S. 2553

To amend title 28, United States Code, to protect employees of the Federal judiciary from discrimination, and for other purposes.

IN THE SENATE OF THE UNITED STATES
JULY 29, 2021
Ms. HIRONO (for herself, Mr. WHITEHOUSE, Mrs. MURRAY, and Mr. DURBIN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL
To amend title 28, United States Code, to protect employees of the Federal judiciary from discrimination, 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 “Judiciary Account-
5 ability Act of 2021”.
SEC. 2. PROTECTING EMPLOYEES OF THE FEDERAL JUDICIARY FROM DISCRIMINATION.

(a) In General.—Chapter 57 of title 28, United States Code, is amended by adding at the end the following:

“§ 964. Protecting employees of the Federal judiciary from discrimination

“(a) Discriminatory Practices Prohibited.—All personnel actions (as such term is defined in section 2302(a)(2) of title 5) affecting covered employees (as such term is defined in section 10 of the Judiciary Accountability Act of 2021) shall be made free from any discrimination based on—

“(1) race, color, religion, sex (including sexual orientation or gender identity), or national origin, within the meaning of section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–2);

“(2) age, within the meaning of section 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a); or


“(b) Remedy.—
“(1) CIVIL RIGHTS.—The remedy for a violation of subsection (a)(1) shall be—

“(A) such remedy as would be appropriate if awarded under section 706(g) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5(g)); and

“(B) such compensatory damages as would be appropriate if awarded under section 1977 of the Revised Statutes (42 U.S.C. 1981), or as would be appropriate if awarded under sections 1977A(a)(1), 1977A(b)(2), and, irrespective of the size of the employing office, 1977A(b)(3)(D) of the Revised Statutes (42 U.S.C. 1981a(a)(1), 1981a(b)(2), and 1981a(b)(3)(D)).

“(2) AGE DISCRIMINATION.—The remedy for a violation of subsection (a)(2) shall be—

“(A) such remedy as would be appropriate if awarded under section 15(c) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a(c)); and

“(B) such liquidated damages as would be appropriate if awarded under section 7(b) of such Act (29 U.S.C. 626(b)).
In addition, the waiver provisions of section 7(f) of such Act (29 U.S.C. 626(f)) shall apply to covered employees.

“(3) DISABILITIES DISCRIMINATION.—The remedy for a violation of subsection (a)(3) shall be—

“(A) such remedy as would be appropriate if awarded under section 505(a)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 794a(a)(1)) or section 107(a) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12117(a)); and


“(c) REPORT.—On an annual basis, the judicial council of each circuit shall submit to Congress a report that includes, for the previous year, hiring statistics for the circuit, each court of the United States for the circuit, each Federal Public Defender Organization described in section 3006A(g)(2)(A) of title 18 that is associated with the circuit, and each office or agency referred to in section
10(2)(A) of the Judiciary Accountability Act of 2021 that
is associated with the circuit.”.

(b) Clerical Amendment.—The table of sections
for chapter 57 of title 28, United States Code, is amended
by adding at the end the following:

“964. Protecting employees of the Federal judiciary from discrimination.”.

SEC. 3. PROTECTING WHISTLEBLOWERS IN THE FEDERAL
JUDICIARY FROM RETALIATION.

(a) In General.—Chapter 57 of title 28, United
States Code, as amended by this Act, is further amended
by adding at the end the following:

“§ 965. Protecting whistleblowers from retaliation

“(a) In General.—No justice, judge, covered em-
ployee, or contractor or subcontractor of an office or agen-
cy in the judicial branch of the Federal Government may
discharge, demote, threaten, suspend, harass, or in any
other manner discriminate against a covered employee (as
such term is defined in section 10 of the Judiciary Ac-
countability Act of 2021) in the terms and conditions of
employment because of any lawful act done by the covered
employee or perceived to have been done by the covered
employee or any person perceived to be associated with
or assisting the covered employee to provide information,
cause information to be provided, or otherwise assist in
an investigation regarding any possible violation of Fed-
eral law, rule, or regulation or misconduct by a justice,
judge, contractor or subcontractor with an office or agency of the judicial branch of the Federal Government, or covered employee.

“(b) REMEDY.—A court may order such legal or equitable relief as may be necessary to eliminate the direct and indirect effects of a violation of subsection (a).

“(c) BURDEN OF PROOF.—Proceedings to determine a violation shall be governed by the legal burdens of proof specified in section 1221(e) of title 5.

“(d) VENUE.—Notwithstanding section 1391, an action under this section may be filed in any United States district court.”.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 57 of title 28, United States Code, as amended by this Act, is further amended by adding at the end the following:

“965. Protecting whistleblowers from retaliation.”.

SEC. 4. ESTABLISHMENT OF THE COMMISSION ON JUDICIAL INTEGRITY.

(a) COMMISSION.—There is established in the judicial branch of the Federal Government the Commission on Judicial Integrity.

