

117TH CONGRESS  
2D SESSION

# H. R. 7647

To amend title 28, United States Code, to provide for a code of conduct for justices of the Supreme Court of the United States, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 3, 2022

Mr. JOHNSON of Georgia (for himself, Mr. NADLER, Mr. QUIGLEY, Mr. CICILLINE, Mr. JONES, Mr. COHEN, Mrs. MCBATH, Ms. GARCIA of Texas, Ms. ROSS, Ms. JACKSON LEE, and Ms. DEAN) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To amend title 28, United States Code, to provide for a code of conduct for justices of the Supreme Court of the United States, 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 “Supreme Court Ethics,  
5 Recusal, and Transparency Act of 2022”.

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

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

6 **“§ 365. Codes of conduct**

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

12 “(b) Not later than 180 days after the date of enact-  
13 ment of this section, the Judicial Conference of the United  
14 States shall, after appropriate public notice and oppor-  
15 tunity for comment in accordance with section 2071, issue  
16 a code of conduct for the judges of the courts of appeals,  
17 the district courts (including bankruptcy judges and mag-  
18 istrate judges), and the Court of International Trade.

19 “(c) The Supreme Court of the United States and  
20 the Judicial Conference may modify the applicable codes  
21 of conduct under this section after giving appropriate pub-  
22 lic notice and opportunity for comment in accordance with  
23 section 2071.”.

24 (b) TECHNICAL AND CONFORMING AMENDMENT.—  
25 The table of sections for chapter 16 of title 28, United

1 States Code, is amended by adding at the end the fol-  
2 lowing:

“365. Codes of conduct.”.

3 **SEC. 3. MINIMUM DISCLOSURE STANDARDS FOR JUSTICES**  
4 **OF THE SUPREME COURT.**

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

7 “(d) The Counselor, with the approval of the Chief  
8 Justice, shall establish rules governing the disclosure of  
9 all gifts, reimbursements, and income received by any jus-  
10 tice and any law clerk to a justice. Such rules shall at  
11 minimum require disclosure of any information concerning  
12 gifts, income, and reimbursements required to be disclosed  
13 under the Standing Rules of the Senate and the Rules of  
14 the House of Representatives.”.

15 **SEC. 4. CIRCUMSTANCES REQUIRING DISQUALIFICATION.**

16 (a) **ANTICORRUPTION PROTECTIONS.**—Subsection  
17 (b) of section 455 of title 28, United States Code, is  
18 amended by adding at the end the following:

19 “(6) Where the justice, judge, magistrate judge,  
20 or bankruptcy judge of the United States knows that  
21 a party to the proceeding or an affiliate of a party  
22 to the proceeding made any lobbying contact or  
23 spent substantial funds in support of the nomina-  
24 tion, confirmation, or appointment of the justice,

1 judge, magistrate judge, or bankruptcy judge of the  
2 United States.

3 “(7) Where the justice, judge, magistrate judge,  
4 or bankruptcy judge of the United States, their  
5 spouse, minor child, or a privately-held entity owned  
6 by any such person—

7 “(A) received income, a gift, or reimburse-  
8 ment (as such terms are defined in the section  
9 109 of the Ethics in Government Act of 1978  
10 (5 U.S.C. App.)) from a party to the proceeding  
11 or an affiliate of a party to the proceeding; and

12 “(B) such receipt occurred during the pe-  
13 riod beginning 6 years prior to the date on  
14 which the justice, judge, bankruptcy judge, or  
15 magistrate judge was assigned to the pro-  
16 ceeding and ending on the date of final disposi-  
17 tion of the proceeding.”.

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

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

23 “(1) the personal and fiduciary financial inter-  
24 ests of the justice or judge of the United States;

1           “(2) the personal financial interests of the  
2 spouse and minor children residing in the household  
3 of the justice or judge of the United States; and

4           “(3) any interest of such persons that could be  
5 substantially affected by the outcome of the pro-  
6 ceeding.”.

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

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

13           “(g) If a justice, judge, magistrate judge, or bank-  
14 ruptcy judge learns of a condition that could reasonably  
15 require disqualification under this section, the justice,  
16 judge, magistrate judge, or bankruptcy judge shall imme-  
17 diately notify all parties to the proceeding.”.

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

21           (1) in the section heading, by striking “**judge,**  
22           **or magistrate judge**” and inserting “**judge,**  
23           **magistrate judge, or bankruptcy judge**”;

1           (2) in subsection (a), by striking “judge, or  
2           magistrate judge” and inserting “judge, magistrate  
3           judge, or bankruptcy judge”;

4           (3) in subsection (b)—

5                 (A) in paragraph (2), by striking “the  
6                 judge or such lawyer” and inserting “the jus-  
7                 tice, the judge, or such lawyer”;

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

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

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

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

16           (6) in subsection (e), by striking “judge, or  
17           magistrate judge” and inserting “judge, magistrate  
18           judge, or bankruptcy judge”.

