



## 21<sup>st</sup> Century Courts Act Fact Sheet

### Background

Introduced on Feb. 28, 2020, the **21<sup>st</sup> Century Courts Act** (H.R. 6017) seeks reform in five primary areas that the federal judiciary has been unwilling to address: it provides for a long overdue code of conduct for Supreme Court justices, public explanations for judicial recusals, online access to judicial financial disclosures, increased broadcast access to the Supreme Court and other appeals courts, and free access to PACER.

### Provisions of the Bill

#### *Section 2*

**Supreme Court code of conduct:** the bill requires the Supreme Court to write and publish a formal code of conduct for itself. The Judiciary ROOM Act of 2018 and other recent bills compelled the Judicial Conference of the United States to complete this task, but this bill removes the constitutional concern of lower court judges telling justices how to act. Famously, the Supreme Court is the only Article III court not subject to any code of conduct.

#### *Section 3*

**Recusal explanations:** the bill requires a brief written explanation for conflict-based disqualifications at the Supreme Court and lower court level, modeled after the recusal guidelines already prescribed by federal law (28 U.S.C. §455). When personal privacy is implicated, an explanation would not be required.

#### *Section 4*

**Online financial disclosures:** the bill requires the judiciary to publish the disclosure reports it collects each year from federal judges and justices online within 90 days of the submission deadline. Under the current process, it can take many months if not years for the press and public to obtain even a subsection of the reports, neutering their accountability function. The bill maintains privacy-based redactions.

#### *Section 5*

**Live audio of appellate oral argument:** the bill requires same-day audio for Supreme Court arguments and opinion announcements within one year and live audio within two. It would also require live audio of circuit court arguments: en banc panels within one year; all panels within two. Four circuits already permit live audio to varying degrees, and this would ensure that in the future all federal appeals courts grant the same basic broadcast access.

#### *Section 6*

**Case management system modernization:** the bill requires the judiciary to streamline and standardize the case management and filing system (CM/ECF) across the federal judiciary within two years. To pay for the creation and maintenance of a new PACER system – which would be free of charge for the vast majority of users, per Section 7 – the judiciary would collect fees four ways, three of which are described here: a modest increase in *non-in forma pauperis* filing fees; a modest bankruptcy filing fee increase; and by charging so-called “power users,” i.e., commercial entities currently paying PACER fees of more than \$25,000 per quarter, a fee to access the data.

#### *Section 7*

**Public access to PACER:** the bill requires the new PACER system to be free to the public, secure and accessible, and it describes one final way in which the judiciary would collect revenue for the move to a cost-free model: an annual fee paid by the U.S. Department of Justice to access the system based on the agency’s current PACER usage.