(b) MEMBERSHIP.—The membership of the Commission consists of the following 16 members:

(1) PRESIDENTIAL APPOINTMENT.—The following 3 members appointed by the President:
(A) A Chair selected from a list of not more than 3 candidates recommended by the concurrence of the Council of the Inspectors General on Integrity and Efficiency.

(B) A Vice Chair selected from a list of not more than 3 candidates recommended by the Equal Employment Opportunity Commission.

(C) A Vice Chair selected from a list of not more than 3 candidates recommended by the United States Commission on Civil Rights.

(2) EXPERT REPRESENTATION.—The following 7 members selected by a recorded vote (which shall be made available on uscourts.gov, or any successor thereto, along with the transcript of the proceedings and any additional statements by individual members of the Judicial Conference) of the Judicial Conference of the United States after consultation with the majority and minority leaders of the Senate, the Speaker and minority leader of the House of Representatives, the Council of the Inspectors General on Integrity and Efficiency, the Equal Employment Opportunity Commission, and the United States Commission on Civil Rights:
(A) 2 members with substantial experience in alternative dispute resolution regarding workplace misconduct.

(B) 2 members with substantial experience in enforcing and investigating civil rights laws against workplace discrimination, including 1 member with experience representing employees.

(C) 1 member with substantial experience working in the office of an inspector general of an agency.

(D) 1 member with substantial experience on a State judicial conduct commission or equivalent State body.

(E) 1 member with experience providing licensed counseling and other support for victims of harassment, sexual assault, discrimination, or retaliation.

(3) JUDICIAL REPRESENTATION.—2 Federal judges selected by the members appointed under paragraphs (1) and (2) from a list of 6 judges recommended by a recorded vote of the Judicial Conference, who—

(A) do not serve in the same judicial district or circuit; and
(B) have not been found to have engaged in judicial misconduct, including workplace misconduct.

(4) Employee representation.—The following 4 members selected by the Chair and Vice Chairs:

(A) 2 current employees of the judicial branch of the Federal Government who—

(i) do not serve in the same court, circuit, agency, or office;

(ii) have been employed by the judicial branch of the Federal Government for at least 5 years; and

(iii) do not serve in senior executive positions.

(B) 2 members who have completed a judicial clerkship within the 4 years immediately preceding such selection.

(c) Basis for Selection.—

(1) In general.—The members shall be selected solely on the basis of integrity and demonstrated ability in their respective fields. Members shall have training or experience in the application of the rights, protections, procedures, and remedies,
or their equivalents under State or Federal law, made applicable under this Act.

(2) LIMITATIONS.—Except as provided in paragraphs (3) and (4)(A) of subsection (b), no member may be—

(A) a current officer or employee of the judicial branch of the Federal Government;

(B) a former director or deputy director of the Administrative Office of United States Courts; and

(C) a current officer or employee of the legislative or executive branches.

(d) TERMS OF OFFICE.—

(1) IN GENERAL.—The members shall serve for 4 years terms, except that the first members shall be staggered so that—

(A) the Chair and 1 Vice Chair, as designated by the President, serve terms of 5 years;

(B) 3 members appointed under subsection (b)(2), as designated by the Judicial Conference, serve terms of 5 years;

(C) 1 member appointed under subsection (b)(3), as designated by the Chair and Vice Chairs, serves a term of 5 years;
(D) 1 member appointed under subsection (b)(4), as designated by the Chair and Vice Chairs, serves a term of 5 years; and

(E) all other members initially appointed serve terms of 4 years.

(2) SERVICE UNTIL SUCCESSOR APPOINTED.—A member whose term has expired may continue to serve until the date on which a successor has taken office.

(e) REMOVAL.—A member may be removed from office by a majority vote, made on the record in an open meeting, of the Judicial Conference of the United States, with each vote recorded and accompanied by a statement explaining the reason for said vote, subject to the following:

(1) The removal of a member may only be initiated in the event of permanent incapacity, inefficiency, neglect of duty, or malfeasance.

(2) The Judicial Conference shall communicate the reasons for any such removal to both Houses of Congress and the Commission within 14 days of said removal.

(f) DUTIES.—The Commission shall oversee a workplace misconduct prevention program that is consistent with prevailing best practices and that includes—
(1) a comprehensive workplace misconduct policy;

(2) a nationwide confidential reporting system that is readily accessible to current and former employees of the judicial branch of the Federal Government, law schools, and other potential complainants, including those who may interact with judges and senior executives in professional settings outside the judicial branch of the Federal Government;

(3) a comprehensive training program on workplace behavior and bystander intervention;

(4) metrics for workplace misconduct response and prevention in supervisory employees’ performance reviews;

(5) a system for independently investigating reports of workplace misconduct that ensures such investigations are comprehensive, timely, effective, and trusted;

(6) standards for the imposition of prompt, consistent, and proportionate disciplinary and corrective action if workplace misconduct is determined to have concurred;

(7) making publicly available, not less frequently than annually, anonymized reports of aggre-
gate formal and informal complaints of workplace misconduct received and responsive actions taken;

