



The Judicial Conference Might Oppose the Courthouse Ethics and Transparency Act.

Here's Why They Shouldn't:

There's no compelling reason the judiciary wasn't included in the STOCK Act to begin with.

The STOCK Act — which requires federal lawmakers and top executive branch officials to publicize securities transactions within 45 days and directs the first two branches to post their annual financial disclosure reports online — was enacted largely in response to a 2011 “60 Minutes” story that found some members of Congress were trading stocks based on confidential knowledge they received in briefings. No judges were mentioned in the piece, and swift enactment of the law left them out. When Fix the Court asked one of the bill's lead Senate staffers last year about this omission he responded: “I wasn't thinking of it. And nobody with whom I was working raised it. It sounds stupid now, but we weren't focused on judges.” This bill fixes that oversight.

Judicial stock reports are not only not burdensome, they're prospective, as are the online disclosures requirements.

Nothing in the Courthouse Ethics and Transparency Act requires judges to file periodic transaction reports (PTRs) for securities transactions that happened a month, a year or a decade ago. All PTRs would be prospective, as they were for members of Congress and the executive branch when the original STOCK Act was enacted. Similarly, the judiciary is not being asked to post judges' financial disclosure reports from 2020, 2019 or earlier online. The first batch of judges' disclosures this would impact are the 2021s, which are due on May 15, 2022, and per this bill should be posted online no later than Aug. 13, 2022.

Judicial disclosures are already in text-searchable and downloaded PDF format, easing the transition to online posting.

For decades, the judiciary's Financial Disclosure Office would only distribute annual disclosure reports to the public by paper. Four years ago, they switched distributing reports on thumb drives as TIFF files, and in Sept. 2020, the Judicial Conference ([p. 25](#)) “authorized the release to the public of the 2019 [financial disclosure] reports [...] and future reports in Portable Document Format (PDF).” [Reports released](#) this year bear that out.

When it comes to judges' financial disclosure reports, 90 days is really 224 days.

The bill states that the Administrative Office of the United States Courts AO must post federal judges' annual financial disclosure reports online within 90 days of the statutory May 15 reporting deadline, or Aug. 13. That is more than enough time to complete this task. Even so, there's no reason that the work to fill out, collect and, if needed, redact, the required disclosure information couldn't begin on Jan. 1, or 224 days before the posting date, given that the information in judges' disclosures covers an annual period that ends on Dec. 31. It's true there's a time element to the redaction process: redactions aren't automatic, as a judge must request that certain information, like the location of an income property or details of a child's college fund, be blacked out, and then the judges who comprise the Judicial Conference's Committee on Financial Disclosure make that call, often in consultation with the U.S. Marshals Service. And yet, 224 days is plenty of time to carry out these routine duties.

The bill does not impact existing judicial safety and confidentiality rules.

Per the Ethics in Government Act, which this bill amends, the “immediate and unconditional availability” of a judge's disclosure is not required “if a finding is made by the Judicial Conference [...] that revealing personal and sensitive information could endanger that individual or a family member.” Further, and what happens far more often in practice, is that discrete details in a judge's disclosure “may be redacted” in order to “protect the individual who filed the report or a family member of that individual.” The Courthouse Ethics and Transparency Act keeps this provision in place.

Congress has the responsibility and the authority to ensure the judiciary operates free from financial conflicts.

Per the *Wall Street Journal's* Sept. 28 investigation, the judiciary has clearly failed to police itself, and regardless, it is entirely within the constitutional purview of the legislature to organize and amend the rules of the judiciary's administration as it sees fit. Ensuring the third branch is transparent when it comes to financial conflicts is a legitimate public interest that Congress has a responsibility to protect, and that means enacting legislation to ensure that judges will approach their work independently and free from financial corruption.