

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 7647
OFFERED BY M . _____**

Strike all that follows after the enacting clause and
insert the following:

1 SEC. 1. SHORT TITLE.

2 This Act may be cited as the “Supreme Court Ethics,
3 Recusal, and Transparency Act of 2022”.

**4 SEC. 2. CODE OF CONDUCT FOR THE SUPREME COURT OF
5 THE UNITED STATES.**

6 (a) IN GENERAL.—Chapter 16 of title 28, United
7 States Code, is amended by adding at the end the fol-
8 lowing:

9 “§ 365. Codes of conduct

10 “(a) Not later than 180 days after the date of enact-
11 ment of this section, the Supreme Court of the United
12 States shall, after appropriate public notice and oppor-
13 tunity for comment in accordance with section 2071, issue
14 a code of conduct for the justices and employees of the
15 Supreme Court.

16 “(b) Not later than 180 days after the date of enact-
17 ment of this section, the Judicial Conference of the United
18 States shall, after appropriate public notice and oppor-

1 tunity for comment in accordance with section 2071, issue
2 a code of conduct for the judges and employees of the
3 courts of appeals, the district courts (including bankruptcy
4 judges and magistrate judges), and the Court of Inter-
5 national Trade.

6 “(c) The Supreme Court of the United States and
7 the Judicial Conference may modify the applicable codes
8 of conduct under this section after giving appropriate pub-
9 lic notice and opportunity for comment in accordance with
10 section 2071.”.

11 (b) TECHNICAL AND CONFORMING AMENDMENT.—
12 The table of sections for chapter 16 of title 28, United
13 States Code, is amended by adding at the end the fol-
14 lowing:

“365. Codes of conduct.”.

15 **SEC. 3. MINIMUM GIFT, TRAVEL, AND INCOME DISCLOSURE**
16 **STANDARDS FOR JUSTICES OF THE SUPREME**
17 **COURT.**

18 Section 677 of title 28, United States Code, is
19 amended by adding at the end the following:

20 “(d) The Counselor, with the approval of the Chief
21 Justice, shall establish rules governing the disclosure of
22 all gifts, travel, and income received by any justice and
23 any law clerk to a justice. Such rules shall at minimum
24 require disclosure of any information concerning gifts,
25 travel, and income required to be disclosed under the

1 Standing Rules of the Senate and the Rules of the House
2 of Representatives.”.

3 **SEC. 4. CIRCUMSTANCES REQUIRING DISQUALIFICATION.**

4 (a) ANTICORRUPTION PROTECTIONS.—Subsection
5 (b) of section 455 of title 28, United States Code, is
6 amended by adding at the end the following:

7 “(6) Where the justice or judge knows that a
8 party to the proceeding or an affiliate of a party to
9 the proceeding made any lobbying contact or spent
10 substantial funds in support of the nomination, con-
11 firmation, or appointment of the justice or judge.

12 “(7) Where the justice or judge, their spouse,
13 minor child, or a privately-held entity owned by any
14 such person—

15 “(A) received income, a gift, or reimburse-
16 ment (as such terms are defined in the section
17 109 of the Ethics in Government Act of 1978
18 (5 U.S.C. App.)) from a party to the proceeding
19 or an affiliate of a party to the proceeding; and

20 “(B) such receipt occurred during the pe-
21 riod beginning 6 years prior to the date on
22 which the justice of judge was assigned to the
23 proceeding and ending on the date of final dis-
24 position of the proceeding.”.

1 (b) DUTY TO KNOW.—Subsection (c) of section 455
2 of title 28, United States Code, is amended to read as
3 follows:

4 “(c) A justice, judge, magistrate judge, or bankruptcy
5 judge of the United States shall ascertain—

6 “(1) the personal and fiduciary financial inter-
7 ests of the justice or judge;

8 “(2) the personal financial interests of the
9 spouse and minor children residing in the household
10 of the justice or judge; and

11 “(3) any interest of such persons that could be
12 substantially affected by the outcome of the pro-
13 ceeding.”.

14 (c) DIVESTMENT.—Subsection (f) of section 455 of
15 title 28, United States Code, is amended by inserting
16 “under subsection (b)(4)” after “disqualified”.

17 (d) DUTY TO NOTIFY.—Section 455 of title 28,
18 United States Code, is amended by adding at the end the
19 following:

20 “(g) If at any time a justice, judge, magistrate judge,
21 or bankruptcy judge of the United States learns of a con-
22 dition that could reasonably require disqualification under
23 this section, the justice or judge shall immediately notify
24 all parties to the proceeding.”.