(8) making publicly available annual reports of the number of individuals who were interviewed for full-time positions, including judicial clerkships, with a court of the United States, an office or agency described in chapter 15 or part III of title 28, United States Code, or a defender organization described in section 3006A(g) of title 18, United States Code, and who were hired for such positions, which shall be disaggregated by judicial circuit and judicial branch agency, by sex (including by sexual orientation and gender identity), by disability, and by the ethnic and the racial categories in the most recent decennial census (or similar categories), with year-to-year trends of the most recent 10 years for which data are available, to the extent practicable;

(9) making publicly available biennial workplace climate assessments that include surveys of current and former employees and interviews and focus groups of randomly selected current and former employees;

(10) conducting annual audits of the efficacy of the workplace misconduct prevention program; and
(11) ensuring that the elements of the work-
place misconduct prevention program are easy to un-
derstand, easy to access and use, and are regularly
communicated to all employees.

(g) ADDITIONAL DUTIES.—The Commission shall
also—

(1) select and advise the Special Counsel for
Equal Employment Opportunity appointed under
section 6;

(2) select and supervise the Judicial Integrity
Officer appointed under section 5;

(3) supervise the Office of Employee Advocacy
established under section 7 and select the Chief
Counsel for Employee Advocacy under section 7;

(4) maintain policies, practices, procedures, and
codes of conduct that—

(A) preserve the integrity of the Commiss-
ion and the offices and programs established
under this Act;

(B) maintain the confidence of covered em-
ployees in the Commission and the offices and
programs established under this Act; and

(C) guarantee procedural rights to individ-
uals during investigations and dispute resolu-
tion proceedings under this Act;
(5) no less than every 4 years, recommend to the Judicial Conference, after notice and opportunity for comment, revisions to the Judicial Conduct and Disability Rules, the Code of Conduct for Judiciary Employees, the Code of Conduct for Federal Public Defender Employees, and the Code of Conduct for United States Judges;

(6) ensure that the Judicial Conference, Congress, and the public are kept informed of—

(A) the work of the Commission;

(B) the workplace climate and culture in the judicial branch of the Federal Government, including the incidence of workplace misconduct; and

(C) the efficacy of the workplace misconduct prevention program overseen by the Commission;

(7) establish general policies and promulgate such rules and regulations for the Commission as are necessary to carry out the purposes of this Act;

(8) appoint and fix the salary and duties of the Staff Director, who shall serve at the discretion of the Commission and who shall be compensated at an annual rate not to exceed 92 percent of the annual
rate of pay in effect for the Director of the Administrative Office of United States Courts;

(9) retain private attorneys (who, when serving as officers or employees of the United States, shall be considered special government employees as defined in section 202(a) of title 18, United States Code) to provide legal advice to the Commission in the conduct of its work, or to appear for or represent the Commission in any case in which the Commission is authorized by law to represent itself; and

(10) in its discretion, pay reasonable attorney’s fees to private attorneys employed by the Commission out of amounts appropriated to the Commission.

(h) DIRECTOR AND STAFF.—

(1) DIRECTOR.—The Staff Director shall supervise the activities of persons employed by the Commission and perform other duties assigned to the Staff Director by the Commission.

(2) STAFF.—

(A) IN GENERAL.—The Staff Director shall, subject to the approval of the Commission, appoint such officers and employees as are
necessary in the execution of the functions of the Commission.

(B) APPLICATION OF TITLE 5.—The officers and employees of the Commission shall be exempt from the provisions of part III of title 5, United States Code, except the following:

chapters 45 (Incentive Awards), 63 (Leave), 81 (Compensation for Work Injuries), 83 (Retirement), 85 (Unemployment Compensation), 87 (Life Insurance), and 89 (Health Insurance), and subchapter VI of chapter 55 (Payment for accumulated and accrued leave).

(C) PAY.—The annual rates of pay of the officers and employees of the Commission, other than the Staff Director, shall be fixed at rates not to exceed the annual rate of basic pay for positions at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(i) COMPENSATION.—

(1) IN GENERAL.—The Chair and Vice Chairs of the Commission shall hold full-time positions and shall be compensated during their terms of office at the annual rate at which judges of the United States courts of appeals are compensated.
(2) Per diem.—

(A) Rate of Compensation for Each Day.—Each other member of the Commission shall be compensated, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission, at the daily equivalent of the annual rate of pay payable to judges of the United States courts of appeals.

(B) Authority to Prorate.—The rate of pay of a member may be prorated based on the portion of the day during which the member is engaged in the performance of Commission duties.

(3) Travel Expenses.—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

(j) GAO Audit.—Not later than 180 days after the date of enactment of this Act, and annually thereafter, the Comptroller General of the United States shall con-
duct a study of the management, governance structure, and independence of the Commission.

SEC. 5. OFFICE OF JUDICIAL INTEGRITY.

(a) Establishment.—There is established in the judicial branch of the Federal Government the Office of Judicial Integrity (in this section referred to as the “OJI”).

