

117TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

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

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IN THE HOUSE OF REPRESENTATIVES

M\_\_\_\_ introduced the following bill; which was referred to the  
Committee on \_\_\_\_\_

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**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”.

6 **SEC. 2. PROTECTING EMPLOYEES OF THE FEDERAL JUDI-**  
7 **CIARY FROM DISCRIMINATION.**

8 (a) IN GENERAL.—Chapter 57 of title 28, United  
9 States Code, is amended by adding at the end the fol-  
10 lowing:

1 **“§ 964. Protecting employees of the federal judiciary**  
2 **from discrimination**

3 “(a) DISCRIMINATORY PRACTICES PROHIBITED.—All  
4 personnel actions (as such term is defined in section  
5 2302(a)(2) of title 5) affecting covered employees (as such  
6 term is defined in section 9 of the Judiciary Accountability  
7 Act of 2021) shall be made free from any discrimination  
8 based on—

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

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

16 “(3) disability, within the meaning of section  
17 501 of the Rehabilitation Act of 1973 (29 U.S.C.  
18 791) and sections 102 through 104 of the Americans  
19 with Disabilities Act of 1990 (42 U.S.C. 12112–  
20 12114); or

21 “(b) REMEDY.—

22 “(1) CIVIL RIGHTS.—The remedy for a viola-  
23 tion of subsection (a)(1) shall be—

24 “(A) such remedy as would be appropriate  
25 if awarded under section 706(g) of the Civil

1 Rights Act of 1964 (42 U.S.C. 2000e–5(g));  
2 and

3 “(B) such compensatory damages as would  
4 be appropriate if awarded under section 1977  
5 of the Revised Statutes (42 U.S.C. 1981), or as  
6 would be appropriate if awarded under sections  
7 1977A(a)(1), 1977A(b)(2), and, irrespective of  
8 the size of the employing office,  
9 1977A(b)(3)(D) of the Revised Statutes (42  
10 U.S.C. 1981a(a)(1), 1981a(b)(2), and  
11 1981a(b)(3)(D)).

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

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

18 “(B) such liquidated damages as would be  
19 appropriate if awarded under section 7(b) of  
20 such Act (29 U.S.C. 626(b)).

21 In addition, the waiver provisions of section 7(f) of  
22 such Act (29 U.S.C. 626(f)) shall apply to covered  
23 employees.

24 “(3) DISABILITIES DISCRIMINATION.—The rem-  
25 edy for a violation of subsection (a)(3) shall be—

1 “(A) such remedy as would be appropriate  
2 if awarded under section 505(a)(1) of the Reha-  
3 bilitation Act of 1973 (29 U.S.C. 794a(a)(1))  
4 or section 107(a) of the Americans with Dis-  
5 abilities Act of 1990 (42 U.S.C. 12117(a)); and

6 “(B) such compensatory damages as would  
7 be appropriate if awarded under sections  
8 1977A(a)(2), 1977A(a)(3), 1977A(b)(2), and,  
9 irrespective of the size of the employing office,  
10 1977A(b)(3)(D) of the Revised Statutes (42  
11 U.S.C. 1981a(a)(2), 1981a(a)(3), 1981a(b)(2),  
12 and 1981a(b)(3)(D)).

13 “(c) REPORT.—On an annual basis, each judicial  
14 council shall submit to Congress a report that includes for  
15 the previous year, hiring statistics for the circuit, each  
16 court of the United States, each federal defender organiza-  
17 tion, each other judicial branch agency, and position.”.

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

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

21 **SEC. 3. PROTECTING WHISTLEBLOWERS IN THE FEDERAL**  
22 **JUDICIARY FROM RETALIATION.**

23 (a) IN GENERAL.—Chapter 57, of title 28, United  
24 States Code, as amended by this Act, is further amended  
25 by adding at the end the following:

1 **“§ 965. Protecting whistleblowers from retaliation**

2       “(a) IN GENERAL.—No justice, judge, covered em-  
3 ployee, or contractor or subcontractor with the Judicial  
4 Branch, may discharge, demote, threaten, suspend, har-  
5 ass, or in any other manner discriminate against a covered  
6 employee (as such term is defined in section 964) in the  
7 terms and conditions of employment because of any lawful  
8 act done by the employee or perceived to have been done  
9 by the employee to provide information, cause information  
10 to be provided, or otherwise assist in an investigation re-  
11 garding any possible violation of Federal law or regulation,  
12 or misconduct, by a justice, judge, contractor or subcon-  
13 tractor with Judicial Branch, or covered employee, includ-  
14 ing any lawful act related to the process described in chap-  
15 ter 16 (whether a formal or informal act), as well as for  
16 perceived assistance to the employee or association with  
17 the employee.

