

COURTHOUSE ETHICS AND TRANSPARENCY ACT

DECEMBER 1, 2021.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. NADLER, from the Committee on the Judiciary,
submitted the following

R E P O R T

[To accompany H.R. 5720]

The Committee on the Judiciary, to whom was referred the bill (H.R. 5720) to amend the Ethics in Government Act of 1978 to provide for a periodic transaction reporting requirement for Federal judicial officers and the online publication of financial disclosure reports of Federal judicial officers, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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The amendment is as follows:

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Courthouse Ethics and Transparency Act”.

SEC. 2. PERIODIC TRANSACTION REPORTS AND ONLINE PUBLICATION OF FINANCIAL DISCLOSURE REPORTS OF FEDERAL JUDICIAL OFFICERS.

(a) PERIODIC TRANSACTION REPORTING REQUIREMENT FOR FEDERAL JUDICIAL OFFICERS.—

(1) IN GENERAL.—Section 103(l) of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended by adding at the end the following:

“(11) Each judicial officer.”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to applicable transactions occurring on or after the date that is 90 days after the date of enactment of this Act.

(b) ONLINE PUBLICATION OF FINANCIAL DISCLOSURE REPORTS OF FEDERAL JUDICIAL OFFICERS.—Section 105 of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following:

“(c) ONLINE PUBLICATION OF FINANCIAL DISCLOSURE REPORTS OF JUDICIAL OFFICERS.—

“(1) ESTABLISHMENT OF DATABASE.—Not later than 180 days after the date of enactment of the Courthouse Ethics and Transparency Act, the Administrative Office of the United States Courts shall establish a searchable internet database to enable public access to any report required to be filed by a judicial officer under this title.

“(2) AVAILABILITY.—Not later than 90 days after the date on which a report is required to be filed under this title by a judicial officer, the Administrative Office of the United States Courts shall make the report available on the database established under paragraph (1) in a full-text searchable, sortable, and downloadable format for access by the public.

“(3) REDACTION.—Any report made available on the database established under paragraph (1) shall not contain any information that is redacted in accordance with subsection (b)(3).”.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 103(l) of the Ethics in Government Act of 1978 (5 U.S.C. App.) (as amended by subsection (a)(1)) is amended—

(A) in paragraph (9), by striking “, as defined under section 109(12)”; and

(B) in paragraph (10), by striking “, as defined under section 109(13)”.

(2) Section 105 of the Ethics in Government Act of 1978 (5 U.S.C. App.) (as amended by subsection (b)) is amended—

(A) in subsection (a)(1), by striking “be revealing” and inserting “by revealing”; and

(B) in subsection (b)—

(i) in paragraph (1)—

(I) in the first sentence, by striking “be,” and inserting “be,”; and

(II) in the third sentence, by striking “may be may” and inserting “may be, may”; and

(ii) in paragraph (3)(A), by striking “described in section 109(8) or 109(10) of this Act” and inserting “who is a judicial officer or a judicial employee”.

(3) Section 107(a)(1) of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended in the last sentence by striking “and (d)” and inserting “and (e)”.

Purpose and Summary

H.R. 5720, the “Courthouse Ethics and Transparency Act,” closes two loopholes exempting federal judicial officers from key provisions of the Ethics in Government Act of 1978, as amended by the STOCK Act of 2012. First, H.R. 5720 extends the STOCK Act’s requirement that senior government officials disclose securities transactions in excess of \$1,000 within 30 to 45 days to judicial officers. Second, H.R. 5720 requires the Administrative Office of the United States Courts to make all judicial financial disclosure reports available in a publicly accessible online database in a full-text searchable, sortable, and downloadable format not later than 90 days after the reports are required to be filed.