(b) Appointment, Term, and Removal of Judicial Integrity Officer.—

(1) Appointment.—The head of the OJI shall be the Judicial Integrity Officer, who shall be appointed by the Commission, after consultation with the Judicial Conference of the United States.

(2) Qualifications.—The Judicial Integrity Officer shall, by demonstrated ability, background, training, or experience, be especially qualified to carry out the functions of the position.

(3) Term.—The Judicial Integrity Officer shall serve for a term of 4 years, and may be reappointed by the Commission, after public notice and opportunity to comment and consultation with the Judicial Conference of the United States, for an additional term.

(4) Removal.—The Judicial Integrity Officer may be removed from office by a majority vote of
the Judicial Conference of the United States, subject to the following:

(A) The removal of the Judicial Integrity Officer may only be initiated in the event of permanent incapacity, inefficiency, neglect of duty, or malfeasance.

(B) The Judicial Conference shall communicate the reasons for any such removal to both Houses of Congress and the Commission not later than 14 days after removal.

(c) Staffing.—

(1) In general.—The Judicial Integrity Officer shall, after consultation with the Commission, develop a staffing plan which shall include, at a minimum—

(A) 6 deputies;

(B) a Director of Workplace Relations for—

(i) each judicial circuit;

(ii) the Court of International Trade;

(iii) the Court of Federal Claims;

(iv) each Federal Public Defender Organization described in section 3006A(g)(2)(A) of title 18, United States Code; and
(v) each judicial branch agency not described in clauses (i) through (iv);
(C) at least 2 employee dispute resolution coordinators for—
   (i) each judicial district;
   (ii) each judicial circuit;
   (iii) the Court of International Trade;
   and
   (iv) the Court of Federal Claims; and
(D) a sufficient number of employee dispute resolution coordinators for every other judicial branch agency.

(2) Publication of Qualifications.—The Commission shall develop and, after public notice and opportunity for comment, post the qualifications for the positions described in this subsection.

(d) Duties.—With respect to the judicial branch of the Federal Government, the OJI shall, consistent with prevailing best practices, perform the following:

(1) Administer the following elements of the workplace misconduct prevention program under section 4(f):
(A) The comprehensive workplace misconduct policy.
(B) The nationwide, confidential reporting system.

(C) In consultation with the Federal Judicial Center, the comprehensive training program on workplace behavior and bystander intervention.

(D) The development of metrics for workplace misconduct response and prevention in supervisory employees’ performance reviews.

(E) The development and maintenance of an employee dispute resolution program.

(F) Regular public reporting of anonymized workplace misconduct complaints received and responsive action taken.

(G) Regular public reporting of the number of individuals who were interviewed for judicial clerkship positions and who were hired for such positions, disaggregated by circuit, by sex (including by sexual orientation and gender identity), by disability, and by the ethnic and racial categories in the most recent decennial census (or similar categories).

(2) Provide offices and agencies employing covered employees with confidential advice and coun-
specting regarding compliance with this Act (and the
amendments made by this Act).

(3) Tracking complaints and investigations of
workplace misconduct, as well as remedies for such
workplace misconduct.

(4) Compile anonymized statistics on—

(A) the use of the confidential reporting
system described in section 4(f)(2), including
the number and type of contacts made with the
OJI;

(B) the reason for such contacts;

(C) the number of covered employees who
initiated proceedings with the OJI under this
section and the result of such proceedings; and

(D) the number of covered employees who
filed a claim, the basis for the claim, and the
action taken on the claim.

(e) POWERS.—In carrying out the duties of the OJI,
the Judicial Integrity Officer shall have the power to—

(1) make investigations and reports;

(2) obtain information or assistance from any
Federal, State, or local governmental agency, or
other entity, or unit thereof, including all informa-
tion kept in the course of business by the Judicial
Conference of the United States, the judicial council
of any circuit, the Administrative Office of the United States Courts, the Federal Judicial Center, the United States Sentencing Commission, and a defender organization described in section 3006A(g) of title 18, United States Code;

(3) employ such officers and employees as the Judicial Integrity Officer determines appropriate, subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and sub-chapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

(4) obtain services as authorized by section 3109 of title 5, United States Code, at daily rates not to exceed the equivalent rate for a position at level IV of the Executive Schedule under section 5315 of such title; and

(5) to the extent and in such amounts as may be provided in advance by appropriations Acts—

(A) enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons; and

(B) make such payments as may be necessary to carry out the duties of the OJI.
(f) Reports.—

(1) When to be Made.—The Judicial Integrity Officer shall—

(A) make an annual report to the Commission, the Judicial Conference, the judicial council for each circuit, and to Congress relating to the activities of the OJI; and

(B) make prompt reports to the Commission, the Judicial Conference, the judicial council of a circuit, or Congress on matters that may require action by the Judicial Conference, the judicial council of the circuit, or Congress, respectively.