18       “(b) REMEDY.—The remedy available for a violation  
19 of subsection (a) shall be such legal or equitable remedy  
20 as may be necessary to eliminate the direct and indirect  
21 effects of a violation of subsection (a).

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

1 “(d) VENUE.—Notwithstanding section 1391, an ac-  
2 tion under this section may be filed in any United States  
3 district court.”.

4 **SEC. 4. ESTABLISHMENT OF THE COMMISSION ON JUDI-**  
5 **CIAL INTEGRITY.**

6 (a) COMMISSION.—There is established in the judicial  
7 branch of the Government a Commission on Judicial In-  
8 tegrity (in this chapter referred to as the “Commission”).

9 (b) MEMBERSHIP.—The membership of the Commis-  
10 sion consists of the following 16 members:

11 (1) PRESIDENTIAL APPOINTMENT.—The fol-  
12 lowing 3 members appointed by the President:

13 (A) A Chair selected from a list of not  
14 more than 3 candidates recommended by the  
15 concurrence of the Council of the Inspectors  
16 General on Integrity and Efficiency.

17 (B) A Vice Chair selected from a list of  
18 not more than 3 candidates recommended by  
19 the Equal Employment Opportunity Commis-  
20 sion.

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

24 (2) EXPERT REPRESENTATION.—The following  
25 7 members selected by a recorded vote (which shall

1 be made available on [uscourts.gov](https://uscourts.gov), along with the  
2 transcript of the proceedings and any additional  
3 statements by individual members of the Judicial  
4 Conference) of the Judicial Conference of the United  
5 States after consultation with the majority and mi-  
6 nority leaders of the Senate, the Speaker and minor-  
7 ity leader of the House of Representatives, the  
8 Council of the Inspectors General on Integrity and  
9 Efficiency, the Equal Employment Opportunity  
10 Commission, and the Commission on Civil Rights:

11 (A) 2 members with substantial experience  
12 in alternative dispute resolution regarding  
13 workplace misconduct.

14 (B) 2 members with substantial experience  
15 in enforcing and investigating civil rights laws  
16 against workplace discrimination, including one  
17 member with experience representing employ-  
18 ees.

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

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

1 (E) 1 member with experience providing li-  
2 censed counseling and other support for victims  
3 of harassment, sexual assault, discrimination,  
4 or retaliation.

5 (3) JUDICIAL REPRESENTATION.—2 Federal  
6 judges selected by the members set forth in para-  
7 graphs (1) and (2) from a list of 6 judges rec-  
8 ommended by a recorded vote of the Judicial Con-  
9 ference, who—

10 (A) do not serve in the same judicial dis-  
11 trict or circuit; and

12 (B) have not been found to have engaged  
13 in judicial misconduct, including workplace mis-  
14 conduct.

15 (4) EMPLOYEE REPRESENTATION.—The fol-  
16 lowing 4 members selected by the Chair and Vice  
17 Chairs:

18 (A) 2 current employees of the judicial  
19 branch who—

20 (i) do not serve in the same court, cir-  
21 cuit, agency, or office;

22 (ii) have been employed by the judicial  
23 branch for at least 5 years; and

24 (iii) do not serve in senior executive  
25 positions.



1 (B) 2 members who have completed a judi-  
2 cial clerkship within the 4 years immediately  
3 preceding such selection.

4 (c) BASIS FOR SELECTION.—

5 (1) IN GENERAL.—The members shall be se-  
6 lected solely on the basis of integrity and dem-  
7 onstrated ability in their respective fields. Members  
8 shall have training or experience in the application  
9 of the rights, protections, procedures, and remedies,  
10 or their equivalents under State or Federal law,  
11 made applicable under this Act.