These reforms will make disclosure reports easier for the public to monitor and analyze, which would allow for increased trans-

parency to better effectuate the purposes of the Ethics in Government Act of 1978—“to preserve and promote the integrity of public officials and institutions”—as well as the principal federal judicial recusal statute, 28 U.S.C. § 455.¹

Background and Need for the Legislation

A. Recent Evidence of Violations of the Federal Judicial Disqualification Statute

Federal law prohibits judges and justices from hearing cases in which they or their families have a “legal or equitable interest, however small” in order to promote confidence in the judiciary.² However, according to the *Wall Street Journal*, since 2010, more than 130 federal judges failed to recuse themselves from 685 court cases involving companies in which they or their families had a financial interest, and approximately two-thirds of the judges’ rulings were decided in favor of the party in which they or their families held an interest.³

In 173 cases, the judges’ financial interests exceeded \$15,000, and, of those cases, 21 totaled over \$50,000.⁴ Sixty-one judges or their families traded shares of companies while ruling on cases in which those companies were parties.⁵ When questioned about these violations by the *Wall Street Journal*, responses by the judges ranged from blaming court clerks and misspellings that went undetected by the judiciary’s conflict-screening software to only having minor roles in the cases and not having a role in the trading since the stocks were in a managed account or trust.⁶ Of the 61 judges whose brokers or family members actively traded shares of the parties in their courtrooms as their lawsuits were progressing, many made several thousands of dollars in profits on those trades.⁷

The *Wall Street Journal*’s investigation followed a number of previous reports over the past two decades that judges had failed to recuse in cases where they had a financial conflict.⁸ Additionally, one expert explained to the Committee that the *Journal*’s findings are:

surely a major undercount: The *Journal*’s work focused on district and appellate court judges, and excluded magistrate and bankruptcy judges; their work focused mainly

¹See Ethics in Government Act of 1978, Pub. L. No. 95–521, 92 Stat. 1824 (1978) (“An Act . . . to implement certain reforms in the operation of the Federal Government and to preserve and promote the integrity of public officials and institutions, and for other purposes.”).

²28 U.S.C. § 455(d)(4); see also James V. Grimaldi, Coulter Jones & Joe Palazzolo, *131 Federal Judges Broke the Law by Hearing Cases Where They Had a Financial Interest*, WALL ST. J. (Sept. 28, 2021, 9:07 a.m.), <https://www.wsj.com/articles/131-federal-judges-broke-the-law-by-hearing-cases-where-they-had-a-financial-interest-11632834421>.

³Grimaldi et al., *supra* note 2.

⁴*Id.*

⁵*Id.*

⁶*Id.*

⁷Coulter Jones, Joe Palazzolo & James V. Grimaldi, *Federal Judges or Their Brokers Traded Stocks of Litigants During Cases*, WALL ST. J. (Oct. 15, 2021, 9:59 a.m.), <https://www.wsj.com/articles/federal-judges-brokers-traded-stocks-of-litigants-during-cases-walmart-pfizer-11634306192>.

⁸See, e.g., Benjamin B. Johnson & John Newby Parton, *Judges Breaking the Law: An Empirical Study of Financially Interested Judges Deciding Cases*, 99 N.C. L. REV. 1, 2 (2020); Reity O’Brien, Kytja Weir, and Chris Young, *Federal Judges Plead Guilty*, CTR. FOR PUB. INTEGRITY (Apr. 28, 2014), <https://publicintegrity.org/2014/04/28/14630/federal-judges-plead-guilty/>; Joe Stephens, *Ethics Lapses by Federal Judges Persist, Review Finds*, WASH. POST (Apr. 18, 2006), <https://www.washingtonpost.com/archive/politics/2006/04/18/ethics-lapses-by-federal-judges-persist-review-finds-span-class=bankheadviolations-involve-stock-holdings-and-free-tripsspan/8cf1b306-7dbd-4d20-a75c-868f1a546466/>.

on individual stock holdings, to the exclusion of the many other types of investments judges can hold; and their work was based on case captions (e.g., “Albatross v. Loon”), not full party lists, which would expose numerous other parties—and conflicts—in a case.⁹

B. Applicable Law

1. Periodic Transaction Reports

The Ethics in Government Act of 1978 requires most high-level government officials in all branches, including judicial officers and judicial employees, to file annual financial disclosure reports.¹⁰ Federal officials other than judicial officers and employees must also supplement the disclosures provided by their annual filings with interim disclosures if they have made significant changes to their financial holdings. Under the STOCK Act, legislative and executive branch officials must file Periodic Transaction Reports (PTRs) disclosing transactions involving stocks, bonds, and other securities that exceed \$1,000 within 45 (and in some cases, 30) days of the transaction.¹¹

H.R. 5720 applies these same requirements to all judicial officers.

