

SENATE FILE 257
BY COMMITTEE ON JUDICIARY

(SUCCESSOR to SSB 189)

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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S.F. 257

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

2 1. This chapter shall be known as the "Sunshine in Liti-
3 gation 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 as-
3 sserted.

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

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

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

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

32 A temporary sealing order may issue upon motion and notice
33 to any parties who have answered in the case, upon a showing
34 of compelling need from specific facts shown by affidavit or
35 by verified petition that immediate and irreparable injury

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

11 Sec. 7. NEW SECTION. 624B.7 ORDER ON MOTION TO SEAL
12 COURT RECORDS.

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

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

25 Any person may intervene as a matter of right at any time
26 before or after judgment to seal or open court records. A
27 court that issues an order sealing court records retains
28 continuing jurisdiction to enforce, alter, or vacate that
29 order. An order sealing or opening court records shall be
30 reconsidered on motion of any party or intervenor, who had
31 actual notice of the hearing preceding issuance of the order,
32 without first showing changed circumstances materially af-
33 fecting the order. The circumstances need not be related to
34 the case in which the order was issued. However, the burden
35 of making the showing required by section 624B.2 shall be on

1 the party seeking to seal records.

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

3 An order or a portion of an order, relating to sealing or
4 opening court records, shall be deemed to be severed from the
5 case and a final judgment which may be appealed by any party
6 or intervenor who participated in the hearing preceding is-
7 suance of such order. The appellate court may abate the
8 appeal and order the trial court to direct that further public
9 notice be given, to hold further hearings, or to make addi-
10 tional findings.

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

12 Access to documents in court files not defined as court
13 records by this chapter remains governed by existing law.
14 This chapter does not apply to any court records sealed in an
15 action in which a final judgment has been entered before July
16 1, 1996. This chapter applies to cases pending on July 1,
17 1996, only with regard to court records filed or exchanged on
18 or after July 1, 1996, and any motion filed on or after July
19 1, 1996, to alter or vacate an order restricting access to
20 court records issued before July 1, 1996.

21 EXPLANATION

22 This bill provides a presumption that all court records in
23 civil actions are open to the public unless access is re-
24 stricted by operation of other law. The bill also provides a
25 mechanism for hearings on motions to seal court records and
26 for appeal of orders relating to the sealing of court records.
27 The bill applies to cases pending on and after July 1, 1996.

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Vilsack
Giannetto
Fraise
Redfern
Maddox

SSB-189

Judiciary

Succeeded By

SENATE FILE SE/HF 257

BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON GIANNETTO)

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