

September 23, 2022

Dear Speaker Pelosi, Leader Hoyer, Chairman Nadler and Chairman Johnson:

We write to strongly endorse the Supreme Court Ethics, Recusal and Transparency Act (H.R. 7647),¹ which will raise the standards of transparency and accountability in the federal judiciary without undermining its independence, and to advocate for its passage in the coming week. These fixes are long overdue, and we are pleased to see Congress step in where the third branch has demurred.

This bill is premised on the principle of parity. If lower courts have a formal code of conduct,² so too should the Supreme Court; if circuit courts can strike an amicus brief from the docket to avoid an appearance of impropriety,³ the Supreme Court should also have that authority; and if members of the House⁴ and Senate⁵ must file a public report within a month of returning from a free or reimbursed trip, so too should members of the judicial branch. These provisions are a blueprint for preventing corruption and promoting integrity.

Another way to build trust in the judiciary at this critical juncture is to better understand and account for judges and justices' potential conflicts of interest, which this bill also accomplishes. If a judge or justice accepts a gift from an individual or an organization, he or she should not participate in a case involving their benefactor for a few years, given the perception of bias such a gift imputes. When judges and justices do recuse, it's reasonable to require a few-word explanation of why disqualification is required. That way, our jurists will be more attuned to potential conflicts, recusal decision-making can be made more consistent, and the public can better evaluate whether participation is appropriate. And the bill sensibly ensures that when a recusal motion is filed, it will be considered by a neutral panel of judicial colleagues.

Given the explosion of "friend of the court," or amicus curiae, briefs both in the Supreme Court⁶ and the circuits, we applaud the provisions that will give the public get a better sense of who is funding these efforts. We know from recent reports⁷ that although judiciary guidelines state a single organization may only file one brief per case, many groups are circumventing these rules by funding third parties to file briefs that make similar arguments — thereby providing an artificial boost to their side. Requiring more disclosure around amicus funding is an unobtrusive step that will help illuminate who's trying to influence our judges and justices.

Finally, the bill will have a negligible impact on the budget. The Congressional Budget Office on Sept. 19 said "establish[ing] disclosure requirements for gifts, travel, and income received by justices and clerks [...] would cost about \$1 million" over five years.⁸ Adding the auditing provisions, the total cost is estimated to be \$5 million from 2022 to 2027.

Officials in all three branches of government must be held to the highest standards of integrity. The Supreme Court Ethics, Recusal and Transparency Act will finally bring these standards to the third branch. For that, we applaud your efforts, and we encourage passage of the bill in short order.

Sincerely,

Alliance for Justice

Campaign for Accountability

Citizens for Responsibility and Ethics
in Washington (CREW)

Common Cause

Demand Progress

Digital Democracy Project

Fix Democracy First

Fix the Court

Free Law Project

Government Accountability Project

Government Information Watch

Project On Government Oversight

Wisconsin Democracy Campaign

Wisconsin Fair Maps Coalition

¹ The House Judiciary Committee voted to advance H.R. 7647 on May 11, 2022. A link to the bill text is [here](#).

² The Code of Conduct for United States Judges is available at this [link](#).

³ See "Committee Note — 2018 Amendment" at end of Federal Rules of Appellate Procedure, Rule 29.2 ([link](#)).

⁴ The searchable database for representatives' travel disclosures is available at this [link](#).

⁵ The searchable database for senators' travel disclosures is available at this [link](#).

⁶ See Anthony J. Franze and R. Reeves Anderson, "Amicus Curiae at the Supreme Court: Last Term and the Decade in Review," *National Law Journal*, Oct. 20, 2020 ([link](#)): "Over ten terms [2010-2020], amici cumulatively filed more than 8,000 briefs, participated in 96 percent of all argued cases, and were cited by the justices in more than half of their rulings."

⁷ See Jess Bravin, "Amicus Briefs Inundate Supreme Court," *Wall Street Journal*, Mar. 6, 2021 ([link](#)).

⁸ See "Cost Estimate, H.R. 7647, Supreme Court Ethics, Recusal, and Transparency Act of 2022," Congressional Budget Office, Sept. 19, 2022 ([link](#)).