2. Public Access to Financial Disclosure Reports

Pursuant to the 2012 STOCK Act, Legislative Branch financial disclosure reports are readily available online, as are the President’s, the Vice President’s, and all executive officials compensated at level I and II of the Executive Schedule (generally, all Cabinet officials, Deputy Secretaries, and the heads of most executive and independent agencies).¹² But this STOCK Act disclosure requirement does not apply to judicial officers and employees.

Instead, pursuant to the Ethics in Government Act, judicial officers’ and employees’ financial disclosures must merely be provided to “any person” who requests them.¹³ In the absence of an explicit statutory mandate to act quickly or employ prevailing technology, the Judicial Conference of the United States has implemented a process under which obtaining judicial branch financial disclosures can take months or even years.¹⁴

⁹ *Judicial Ethics and Transparency: The Limits of Existing Statutes and Rules: Hearing Before the Subcomm. on Cts., Intell. Prop., and the Internet of the H. Comm. on the Judiciary*, 117th Cong. (2021) (statement for the record of Michael Lissner, Exec. Dir., Free L. Project at 4).

¹⁰ See 5 U.S.C. App. § 102; § 109(10) of the Ethics in Government Act of 1978 defines “judicial officer” to include the Chief Justice and Associate Justice of the Supreme Court, as well as the “judges of” the courts of appeals (which includes circuit judges) and the district courts (which includes district judges and bankruptcy judges), as well as a list of Article I courts. When this language was enacted, district judges comprised the only “judges of . . . the district courts.” The remaining senior judicial branch officials are “judicial employees” under § 109(8).

¹¹ 5 U.S.C. App. § 103(1).

¹² See generally STOCK Act, Pub. L. No. 112–105 (2012) (codified as amended at 5 U.S.C. App. 4 § 101).

¹³ 5 U.S.C. § 105(b)(1).

¹⁴ See generally *Judicial Ethics and Transparency: The Limits of Existing Statutes and Rules*, *supra* note 9; See A U.S. GOV’T ACCOUNTABILITY OFF., GAO–18–406, FEDERAL JUDICIARY: THE ADMINISTRATIVE OFFICE OF THE U.S. COURTS SHOULD ENSURE FINANCIAL DISCLOSURE REDACTION REPORTS ARE SUBMITTED TO CONGRESS ANNUALLY (2018), <https://www.gao.gov/assets/700/692168.pdf>; see also William Palin, *Free Law Project Creates the First Online Database of Federal Judicial Financial Disclosures*, FREE L. PROJECT (Sept. 28, 2021), <https://free.law/2021/09/28/announcing-federal-financial-disclosures> (“We expect to receive and process the majority of the 2019 disclosures in the coming weeks.”).

The current process for obtaining judicial branch financial disclosure reports works as follows. First, a request form must be submitted to the Administrative Office of the United States Courts (AOUSC). Second, the justice or judge whose financial disclosure report has been requested is notified of the request and of the identity of the requester.¹⁵ Third, the justice or judge may then propose redactions to the copy of their financial disclosure report to be provided to the requester; these proposed redactions are then evaluated by AOUSC staff. These request-specific redactions are in addition to the redactions judges are permitted to make when they initially file their financial disclosure reports (officials in other branches are not permitted to make such redactions).¹⁶ Fourth, if a justice or judge objects to providing the requester with the report, that objection is evaluated by a committee of the Judicial Conference.¹⁷ Finally, the disclosures are given to the requester in either hard copy or on a thumb drive.¹⁸ Although financial disclosures are generally submitted in a text-searchable format, the copies on the thumb drive were until this year provided in an image format that renders the disclosures unsearchable.¹⁹

H.R. 5720 would make financial disclosures available online within 90 days of the date they must be filed.