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

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

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

4           (3) an explanation of each reason for the dis-  
5           qualification or ruling, which shall include a specific  
6           identification of each circumstance that resulted in  
7           such disqualification or ruling.

8 **SEC. 5. REVIEW OF CERTIFIED DISQUALIFICATION MO-**  
9   **TIONS.**

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

13 **“§ 1660. Review of certified motions to disqualify**

14          “(a) MOTION FOR DISQUALIFICATION.—If a justice,  
15 judge, magistrate judge, or bankruptcy judge is required  
16 to be disqualified from a proceeding under any provision  
17 of Federal law, a party to the proceeding may file a timely  
18 motion for disqualification, accompanied by a certificate  
19 of good faith and an affidavit alleging facts sufficient to  
20 show that disqualification of the justice, judge, magistrate  
21 judge, or bankruptcy judge is so required.

22          “(b) CONSIDERATION OF MOTION.—A justice, judge,  
23 magistrate judge, or bankruptcy judge shall either grant  
24 or certify to a reviewing panel a timely motion filed pursu-

1 ant to subsection (a) and stay the proceeding until a final  
2 determination is made with respect to the motion.

3 “(c) REVIEWING PANEL.—

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

8 “(A) as the judge, magistrate judge, or  
9 bankruptcy judge who is the subject of the mo-  
10 tion; or

11 “(B) as the other members of the review-  
12 ing panel.

13 “(2) CIRCUIT LIMITATION.—Not more than 1  
14 member of the reviewing panel may be a judge of  
15 the same judicial circuit as the judge, magistrate  
16 judge, or bankruptcy judge who is the subject of the  
17 motion.

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

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

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



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

2 The Supreme Court of the United States shall pre-  
3 scribe rules of procedure in accordance with sections 2072  
4 through 2074 of title 28, United States Code, requiring  
5 each party or amicus to list in their petition or brief a  
6 description and value of—

7 (1) any gift, income, or reimbursement (as such  
8 terms are defined in section 109 of the Ethics in  
9 Government Act of 1978 (5 U.S.C. App.)) provided  
10 to any justice or law clerk to a justice during the pe-  
11 riod beginning 2 years prior to the commencement  
12 of the proceeding and ending on the date of final  
13 disposition of the proceeding by—

14 (A) each such party or amicus, or their af-  
15 filiates;

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

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

20 (2) any lobbying contact or expenditure of sub-  
21 stantial funds by any person described in subpara-  
22 graphs (A), (B), and (C) of paragraph (1) in sup-  
23 port of the nomination, confirmation, or appoint-  
24 ment of a justice.

1 **SEC. 7. AMICUS DISCLOSURE.**

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

5 **“§ 1661. Disclosures related to amicus activities**

6 “(a) DEFINITION.—In this section, the term ‘covered  
7 amicus’ means any person, including any affiliate of the  
8 person, that files an amicus brief in a calendar year in  
9 the Supreme Court of the United States or a court of ap-  
10 peals of the United States.

11 “(b) DISCLOSURE.—

12 “(1) IN GENERAL.—Any covered amicus that  
13 files an amicus brief in the Supreme Court of the  
14 United States or a court of appeals of the United  
15 States shall list in the amicus brief the name of any  
16 person who—

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

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

23 “(C) contributed more than \$100,000 to  
24 the covered amicus in the previous calendar  
25 year.

1           “(2) EXCEPTIONS.—The requirements of this  
2           subsection shall not apply to amounts received by a  
3           covered amicus described in paragraph (1) in com-  
4           mercial transactions in the ordinary course of any  
5           trade or business conducted by the covered amicus  
6           or in the form of investments (other than invest-  
7           ments by the principal shareholder in a limited li-  
8           ability corporation) in an organization if the  
9           amounts are unrelated to the amicus filing activities  
10          of the covered amicus.

11          “(c) AUDIT.—The Comptroller General of the United  
12          States shall conduct an annual audit to ensure compliance  
13          with this section.”.

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

          “1661. Disclosures related to amicus activities.”.

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

19          (a) IN GENERAL.—Except as provided in subsection  
20          (b), the Supreme Court of the United States and the Judi-  
21          cial Conference of the United States shall prescribe rules  
22          of procedure in accordance with sections 2072 through  
23          2074 of title 28, United States Code, for prohibiting the  
24          filing of or striking an amicus brief that would result in

1 the disqualification of a justice, judge, or magistrate  
2 judge.

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

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

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

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