12 (2) LIMITATIONS.—Except as provided above,  
13 no member may be—

14 (A) a current officer or employee of the  
15 Judicial Branch;

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

19 (C) a current officer or employee of the  
20 Legislative or Executive Branches.

21 (d) TERMS OF OFFICE.—

22 (1) IN GENERAL.—The members shall serve for  
23 4 years terms, except that the first members shall  
24 be staggered so that—

1 (A) The Chair and one Vice Chair des-  
2 ignated by the President, serve terms of 5  
3 years;

4 (B) 3 members appointed under subsection  
5 (g)(2) designated by the Judicial Conference  
6 serve terms of 5 years;

7 (C) 1 member appointed under subsection  
8 (g)(3) designated by the Chair and Vice Chairs  
9 serves a term of 5 years;

10 (D) 1 member appointed under subsection  
11 (g)(4) designated by the Chair and Vice Chairs  
12 serves a term of 5 years; and

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

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

19 (e) REMOVAL.—A member may be removed from of-  
20 fice by a majority vote, made on the record in an open  
21 meeting, of the Judicial Conference of the United States,  
22 with each vote recorded and accompanied by a statement  
23 explaining the reason for said vote, subject to the fol-  
24 lowing:

1           (1) The removal of a member may only be initi-  
2           ated in the event of permanent incapacity, ineffi-  
3           ciency, neglect of duty, or malfeasance.

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

8           (f) DUTIES.—The Commission shall oversee a work-  
9           place misconduct prevention program that is consistent  
10          with prevailing best practices and that includes—

11          (1) a comprehensive workplace misconduct pol-  
12          icy;

13          (2) a nationwide confidential reporting system  
14          that is readily accessible to current and former Judi-  
15          cial Branch employees, law schools, and other poten-  
16          tial complainants, including those who may interact  
17          with judges and senior executives in professional set-  
18          tings outside the Judicial Branch;

19          (3) a comprehensive training program on work-  
20          place behavior and bystander intervention;

21          (4) metrics for misconduct response and pre-  
22          vention in supervisory employees' performance re-  
23          views;

1           (5) a system for independently investigating re-  
2       ports of misconduct that ensures such investigations  
3       are comprehensive, timely, effective, and trusted;

4           (6) imposition of prompt, consistent, and pro-  
5       portionate disciplinary and corrective action if mis-  
6       conduct is determined to have concurred;

7           (7) anonymized reports of aggregate formal and  
8       informal complaints of misconduct received and re-  
9       sponsive actions taken, that shall be made publicly  
10      available and issued no less frequently than annu-  
11      ally;

12          (8) annual reports that shall be made publicly  
13      available of the number of individuals who were  
14      interviewed for full-time positions, including judicial  
15      clerkships, with a court of the United States, an of-  
16      fice or agency described in Chapter 15 or Part III  
17      of this title, or a defender organization described in  
18      section 3006A(g) of title 18, United States Code,  
19      and who were hired for such positions, disaggregated  
20      by circuit and judicial branch agency, by sex (includ-  
21      ing by sexual orientation and gender identity), by  
22      disability (as defined by the Americans with Disabil-  
23      ities Act), by religion, and by the ethnic and the ra-  
24      cial categories in the 2010 decennial census (or simi-  
25      lar categories), with year-to-year trends of the most

1 recent 10 years for which data are available, to the  
2 extent practicable;

3 (9) biennial workplace climate assessments that  
4 include both surveys of current and former employ-  
5 ees and interviews and focus groups of randomly se-  
6 lected current and former employees, the results of  
7 which shall be made publicly available;

8 (10) annual audits of the efficacy of the such  
9 misconduct prevention program; and

10 (11) ensure that the elements of such program  
11 are easy to understand, easy to access and use, and  
12 are regularly communicated to all employees.