C. Impact of the Current Judicial Financial Disclosure System on Judicial Recusal

The deficiencies in the current financial disclosure system make it difficult for litigants and the public to assess whether a judge or justice is in compliance with their statutory and ethical recusal requirements. Both the fact that judges are exempt from the periodic disclosure report provisions of the STOCK Act as well as the long delays in the request process for annual financial disclosure reports prevent litigants from requesting and receiving relevant financial information in enough time to alert a justice or judge that they must recuse themselves at an early stage of the case, or to challenge the judge's decision not to do so. In addition, the request process itself alerts the justice or judge that a litigant is seeking his or her financial disclosure report; in practice, this notification process can have a substantial chilling effect, deterring litigants from seeking such disclosures lest they upset the justice or judge overseeing their case.

D. Intended Operation of H.R. 5720

H.R. 5720 is intended to strengthen existing measures meant to ensure the appearance of impartiality that is essential to judicial

¹⁵ FEDERAL JUDICIARY: THE ADMINISTRATIVE OFFICE OF THE U.S. COURTS SHOULD ENSURE FINANCIAL DISCLOSURE REDACTION REPORTS ARE SUBMITTED TO CONGRESS ANNUALLY, *supra* note 14.

¹⁶ See ADMIN. OFF. OF THE U.S. CTS., COMM. ON FIN. DISCLOSURE, FILING INSTRUCTIONS FOR JUDICIAL OFFICERS AND EMPLOYEES (Feb. 2021), available at <https://fixthecourt.com/wp-content/uploads/2021/11/Instructions-to-file-FDs-for-2021.pdf> (“[F]ilers should consider whether to request redaction at the beginning of the calendar year when their report is filed, instead of waiting until their report is requested.”); see also Coulter Jones, James V. Grimaldi & Joe Palazzolo, *How the Journal Found Judge's Violations of Law on Conflicts*, WALL ST. J. (Sept. 28, 2021, 8:56 a.m.), https://www.wsj.com/articles/how-the-journal-found-judges-violations-of-law-on-conflicts-11632833775?mod=article_relatedinline&mod=article_relatedinline.

¹⁷ *Guide to Judiciary Policy*, Vol. 2D, Ch. 1: Overview, U.S. CTS. (2021), <https://www.uscourts.gov/sites/default/files/guide-vol02d.pdf>.

¹⁸ *Request for Examination of Report Filed by A Judicial Officer or Judicial Employee*, U.S. CTS. (2019), <https://www.uscourts.gov/sites/default/files/ao010a.pdf>.

¹⁹ See 5 U.S.C. App. 4 § 105(b)(1).

legitimacy. Requirements for the disclosure of personal financial interests, in addition to strict requirements for recusal in the event of a conflict with those financial interests, help to assure litigants that their cases will be heard by a neutral, disinterested arbiter and resolved on their individual merits, which increases public acceptance of the outcomes of our judicial system. The goal of this bill is to better enable litigants, the public, and the press to hold judges accountable and ensure that judges are not deciding cases in which they are prohibited by federal law from being involved. Requiring judges to file their financial disclosures shortly after their high-dollar securities transactions and guaranteeing public access to those disclosures will increase transparency, justice, and fairness and bring members of the judicial branch into parity with members of the executive and legislative branches.

Hearings

For the purposes of clause 3(c)(6)(A) of House Rule XIII, the following hearing was used to develop H.R. 5720. On October 26, 2021, the Subcommittee on Courts, Intellectual Property, and the Internet held a hearing on “Judicial Ethics and Transparency: The Limits of Existing Statutes and Rules.”

Committee Consideration

On November 17, 2021, the Committee met in open session and ordered H.R. 5720, favorably reported with amendment, by a voice vote, a quorum being present.

Committee Votes

In accordance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that no recorded vote occurred during the Committee’s consideration of H.R. 5720.

Committee Oversight Findings

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

New Budget Authority and Tax Expenditures and Congressional Budget Office Cost Estimate

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause (3)(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not received a cost estimate for this bill from the Director of Congressional Budget Office. The Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

Duplication of Federal Programs

No provision of H.R. 5720 establishes or reauthorizes a program of the federal government known to be duplicative of another federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

Performance Goals and Objectives

The Committee states that, pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the goal of H.R. 5720 is to empower individuals to ensure that judges and justices are abiding by the requirements of federal law and to enhance compliance with existing disclosure and recusal obligations intended to safeguard judicial impartiality.

Advisory on Earmarks

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 5720 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.

Section-by-Section Analysis

The following discussion describes the bill as reported by the Committee.