1 (e) TECHNICAL AND CONFORMING AMENDMENTS.—
2 Section 455 of title 28, United States Code, as amended
3 by this section, is further amended—

4 (1) in the section heading, by striking “judge,
5 or magistrate judge” and inserting “judge, mag-
6 istrate judge, or bankruptcy judge”;

7 (2) in subsection (a), by striking “judge, or
8 magistrate judge” and inserting “judge, magistrate
9 judge, or bankruptcy judge”;

10 (3) in subsection (b)—

11 (A) in paragraph (2), by striking “the
12 judge or such lawyer” and inserting “the jus-
13 tice, the judge, or such lawyer”;

14 (B) in paragraph (5)(iii), by inserting
15 “justice or” before “judge”; and

16 (C) in paragraph (5)(iv), by inserting “jus-
17 tice’s or” before “judge’s”;

18 (4) in subsection (c), by inserting “justice or”
19 before “judge”;

20 (5) in subsection (d)(4)(i), by inserting “justice
21 or” before “judge”; and

22 (6) in subsection (e), by striking “judge, or
23 magistrate judge” and inserting “judge, magistrate
24 judge, or bankruptcy judge of the United States”.

1 (f) PUBLIC NOTICE.—The rules of each court subject
2 to section 455 of title 28, United States Code, as amended
3 by this Act, shall be amended to require that the clerk
4 shall publish timely notice on the website of the court of—

5 (1) any matter in which a justice, judge, mag-
6 istrate judge, or bankruptcy judge of the United
7 States is disqualified under such section;

8 (2) any matter in which the reviewing panel
9 under section 1660 of title 28, United States Code,
10 rules on a motion to disqualify; and

11 (3) an explanation of each reason for the dis-
12 qualification or ruling, which shall include a specific
13 identification of each circumstance that resulted in
14 such disqualification or ruling.

15 **SEC. 5. REVIEW OF CERTIFIED DISQUALIFICATION MO-**
16 **TIONS.**

17 (a) IN GENERAL.—Chapter 111 of title 28, United
18 States Code, is amended by adding at the end the fol-
19 lowing:

20 **“§ 1660. Review of certified motions to disqualify**

21 **“(a) MOTION FOR DISQUALIFICATION.—**If a justice,
22 judge, magistrate judge, or bankruptcy judge of the
23 United States is required to be disqualified from a pro-
24 ceeding under any provision of Federal law, a party to
25 the proceeding may file a timely motion for disqualifica-

1 tion, accompanied by a certificate of good faith and an
2 affidavit alleging facts sufficient to show that disqualifica-
3 tion of the justice, judge, magistrate judge, or bankruptcy
4 judge is so required.

5 “(b) CONSIDERATION OF MOTION.—A justice, judge,
6 magistrate judge, or bankruptcy judge of the United
7 States shall either grant or certify to a reviewing panel
8 a timely motion filed pursuant to subsection (a) and stay
9 the proceeding until a final determination is made with
10 respect to the motion.

11 “(c) REVIEWING PANEL.—

12 “(1) IN GENERAL.—A reviewing panel to which
13 a motion is certified under subsection (b) shall be
14 selected at random from judges of the United States
15 who do not sit on the same court—

16 “(A) as the judge, magistrate judge, or
17 bankruptcy judge who is the subject of the mo-
18 tion; or

19 “(B) as the other members of the review-
20 ing panel.

21 “(2) CIRCUIT LIMITATION.—Not more than 1
22 member of the reviewing panel may be a judge of
23 the same judicial circuit as the judge, magistrate
24 judge, or bankruptcy judge who is the subject of the
25 motion.

1 “(d) SUPREME COURT REVIEW.—The Supreme
2 Court of the United States shall be the reviewing panel
3 for a motion seeking to disqualify a justice.”.

4 (b) TECHNICAL AND CONFORMING AMENDMENT.—
5 The table of sections for chapter 111 of title 28, United
6 States Code, is amended by adding at the end the fol-
7 lowing:

“1660. Review of certified motions to disqualify.”.