(2) Sensitive Matter.—If a report contains sensitive matter, the Judicial Integrity Officer may so indicate and the Commission, Judicial Conference, judicial council of a circuit, or Congress may receive that report in closed session.

SEC. 6. SPECIAL COUNSEL FOR EQUAL EMPLOYMENT OPPORTUNITY.

(a) Establishment.—There is established in the judicial branch of the Federal Government the Office of Special Counsel for Equal Employment Opportunity (in this section referred to as the “Office”).

(b) Appointment and Term.—
(1) APPOINTMENT.—The head of the Office shall be the Special Counsel for Equal Employment Opportunity (in this section referred to as the “Special Counsel”), who shall be appointed by the Commission, after consultation with the Judicial Conference of the United States and the Council of the Inspectors General on Integrity and Efficiency.

(2) TERM.—The Special Counsel shall serve for a single term of 5 years.

(c) QUALIFICATIONS.—The Special Counsel shall, by demonstrated ability, background, training, or experience, be especially qualified to carry out the functions of the position, and shall not be a current or former officer or employee of the judicial branch of the Federal Government.

(d) REMOVAL.—The Special Counsel may be removed from office by a majority vote of the Judicial Conference of the United States, with each vote recorded and accompanied by a statement explaining the reason for said vote, subject to the following:

(1) The removal of the Special Counsel may only be initiated in the event of permanent incapacity, inefficiency, neglect of duty, or malfeasance.

(2) The Judicial Conference shall communicate the reasons for any such removal to both Houses of
Congress and the Commission within 14 days of said removal.

(c) Duties.—With respect to the judicial branch of the Federal Government, the Office shall—

(1) conduct investigations of alleged workplace misconduct in the judicial branch of the Federal Government and any policies or procedures promulgated under this Act that may require oversight or other action within the judicial branch of the Federal Government or by Congress;

(2) conduct and supervise audits and investigations regarding workplace misconduct and complaints;

(3) assist in the conduct of investigations pursuant to section 353 of title 28, United States Code;

(4) conduct annual audits in accordance with section 4(f)(10); and

(5) conduct biennial workplace climate assessments in accordance with section 4(f)(9) and subsection (f) of this section.

(f) Workplace Culture Assessment of Employing Offices.—

(1) Requirement to conduct assessment.—Not later than 90 days after the appointment of the first Special Counsel under this section,
and every year thereafter, the Special Counsel shall conduct an assessment of the workplace culture of agencies and offices employing covered employees. Such assessment shall be consistent with prevailing best practices and shall include the following:

(A) Indicators of positive and negative trends for maintaining a safe, respectful, diverse, and inclusive workplace.

(B) The specific types of workplace misconduct that have occurred, and the incidence of such misconduct.

(C) The effectiveness of the policies of the judicial branch of the Federal Government designed to prevent and remedy workplace misconduct.

(D) The effectiveness of the processes of the judicial branch of the Federal Government for complaints on and investigations into workplace misconduct.

(E) Any other issues relating to workplace misconduct as the Commission considers appropriate.

(F) A secure, confidential, and anonymous survey of current and former employees who have departed after the last such assessment.
(G) Focus groups and confidential individual interviews of randomly selected current and former employees.

(H) The first such assessment shall include a survey of current covered employees and former covered employees who were employed as a covered employee during the 10-year period ending on the date of enactment of this Act.

(2) Consultation with committees.—The Special Counsel shall carry out this subsection in consultation with the Committee on the Judiciary of the House of Representatives, the Committee on Oversight and Reform of the House of Representatives, and the Committee on the Judiciary of the Senate.

(3) Public report.—An anonymized report on the results of each assessment under this subsection shall be made publicly available not later than 30 days after the completion of the assessment.

(g) Report to Congress.—Upon the completion of any audit by the Special Counsel, the Special Counsel shall submit to Congress a report containing the results of the audit.

(h) Powers.—
(1) Powers.—In carrying out the duties of the
Office, the Special Counsel shall have the power to—

(A) make investigations, audits, and re-
ports;

(B) obtain assistance from any agency of
the judicial branch of the Federal Government,
including the Judicial Conference of the United
States, the judicial council of each circuit, the
Administrative Office of the United States
Courts, the Federal Judicial Center, the United
States Sentencing Commission, and a defender
organization described in section 3006A(g) of
title 18, United States Code;

(C) require, by subpoena or otherwise, the
attendance and testimony of such witnesses,
and the production of such books, records, cor-
respondence, memoranda, papers, and docu-
ments, which subpoena, in the case of contu-
macy or refusal to obey, shall be enforceable by
civil action;

(D) administer to or take from any person
an oath, affirmation, or affidavit;

(E) employ such officers and employees as
the Special Counsel determines appropriate,
subject to the provisions of title 5, United
States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

(F) obtain services as authorized by section 3109 of title 5, United States Code, at daily rates not to exceed the equivalent rate for a position at level IV of the Executive Schedule under section 5315 of such title; and

(G) to the extent and in such amounts as may be provided in advance by appropriations Acts—

(i) enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons; and

(ii) make such payments as may be necessary to carry out the duties of the Office.