Sec. 1. Short Title. Section 1 sets forth the short title of the bill as the “Courthouse Ethics and Transparency Act.”

Sec. 2. Periodic Transaction Reports and Online Publication of Financial Disclosure Reports of Federal Judicial Officers. Section 2(a) amends section 103(l) of the Ethics in Government Act of 1978 (5 U.S.C. App.), which requires covered officials to report securities transactions that exceed \$1,000 within 30 to 45 days, to include judicial officers. The requirements of this subsection apply to all applicable transactions occurring 90 days after the enactment of H.R. 5720.

Section 2(b) amends section 105 of the Ethics in Government Act of 1978 to require that, not later than 180 days after enactment of H.R. 5720, all financial disclosure reports of judicial officers be made available in a publicly accessible, searchable online database established by the Administrative Office of the United States Courts. Reports must be made available on the database not later than 90 days after they are required to be filed and must be available in a full-text searchable, sortable, and downloadable format. Section 2(b) also provides that any reports posted in the publicly accessible database shall not contain any redacted information.

Section 2(c) makes technical and conforming amendments to the Ethics in Government Act of 1978 to reflect the substantive amendments made in sections 2(a) and 2(b).

Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, H.R. 5720 as reported, are shown as follows:

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

ETHICS IN GOVERNMENT ACT OF 1978

* * * * *

**TITLE I—FINANCIAL DISCLOSURE REQUIREMENTS OF
FEDERAL PERSONNEL**

* * * * *

FILING OF REPORTS

SEC. 103. (a) Except as otherwise provided in this section, the reports required under this title shall be filed by the reporting individual with the designated agency ethics official at the agency by which he is employed (or in the case of an individual described in section 101(e), was employed) or in which he will serve. The date any report is received (and the date of receipt of any supplemental report) shall be noted on such report by such official.

(b) The President, the Vice President, and independent counsel and persons appointed by independent counsel under chapter 40 of title 28, United States Code, shall file reports required under this title with the Director of the Office of Government Ethics.

(c) Copies of the reports required to be filed under this title by the Postmaster General, the Deputy Postmaster General, the Governors of the Board of Governors of the United States Postal Service, designated agency ethics officials, employees described in section 105(a)(2)(A) or (B), 106(a)(1)(A) or (B), or 107(a)(1)(A) or (b)(1)(A)(i), of title 3, United States Code, candidates for the office of President or Vice President and officers and employees in (and nominees to) offices or positions which require confirmation by the Senate or by both Houses of Congress other than individuals nominated to be judicial officers and those referred to in subsection (f) shall be transmitted to the Director of the Office of Government Ethics. The Director shall forward a copy of the report of each nominee to the congressional committee considering the nomination.

(d) Reports required to be filed under this title by the Director of the Office of Government Ethics shall be filed in the Office of Government Ethics and, immediately after being filed, shall be made available to the public in accordance with this title.

(e) Each individual identified in section 101(c) who is a candidate for nomination or election to the Office of President or Vice President shall file the reports required by this title with the Federal Election Commission.

(f) Reports required of members of the uniformed services shall be filed with the Secretary concerned.

(g) Each supervising ethics office shall develop and make available forms for reporting the information required by this title.

(h)(1) The reports required under this title shall be filed by a reporting individual with—

(A)(i)(I) the Clerk of the House of Representatives, in the case of a Representative in Congress, a Delegate to Congress, the Resident Commissioner from Puerto Rico, an officer or employee of the Congress whose compensation is disbursed by the Chief Administrator Officer of the House of Representatives, an officer or employee of the Architect of the Capitol, United States Capitol Police, the United States Botanic Garden, the Congressional Budget Office, the Government Printing Office, the Library of Congress, or the Copyright Royalty Tribunal (including any individual terminating service, under section 101(e), in any office or position referred to in this subclause), or an individual described in section 101(c) who is a candidate for nomination or election as a Representative in Congress, a Delegate to Congress, or the Resident Commissioner from Puerto Rico; and

