted pursuant to section  
29 624B.4. Nonparties may intervene as a matter of right for the  
30 limited purpose of participating in the proceedings which will  
31 determine whether court records are sealed. The court may  
32 inspect records in camera.

33 Sec. 6. NEW SECTION. 624B.6 TEMPORARY SEALING ORDER.

34 A temporary sealing order may issue upon motion and notice  
35 to any parties who have answered in the case, upon a showing

1 of compelling need from specific facts shown by affidavit or  
2 by verified petition that immediate and irreparable injury  
3 will result to a specific interest of the movant before notice  
4 can be posted and a hearing held. A temporary sealing order  
5 shall set forth the time for the hearing required by section  
6 624B.5 and shall direct the person seeking to have court  
7 records sealed to give the notice required by section 624B.4.  
8 The court may modify or withdraw any temporary order upon  
9 motion by any party or intervenor, following notice to all  
10 parties and a hearing conducted as soon as practicable.  
11 Issuance of a temporary order shall not reduce the burden of  
12 proof of the party seeking to seal court records.

13 Sec. 7. NEW SECTION. 624B.7 ORDER ON MOTION TO SEAL  
14 COURT RECORDS.

15 A motion relating to sealing or opening court records shall  
16 be decided by written order, open to public inspection, which  
17 shall state the style and number of the case, the specific  
18 reasons for finding and concluding whether the showing  
19 required by section 624B.2 has been made, the specific court  
20 records or portions of court records which are to be sealed,  
21 and the period of time the records are to be sealed. The  
22 order shall not be included in any judgment or other order but  
23 shall be a separate document in the case. However, failure to  
24 comply with this requirement shall not affect the  
25 appealability of the order.

26 Sec. 8. NEW SECTION. 624B.8 CONTINUING JURISDICTION.

27 Any person may intervene as a matter of right at any time  
28 before or after judgment to seal or open court records. A  
29 court that issues an order sealing court records retains  
30 continuing jurisdiction to enforce, alter, or vacate that  
31 order. An order sealing or opening court records shall be  
32 reconsidered on motion of any party or intervenor, who had  
33 actual notice of the hearing preceding issuance of the order,  
34 without first showing changed circumstances materially  
35 affecting the order. The circumstances need not be related to

1 the case in which the order was issued. However, the burden  
2 of making the showing required by section 624B.2 shall be on  
3 the party seeking to seal records.

4 Sec. 9. NEW SECTION. 624B.9 APPEAL.

5 An order or a portion of an order, relating to sealing or  
6 opening court records, shall be deemed to be severed from the  
7 case and a final adjudication of that issue, and may be  
8 appealed by any party or intervenor who participated in the  
9 hearing preceding issuance of the order. The appellate court  
10 may abate the appeal and order the trial court to direct that  
11 further public notice be given, to hold further hearings, or  
12 to make additional findings.

13 Sec. 10. NEW SECTION. 624B.10 APPLICABILITY DATE.

14 Access to documents in court files not defined as court  
15 records by this chapter remains governed by existing law.  
16 This chapter does not apply to any court records sealed in an  
17 action in which a final judgment has been entered before July  
18 1, 1994. This chapter applies to cases pending on July 1,  
19 1994, only with regard to court records filed or exchanged on  
20 or after July 1, 1994, and any motion filed on or after July  
21 1, 1994, to alter or vacate an order restricting access to  
22 court records issued before July 1, 1994.

23 EXPLANATION

24 This bill provides a presumption that all court records in  
25 civil actions are open to the public unless access is  
26 restricted by operation of other law. The bill also provides  
27 a mechanism for hearings on motions to seal court records and  
28 for appeal of orders relating to the sealing of court records.

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