(2) LIMITATION.—The Special Counsel shall not have the authority to investigate or review any matter that is directly related to the merits of a decision or procedural ruling by any judge, justice, or court.
(i) Reports.—

(1) When to be made.—The Special Counsel shall—

(A) make an annual report to the Commission, the Judicial Conference, the judicial council of each circuit, and Congress relating to the activities of the Office; and

(B) make prompt reports to the Commission, the Judicial Conference, the judicial council of a circuit, Congress, and the Department of Justice on matters that may require action by the Commission, the Judicial Conference, the judicial council of the circuit, Congress, or the Department of Justice.

(2) Sensitive matter.—If a report contains sensitive matter, the Special Counsel may so indicate and the Commission, the Judicial Conference, the judicial council of a circuit, and to Congress may receive that report in closed session.

SEC. 7. OFFICE OF EMPLOYEE ADVOCACY.

(a) Establishment.—There is established in the judicial branch of the Federal Government the Office of Employee Advocacy (in this section referred to as the “OEA”).

(b) Director of Employee Advocacy.—
(1) **APPOINTMENT.**—The head of the OEA shall be the Director of Employee Advocacy, who shall be appointed by the Commission, after consultation with the Judicial Conference of the United States, the Equal Employment Opportunity Commission, and the United States Commission on Civil Rights.

(2) **TERM.**—The Director shall serve for a single term of 5 years.

(3) **QUALIFICATIONS.**—The Director shall, by demonstrated ability, background, training, or experience, be especially qualified to carry out the functions of the position.

(c) **FUNCTIONS.**—

(1) **LEGAL ASSISTANCE, CONSULTATION, AND REPRESENTATION.**—Subject to paragraph (5), the OEA shall carry out the following functions:

(A) Receive complaints from any covered employee in the judiciary branch of the Federal Government of workplace misconduct.

(B) Provide confidential support and information, including referrals to medical and mental health care.

(C) Provide legal assistance and consultation to covered employees described in subpara-
graph (A) under this Act and chapter 16 of title 28, United States Code, regarding the procedures under this Act and such chapter 16 and the procedures applicable to civil actions arising under this Act and such chapter 16, including—

(i) the roles and responsibilities of the Commission, the Office of Judicial Integrity, the Special Counsel for Equal Employment Opportunity, the judicial councils of the circuits, the Directors of Workplace Relations, the employee dispute resolution coordinators described in section 5(e)(1)(C), and similar authorities;

(ii) any proceedings conducted under this Act and chapter 16 of title 28, United States Code;

(iii) the authority of the Special Counsel for Equal Employment Opportunity to compel cooperation and testimony under investigations and proceedings conducted under this Act; and

(iv) the employee’s rights and duties relating to such proceedings.
(D) Provide legal assistance and representation—

(i) in personal civil legal matters related to the initiation of or participation in proceedings under this Act by a covered employee in the judiciary branch of the Federal Government; and

(ii) in any proceedings under chapter 16 of title 28, United States Code, or this Act, or before any other administrative or judicial body related to the alleged violations of such chapter 16 or this Act which are the subject of the proceedings initiated by the covered employee, or the proceedings in which the covered employee participates.

(E) Operate a hotline through which covered employees in the judiciary branch of the Federal Government may contact the OEA.

(2) AUTHORITY TO PROVIDE ASSISTANCE IN ANY JURISDICTION.—Notwithstanding any law regarding the licensure of attorneys, an attorney who is employed by the OEA and is authorized to provide legal assistance and representation under this section is authorized to provide that assistance and rep-
resentation in any jurisdiction, subject to such regu-
lations as may be prescribed by the OEA.

(3) Nature of Relationship.—The relation-
ship between the OEA and an employee to whom the
OEA provides legal assistance, consultation, and
representation under this section shall be the rela-
tionship between an attorney and client.

(4) Prohibiting Acceptance of Award of
attorney fees or other costs.—The OEA may
not accept any award of attorney fees or other litiga-
tion expenses or costs under any hearing or civil ac-
tion brought under this Act.

(5) Prohibiting Assistance in Other Mat-
ters or Proceedings.—The OEA may not provide
any legal assistance, consultation, or representation
with respect to any matter or proceeding which does
not arise under this Act or chapter 16 of title 28,
United States Code.

SEC. 8. ACCOUNTABILITY FOR JUDICIAL MISCONDUCT.