(II) the Secretary of the Senate, in the case of a Senator, an officer or employee of the Congress whose compensation is disbursed by the Secretary of the Senate, an officer or employee of the General Accounting Office, the Office of Technology Assessment, or the Office of the Attending Physician (including any individual terminating service, under section 101(e), in any office or position referred to in this subclause), or an individual described in section 101(c) who is a candidate for nomination or election as a Senator; and

(ii) in the case of an officer or employee of the Congress as described under section 101(f)(10) who is employed by an agency or commission established in the legislative branch after the date of the enactment of the Ethics Reform Act of 1989—

(I) the Secretary of the Senate or the Clerk of the House of Representatives, as the case may be, as designated in the statute establishing such agency or commission; or

(II) if such statute does not designate such committee, the Secretary of the Senate for agencies and commissions established in even numbered calendar years, and the Clerk of the House of Representatives for agencies and commissions established in odd numbered calendar years; and

(B) the Judicial Conference with regard to a judicial officer or employee described under paragraphs (11) and (12) of section 101(f) (including individuals terminating service in such office or position under section 101(e) or immediately preceding service in such office or position).

(2) The date any report is received (and the date of receipt of any supplemental report) shall be noted on such report by such committee.

(i)(1) A copy of each report filed under this title by a Member or an individual who is a candidate for the office of Member shall be sent by the Clerk of the House of Representatives or Secretary of the Senate, as the case may be, to the appropriate State officer designated under section 316(a) of the Federal Election Campaign Act of 1971 of the State represented by the Member or in which the individual is a candidate, as the case may be, within the 30-day pe-

riod beginning on the day the report is filed with the Clerk or Secretary.

(2) The requirements of paragraph (1) do not apply to any report filed under this title which is filed electronically and for which there is online public access, in accordance with the systems developed by the Secretary and Sergeant at Arms of the Senate and the Clerk of the House of Representatives under section 8(b) of the STOCK Act.

(j)(1) A copy of each report filed under this title with the Clerk of the House of Representatives shall be sent by the Clerk to the Committee on Standards of Official Conduct of the House of Representatives within the 7-day period beginning on the day the report is filed.

(2) A copy of each report filed under this title with the Secretary of the Senate shall be sent by the Secretary to the Select Committee on Ethics of the Senate within the 7-day period beginning on the day the report is filed.

(k) In carrying out their responsibilities under this title with respect to candidates for office, the Clerk of the House of Representatives and the Secretary of the Senate shall avail themselves of the assistance of the Federal Election Commission. The Commission shall make available to the Clerk and the Secretary on a regular basis a complete list of names and addresses of all candidates registered with the Commission, and shall cooperate and coordinate its candidate information and notification program with the Clerk and the Secretary to the greatest extent possible.

(l) Not later than 30 days after receiving notification of any transaction required to be reported under section 102(a)(5)(B), but in no case later than 45 days after such transaction, the following persons, if required to file a report under any subsection of section 101, subject to any waivers and exclusions, shall file a report of the transaction:

(1) The President.

(2) The Vice President.

(3) Each officer or employee in the executive branch, including a special Government employee as defined in section 202 of title 18, United States Code, who occupies a position classified above GS-15 of the General Schedule or, in the case of positions not under the General Schedule, for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule; each member of a uniformed service whose pay grade is at or in excess of O-7 under section 201 of title 37, United States Code; and each officer or employee in any other position determined by the Director of the Office of Government Ethics to be of equal classification.

(4) Each employee appointed pursuant to section 3105 of title 5, United States Code.

(5) Any employee not described in paragraph (3) who is in a position in the executive branch which is excepted from the competitive service by reason of being of a confidential or policymaking character, except that the Director of the Office of Government Ethics may, by regulation, exclude from the application of this paragraph any individual, or group of individuals, who are in such positions, but only in cases in which the

Director determines such exclusion would not affect adversely the integrity of the Government or the public's confidence in the integrity of the Government.

(6) The Postmaster General, the Deputy Postmaster General, each Governor of the Board of Governors of the United States Postal Service and each officer or employee of the United States Postal Service or Postal Regulatory Commission who occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule.

(7) The Director of the Office of Government Ethics and each designated agency ethics official.

(8) Any civilian employee not described in paragraph (3), employed in the Executive Office of the President (other than a special government employee) who holds a commission of appointment from the President.

(9) A Member of Congress[, as defined under section 109(12)].