8 **SEC. 6. DISCLOSURE BY PARTIES AND AMICI.**

9 Not later than 1 year after the date of enactment
10 of this Act, the Supreme Court of the United States shall
11 prescribe rules of procedure in accordance with sections
12 2072 through 2074 of title 28, United States Code, requir-
13 ing each party or amicus to list in their petition or brief
14 a description and value of—

15 (1) any gift, income, or reimbursement (as such
16 terms are defined in section 109 of the Ethics in
17 Government Act of 1978 (5 U.S.C. App.)) provided
18 to any justice during the period beginning 2 years
19 prior to the commencement of the proceeding and
20 ending on the date of final disposition of the pro-
21 ceeding by—

22 (A) each such party or amicus, or their af-
23 filiates;

24 (B) the lawyers or law firms in the pro-
25 ceeding of each such party or amicus; and

1 (C) the officers, directors, or employees of
2 each such party or amicus; and

3 (2) any lobbying contact or expenditure of sub-
4 stantial funds by any person described in subpara-
5 graphs (A), (B), and (C) of paragraph (1) in sup-
6 port of the nomination, confirmation, or appoint-
7 ment of a justice.

8 **SEC. 7. AMICUS DISCLOSURE.**

9 (a) IN GENERAL.—Chapter 111 of title 28, United
10 States Code, as amended by section 5, is further amended
11 by adding at the end the following:

12 **“§ 1661. Disclosures related to amicus activities**

13 “(a) DISCLOSURE.—

14 “(1) IN GENERAL.—Any person that files an
15 amicus brief in a court of the United States shall
16 list in the amicus brief the name of any person
17 who—

18 “(A) contributed to the preparation or sub-
19 mission of the amicus brief;

20 “(B) contributed not less than 3 percent of
21 the gross annual revenue of the amicus, or an
22 affiliate of the amicus, for the previous calendar
23 year if the amicus is not an individual; or

1 “(C) contributed more than \$100,000 to
2 the amicus, or an affiliate of the amicus, in the
3 previous calendar year.

4 “(2) EXCEPTIONS.—The requirements of this
5 subsection shall not apply to amounts received in
6 commercial transactions in the ordinary course of
7 any trade or business by the amicus, or an affiliate
8 of the amicus, or in the form of investments (other
9 than investments by the principal shareholder in a
10 limited liability corporation) in an organization if the
11 amounts are unrelated to the amicus filing activities
12 of the amicus.

13 “(b) AUDIT.—The Director of the Administrative Of-
14 fice of the United States Courts shall conduct an annual
15 audit to ensure compliance with this section.”.

16 (b) TECHNICAL AND CONFORMING AMENDMENT.—
17 The table of sections for chapter 111 of title 28, United
18 States Code, as amended by section 5, is further amended
19 by adding at the end the following:

 “1661. Disclosures related to amicus activities.”.

20 **SEC. 8. CONFLICTS RELATED TO AMICI CURIAE.**

21 (a) IN GENERAL.—Except as provided in subsection
22 (b), the Supreme Court of the United States and the Judi-
23 cial Conference of the United States shall prescribe rules
24 of procedure in accordance with sections 2072 through
25 2074 of title 28, United States Code, for prohibiting the

1 filing of or striking an amicus brief that would result in
2 the disqualification of a justice, judge, or magistrate
3 judge.

4 (b) INITIAL TRANSMITTAL.—The Supreme Court of
5 the United States shall transmit to Congress—

6 (1) the proposed rules required under sub-
7 section (a) not later than 180 days after the date of
8 enactment of this Act; and

9 (2) any rules in addition to those transmitted
10 under paragraph (1) pursuant to section 2074 of
11 title 28, United States Code.

12 **SEC. 9. STUDIES AND EVALUATIONS.**

13 (a) IN GENERAL.—Not later than December 31,
14 2022, and every other year thereafter, the Director of the
15 Federal Judicial Center shall conduct a study on the ex-
16 tent of compliance or noncompliance with the require-
17 ments of sections 144 and 455 of title 28, United States
18 Code.

19 (b) REPORTS TO CONGRESS.—Not later than April
20 1 of each year following the completion of the study re-
21 quired under subsection (a), the Director of the Federal
22 Judicial Center shall submit to Congress a report con-
23 taining the findings of the study and any recommenda-
24 tions to improve compliance with sections 144 and 455
25 of title 28, United States Code.

1 (c) FACILITATION OF STUDIES.—The Director of the
2 Federal Judicial Center shall maintain a record of each
3 instance in which—

4 (1) a justice, judge, magistrate judge, or bank-
5 ruptcy judge was not assigned to a case due to po-
6 tential or actual conflicts; and

7 (2) a justice, judge, magistrate judge, or bank-
8 ruptcy judge disqualifies after a case assignment is
9 made.

10 (d) GAO REVIEW.—Not later than 1 year after the
11 date of enactment of this Act, and every five years there-
12 after, the Comptroller General of the United States shall
13 submit to Congress a report containing an evaluation of
14 the methodology and findings of the study required under
15 subsection (a) and the audit required under section 1661
16 of title 28, United States Code, as amended by section
17 7.