(a) Establishing Discrimination and Retalia-
tion as Judicial Misconduct.—Section 358 of title 28,
United States Code, is amended—

(1) by striking subsection (a) and inserting the
following:
“(a) IN GENERAL.—Each judicial council and the Judicial Conference shall prescribe rules for the conduct of proceedings under this chapter, including the processing of petitions for review that—

“(1) ensure the independence, integrity, impartiality, and competence of proceedings under this chapter;

“(2) ensure the greatest possible public confidence in proceedings under this chapter and maintain public confidence in the Federal judiciary;

“(3) reflect that the judicial office is a position of public trust; and

“(4) effectuate sections 453 and the provisions of the Judiciary Accountability Act of 2021.”;

(2) in subsection (b)—

(A) in paragraph (2), by striking “and” at the end;

(B) in paragraph (3)—

(i) by inserting “(with the right to be accompanied by counsel)” after “appear”;

and

(ii) by striking the period at the end and inserting “; and”; and

(C) by adding the following at the end:
“(4) providing that workplace misconduct (as defined in the Judiciary Accountability Act of 2021) constitutes a violation of this chapter, including conduct prohibited under sections 964 and 965 of this title.”;

(3) in subsection (c), in the first sentence—

(A) by striking “notice and an opportunity” and inserting “notice, and an opportunity”; and

(B) by striking the period at the end and inserting “, and written explanation in the Federal Register.”; and

(4) by adding at the end the following:

“(d) TRANSMISSION TO CONGRESS.—Not later than 180 days before the date on which a rule prescribed under this section is to become effective, the Chief Justice of the United States, or, if applicable, the presiding officer of the judicial council, shall transmit to the Congress a copy of the proposed rule. The rule shall take effect unless otherwise provided by law.”.

(b) FILING AND IDENTIFYING COMPLAINTS.—Section 351 of title 28, United States Code, is amended—

(1) in subsection (b), by adding at the end the following: “For purposes of this chapter, a complaint identified under this subsection shall be treated in
the same manner as a complaint filed under subsection (a).”;

(2) by redesignating subsection (d) as subsection (f); and

(3) by inserting after subsection (e) the following:

“(d) IDENTIFYING COMPLAINT BY JUDICIAL CONFERENCE.—In the interests of the effective and expeditious administration of the business of the courts and on the basis of information available to the Judicial Conference, the Judicial Conference may, by written order stating reasons therefor, identify a complaint for purposes of this chapter and thereby dispense with filing of a written complaint. Upon identifying a complaint under this paragraph, the Judicial Conference shall refer the complaint in accordance with the transmittal procedures described in subsection (c).

“(e) SPECIAL RULE FOR EMPLOYEES FILING COMPLAINTS.—

“(1) IN GENERAL.—A complaint described in subsection (a) made by a current or former covered employee (as such term is defined in the Judiciary Accountability Act of 2021) may be filed with the Judicial Conference.
"(2) Transmittal by Judicial Conference.—Upon receipt of a complaint filed under this subsection, the Judicial Conference shall transmit the complaint in accordance with subsection (c).”.

(e) Expanded Definition of Judge.—Subsection (f)(1) of section 351 of title 28, United States Code, as so redesignated by subsection (b) of this section, is amended by striking “a circuit judge” and all that follows and inserting “a judge described in chapter 17 of this title or an individual who was such a judge during the conduct described in the complaint.”.

(d) Effect of Resignation or Retirement of Judge.—Chapter 16 of title 28, United States Code, is amended—

(1) in section 352, by adding at the end the following:

“(e) Effect of Vacancy of Office.—The resignation, retirement from office under chapter 17, or death of a judge who is the subject of a complaint under section 351 shall not be grounds for—

“(1) the dismissal of the complaint under subsection (b)(1); or

“(2) the conclusion that the complaint is no longer necessary under subsection (b)(2).”; and
(2) in section 353, by adding at the end the follow-,
lowing:

“(d) EFFECT OF VACANCY OF OFFICE.—The special
committee shall complete its investigation and file a report
under subsection (c) without regard for the resignation,
retirement from office under chapter 17, or death of the
judge whose conduct is the subject of the complaint.”.

(e) EXPANDING AUTHORITY OF JUDICIAL COUN-
cil.—Section 354(a)(2)(A) of title 28, United States
Code, is amended—

(1) in clause (i)—

(A) by inserting “or subject to the comple-
tion of any corrective measures recommended
by the judicial council” after “on a temporary
basis for a time certain”; and

(B) by inserting “, or that any current
cases assigned to the judge be reassigned” be-
fore the semicolon at the end;

(2) in clause (ii), by striking “and” at the end;

(3) in clause (iii), by striking the period at the
end and inserting “; and”; and

(4) by adding at the end the following:

“(iv) in the case of a complaint based
on workplace misconduct, ordering such
action as the judicial council determines
appropriate to protect employees from the workplace misconduct.’’.

(f) Fair and Impartial Investigations and Determinations by Special Committee and Judicial Council.—Chapter 16 of title 28, United States Code, is amended—

(1) in section 353(a), by striking paragraph (1) and inserting the following:

“(1) appoint to a special committee to investigate the facts and allegations contained in the complaint—

“(A) himself or herself; and

“(B) selected at random—

“(i) equal numbers of circuit judges and district judges from other circuits; and

“(ii) members of the Commission on Judicial Integrity;”; and

(2) in section 354, by adding at the end the following:

“(c) Disqualification and Additional Members.—For purposes of this section, the judicial council of a circuit—

“(1) shall not include any member of the special committee described in section 353; and
“(2) shall include at least 1 randomly selected member of the Commission on Judicial Integrity.”.