(10) An officer or employee of the Congress[, as defined under section 109(13)].

(11) *Each judicial officer.*

* * * * *

CUSTODY OF AND PUBLIC ACCESS TO REPORTS

SEC. 105. (a) Each agency, each supervising ethics office in the executive or judicial branch, the Clerk of the House of Representatives, and the Secretary of the Senate shall make available to the public, in accordance with subsection (b), each report filed under this title with such agency or office or with the Clerk or the Secretary of the Senate, except that—

(1) this section does not require public availability of a report filed by any individual in the Office of the Director of National Intelligence, the Central Intelligence Agency, the Defense Intelligence Agency, the National Geospatial-Intelligence Agency, or the National Security Agency, or any individual engaged in intelligence activities in any agency of the United States, if the President finds or has found that, due to the nature of the office or position occupied by such individual, public disclosure of such report would, [be revealing] *by revealing* the identity of the individual or other sensitive information, compromise the national interest of the United States; and such individuals may be authorized, notwithstanding section 104(a), to file such additional reports as are necessary to protect their identity from public disclosure if the President first finds or has found that such filing is necessary in the national interest; and

(2) any report filed by an independent counsel whose identity has not been disclosed by the division of the court under chapter 40 of title 28, United States Code, and any report filed by any person appointed by that independent counsel under such chapter, shall not be made available to the public under this title.

(b)(1) Except as provided in the second sentence of this subsection, each agency, each supervising ethics office in the executive or judicial branch, the Clerk of the House of Representatives, and

the Secretary of the Senate shall, within thirty days after any report is received under this title by such agency or office or by the Clerk or the Secretary of the Senate, as the case may [be,,] *be*, permit inspection of such report by or furnish a copy of such report to any person requesting such inspection or copy. With respect to any report required to be filed by May 15 of any year, such report shall be made available for public inspection within 30 calendar days after May 15 of such year or within 30 days of the date of filing of such a report for which an extension is granted pursuant to section 101(g). The agency, office, Clerk, or Secretary of the Senate, as the case [may be may] *may be, may* require a reasonable fee to be paid in any amount which is found necessary to recover the cost of reproduction or mailing of such report excluding any salary of any employee involved in such reproduction or mailing. A copy of such report may be furnished without charge or at a reduced charge if it is determined that waiver or reduction of the fee is in the public interest.

(2) Notwithstanding paragraph (1), a report may not be made available under this section to any person nor may any copy thereof be provided under this section to any person except upon a written application by such person stating—

- (A) that person's name, occupation and address;
- (B) the name and address of any other person or organization on whose behalf the inspection or copy is requested; and
- (C) that such person is aware of the prohibitions on the obtaining or use of the report.

Any such application shall be made available to the public throughout the period during which the report is made available to the public.

(3)(A) This section does not require the immediate and unconditional availability of reports filed by an individual [described in section 109(8) or 109(10) of this Act] *who is a judicial officer or a judicial employee* if a finding is made by the Judicial Conference, in consultation with United States Marshals Service, that revealing personal and sensitive information could endanger that individual or a family member of that individual.

(B) A report may be redacted pursuant to this paragraph only—

- (i) to the extent necessary to protect the individual who filed the report or a family member of that individual; and
- (ii) for as long as the danger to such individual exists.

(C) The Administrative Office of the United States Courts shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate and the Senate Committee on Homeland Security and Governmental Affairs and the House Committee on Oversight and Government Reform an annual report with respect to the operation of this paragraph including—

- (i) the total number of reports redacted pursuant to this paragraph;
- (ii) the total number of individuals whose reports have been redacted pursuant to this paragraph;
- (iii) the types of threats against individuals whose reports are redacted, if appropriate;
- (iv) the nature or type of information redacted;

(v) what steps or procedures are in place to ensure that sufficient information is available to litigants to determine if there is a conflict of interest;

(vi) principles used to guide implementation of redaction authority; and

(vii) any public complaints received relating to redaction.

(D) The Judicial Conference, in consultation with the Department of Justice, shall issue regulations setting forth the circumstances under which redaction is appropriate under this paragraph and the procedures for redaction.

(E) This paragraph shall expire on December 31, 2027, and apply to filings through calendar year 2027.

