



SPONSOR: Sen. Gay & Sen. Townsend & Sen. Hansen &
Rep. Griffith & Rep. Lynn

DELAWARE STATE SENATE
151st GENERAL ASSEMBLY

SENATE CONCURRENT RESOLUTION NO. 127

ENCOURAGING THE DELAWARE JUDICIARY TO STUDY TRANSPARENCY IN THIRD-PARTY LITIGATION FUNDING.

1 WHEREAS, the Delaware Bench and Bar are known for upholding the highest ethical standards of the legal
2 profession; and

3 WHEREAS, transparency and ethical standards are critical elements of a fair judicial system and essential in
4 promoting public trust; and

5 WHEREAS, allowing third-party funding sources to participate in litigation anonymously runs counter to those
6 principles; and

7 WHEREAS, an American Bar Association report defined third-party litigation funding as “funding methods that
8 employ resources from insurance markets, capital markets, or a private fund in lieu of a litigant’s own funds;” and

9 WHEREAS, that same report noted that “litigation funding, in any of its various forms, is largely unregulated by
10 statute in most states;” and

11 WHEREAS, there is a potential for third-party funders to have direct or indirect control over litigation, which
12 could result in conflicts of interest; and

13 WHEREAS, multiple courts and states around the country have enacted orders or laws requiring the disclosure of
14 third-party funding arrangements; and

15 WHEREAS, disclosure ensures that all parties are aware of the stakeholders who have a vested interest in the
16 outcome of a case and allows all parties to make informed decisions regarding their litigation strategy; and

17 WHEREAS, United States District Courts across the country, such as the U.S. District Court for the District of
18 Northern California and the U.S. District Court for the District of New Jersey, have implemented a disclosure requirement
19 for third-party litigation funding; and

20 WHEREAS, on April 18, 2022, the U.S. District Court for the District of Delaware issued a standing order
21 requiring the disclosure of third-party financing arrangements; and

22 WHEREAS, the states of Wisconsin and Virginia have enacted laws regarding third-party financing arrangements,
23 with legislation being introduced in other states and Congress as well; and

24 WHEREAS, the Delaware Courts intend to appoint a committee of judges and lawyers to study the disclosure of
25 third party litigation funding and to make recommendations to the Delaware Supreme Court on courts' rules of procedure
26 or statutes, if needed.

27 NOW, THEREFORE:

28 BE IT RESOLVED by the Senate of the 151st General Assembly, the House of Representatives concurring
29 therein, that the General Assembly encourages the Delaware Judiciary to study and, if appropriate, recommend revisions to
30 courts' rules of procedure or statutes, if needed, to implement a disclosure requirement for third-party litigation funding.

SYNOPSIS

In this Senate Concurrent Resolution, the Delaware General Assembly requests that the Delaware Judiciary study and, if appropriate, recommend revisions to courts' rules of procedure or statutes, if needed, to implement a disclosure requirement for third-party litigation funding.

Author: Senator Gay