(g) JUDICIAL CONFERENCE TO REPORT VIOLATIONS TO CONGRESS.—Section 355 of title 28, United States Code, is amended by adding at the end the following:

“(c) VIOLATIONS REPORTED TO CONGRESS.—If the Judicial Conference concurs in the determination of the judicial council, or makes its own determination, that taking an action as described in paragraph (1)(C) and (2) of section 354(a) is appropriate, the Judicial Conference shall submit the determination and the record of the proceedings to Congress.”.

(h) DISCLOSURE OF INFORMATION.—Section 360 of title 28, United States Code, is amended—

(1) in subsection (a), in the matter preceding paragraph (1), by inserting “and subsections (c) and (d) of this section” after “section 355”; and

(2) by adding at the end the following:

“(c) REPORTS.—

“(1) REPORT TO JUDICIAL CONFERENCE.—

“(A) NOTICE OF COMPLAINTS FILED.—

Not later than 30 days after a complaint is filed by an employee or former employee or identified under section 351, the clerk of a
court of appeals shall notify the Judicial Conference of such complaint.

“(B) Report of Special Committee.—
Each special committee appointed under section 353 shall submit the report filed with the judicial council of the circuit under subsection (c) of that section to the Judicial Conference.

“(C) Redaction of Personally Identifying Information.—To the extent practicable, a notification and report under this paragraph shall not include any personally identifying information except for the identity of the judge whose conduct is the subject of the complaint. The identity of the judge may be redacted only with the consent of the complainant.

“(2) Report to Congress.—

“(A) In General.—On a biennial basis, the Judicial Conference shall submit to Congress a report, signed by every member of the Executive Committee, that includes, with respect to complaints under this chapter for each judicial circuit during the previous 180-day period, the following information:
“(i) The number, type, and disposition of such complaints.

“(ii) A description of actions taken under paragraph (1)(C) and (2) of section 354(a).

“(iii) A description of voluntary remedial or corrective actions taken by judges subject to such complaints.

“(iv) Recommendations for policies, practices, and procedures related to such complaints.

“(B) REDACTION OF PERSONALLY IDENTIFYING INFORMATION.—Reports submitted under this paragraph may not contain the personally identifying information of a complainant or judge.

“(d) DISCLOSURE BY COMPLAINANT PERMITTED.—Nothing in this chapter shall be construed to prevent a complainant or victim of judicial misconduct from disclosing any information related to the complaint.”.

(i) EXPENSES FOR COMPLAINANTS AND THIRD PARTIES.—Section 361 of title 28, United States Code, is amended—

(1) by striking “Upon the request” and inserting the following:
“(a) IN GENERAL.—Upon the request”; and

(2) by adding at the end the following:

“(b) REIMBURSEMENT.—Upon the request of a complainant, the judicial council of a circuit may, if the complaint was not finally dismissed under section 354(a)(1)(B), recommend that the Director of the Administrative Office of the United States Courts award reimbursement, from funds appropriated to the Federal judiciary, for those reasonable expenses, including attorneys’ fees, incurred by that complainant during the investigation which would not have been incurred but for the requirements of this chapter.”.

SEC. 9. RULE OF CONSTRUCTION.

Nothing in this Act or the amendments made by this Act may be construed—

(1) to abolish, diminish, or infringe upon any right or remedy provided by the Constitution of the United States or any other law;

(2) to relieve any person or Government agency from liability under the Constitution of the United States or any other law; or

(3) to relieve any Government agency or official of their responsibility to assure nondiscrimination in employment.
SEC. 10. DEFINITIONS.

In this Act:

(1) COMMISSION.—The term “Commission” means the Federal Government Commission on Judicial Integrity established under section 4(a).

(2) COVERED EMPLOYEE.—The term “covered employee” means—

(A) any full-time or part-time employee (including an officer, a former employee, and an applicant for prospective employment) of a court of the United States, an office or agency described in chapter 15 or part III of title 28, United States Code, or a defender organization described in section 3006A(g) of title 18, United States Code; and

(B) any individual who carries or carried out an official duty of a court of the United States, an office or agency described in chapter 15 or part III of title 28, United States Code, or a defender organization described in section 3006A(g) of title 18, United States Code, but who is not paid by such court for carrying out such duties, including an intern.

(3) DISABILITY.—The term “disability” means a disability, within the meaning of section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791) and sec-

(4) **WORKPLACE MISCONDUCT.**—The term “workplace misconduct” means misconduct impacting the workplace and employment, including discrimination, harassment, retaliation, sexual assault, bullying, and conduct prohibited under sections 964 and 965 of title 28, United States Code.

**SEC. 11. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such funds as are necessary to carry out this Act and the amendments made by this Act.