(c) *ONLINE PUBLICATION OF FINANCIAL DISCLOSURE REPORTS OF JUDICIAL OFFICERS.*—

(1) *ESTABLISHMENT OF DATABASE.*—*Not later than 180 days after the date of enactment of the Courthouse Ethics and Transparency Act, the Administrative Office of the United States Courts shall establish a searchable internet database to enable public access to any report required to be filed by a judicial officer under this title.*

(2) *AVAILABILITY.*—*Not later than 90 days after the date on which a report is required to be filed under this title by a judicial officer, the Administrative Office of the United States Courts shall make the report available on the database established under paragraph (1) in a full-text searchable, sortable, and downloadable format for access by the public.*

(3) *REDACTION.*—*Any report made available on the database established under paragraph (1) shall not contain any information that is redacted in accordance with subsection (b)(3).*

[(c)] (d)(1) It shall be unlawful for any person to obtain or use a report—

(A) for any unlawful purpose;

(B) for any commercial purpose, other than by news and communications media for dissemination to the general public;

(C) for determining or establishing the credit rating of any individual; or

(D) for use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose.

(2) The Attorney General may bring a civil action against any person who obtains or uses a report for any purpose prohibited in paragraph (1) of this subsection. The court in which such action is brought may assess against such person a penalty in any amount not to exceed \$10,000. Such remedy shall be in addition to any other remedy available under statutory or common law.

[(d)] (e)(1) Any report filed with or transmitted to an agency or supervising ethics office or to the Clerk of the House of Representatives or the Secretary of the Senate pursuant to this title shall be retained by such agency or office or by the Clerk of the House of Representatives or the Secretary of the Senate, as the case may be.

(2) Such report shall be made available to the public—

(A) in the case of a Member of Congress until a date that is 6 years from the date the individual ceases to be a Member of Congress; and

(B) in the case of all other reports filed pursuant to this title, for a period of 6 years after receipt of the report.

(3) After the relevant time period identified under paragraph (2), the report shall be destroyed unless needed in an ongoing investigation, except that in the case of an individual who filed the report pursuant to section 101(b) and was not subsequently confirmed by the Senate, or who filed the report pursuant to section 101(c) and was not subsequently elected, such reports shall be destroyed 1 year after the individual either is no longer under consideration by the Senate or is no longer a candidate for nomination or election to the Office of President, Vice President, or as a Member of Congress, unless needed in an ongoing investigation or inquiry.

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CONFIDENTIAL REPORTS AND OTHER ADDITIONAL REQUIREMENTS

SEC. 107. (a)(1) Each supervising ethics office may require officers and employees under its jurisdiction (including special Government employees as defined in section 202 of title 18, United States Code) to file confidential financial disclosure reports, in such form as the supervising ethics office may prescribe. The information required to be reported under this subsection by the officers and employees of any department or agency shall be set forth in rules or regulations prescribed by the supervising ethics office, and may be less extensive than otherwise required by this title, or more extensive when determined by the supervising ethics office to be necessary and appropriate in light of sections 202 through 209 of title 18, United States Code, regulations promulgated thereunder, or the authorized activities of such officers or employees. Any individual required to file a report pursuant to section 101 shall not be required to file a confidential report pursuant to this subsection, except with respect to information which is more extensive than information otherwise required by this title. Subsections (a), (b), [and (d)] and (e) of section 105 shall not apply with respect to any such report.

(2) Any information required to be provided by an individual under this subsection shall be confidential and shall not be disclosed to the public.

(3) Nothing in this subsection exempts any individual otherwise covered by the requirement to file a public financial disclosure report under this title from such requirement.

(b) The provisions of this title requiring the reporting of information shall supersede any general requirement under any other provision of law or regulation with respect to the reporting of information required for purposes of preventing conflicts of interest or apparent conflicts of interest. Such provisions of this title shall not supersede the requirements of section 7342 of title 5, United States Code.

(c) Nothing in this Act requiring reporting of information shall be deemed to authorize the receipt of income, gifts, or reimbursements; the holding of assets, liabilities, or positions; or the partici-

pation in transactions that are prohibited by law, Executive order,
rule, or regulation.

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