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

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

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

20 (3) supervise the Office of Employee Advocacy  
21 established under section 7 and select the Chief  
22 Counsel for Employee Advocacy pursuant to such  
23 section;

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

1 (A) preserve the integrity of the Commis-  
2 sion and the offices and programs established in  
3 this Act;

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

7 (C) guarantee procedural rights to individ-  
8 uals during investigations and dispute resolu-  
9 tion proceedings under this Act;

10 (5) no less than every 4 years, recommend to  
11 the Judicial Conference, after notice and opportunity  
12 for comment, revisions to the Judicial Conduct and  
13 Disability Rules, the Code of Conduct for Judiciary  
14 Employees, the Code of Conduct for Federal Public  
15 Defender Employees, and the Code of Conduct for  
16 United States Judges;

17 (6) ensure that the Judicial Conference, Con-  
18 gress, and the public are kept informed of the work  
19 of the Commission, the workplace climate and cul-  
20 ture in the Judicial Branch, including the incidence  
21 of workplace misconduct; and the efficacy of the  
22 misconduct prevention program overseen by the  
23 Commission;

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

4           (8) appoint and fix the salary and duties of the  
5       Staff Director, who shall serve at the discretion of  
6       the Commission and who shall be compensated at a  
7       rate not to exceed the highest rate now or hereafter  
8       prescribed for level 6 of the Senior Executive Service  
9       Schedule (5 U.S.C. 5382);

10          (9) retain private attorneys (who, when serving  
11       as officers or employees of the United States, shall  
12       be considered special government employees as de-  
13       fined in section 202(a) of title 18, United States  
14       Code) to provide legal advice to the Commission in  
15       the conduct of its work, or to appear for or rep-  
16       resent the Commission in any case in which the  
17       Commission is authorized by law to represent itself;  
18       and

19          (10) in its discretion, pay reasonable attorney's  
20       fees to private attorneys employed by the Commis-  
21       sion out of amounts appropriated to the Commission  
22       .

23       (h) DIRECTOR AND STAFF.—

24           (1) DIRECTOR.—The Staff Director shall super-  
25       vise the activities of persons employed by the Com-

1 mission and perform other duties assigned to the  
2 Staff Director by the Commission.

3 (2) STAFF.—The Staff Director shall, subject  
4 to the approval of the Commission, appoint such of-  
5 ficers and employees as are necessary in the execu-  
6 tion of the functions of the Commission. The officers  
7 and employees of the Commission shall be exempt  
8 from the provisions of part III of title 5, except the  
9 following: chapters 45 (Incentive Awards), 63  
10 (Leave), 81 (Compensation for Work Injuries), 83  
11 (Retirement), 85 (Unemployment Compensation), 87  
12 (Life Insurance), and 89 (Health Insurance), and  
13 subchapter VI of chapter 55 (Payment for accumu-  
14 lated and accrued leave).

15 (i) COMPENSATION.—

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

21 (2) PER DIEM.—

22 (A) RATE OF COMPENSATION FOR EACH  
23 DAY.—Each other member of the Commission  
24 shall be compensated, for each day (including  
25 travel time) during which such member is en-



1 gaged in the performance of the duties of the  
2 Commission, at the daily rate at which judges  
3 of the United States courts of appeals are com-  
4 pensated..

5 (B) AUTHORITY TO PRORATE.—The rate  
6 of pay of a member may be prorated based on  
7 the portion of the day during which the member  
8 is engaged in the performance of Commission  
9 duties.

10 (2) TRAVEL EXPENSES.—Each member of the  
11 Commission shall receive travel expenses, including  
12 per diem in lieu of subsistence, at rates authorized  
13 for employees of agencies under subchapter I of  
14 chapter 57 of Title 5, for each day the member is  
15 engaged in the performance of duties away from the  
16 home or regular place of business of the member.

17 (j) GAO AUDIT.—Not later than the end of the 180-  
18 day period beginning on the date of the enactment of this  
19 Act, and annually thereafter, the Comptroller General of  
20 the United States shall conduct a study of the manage-  
21 ment, governance structure, and independence of the Com-  
22 mission.

1 **SEC. 5. OFFICE OF JUDICIAL INTEGRITY.**

2 (a) ESTABLISHMENT.—There is established for the  
3 judicial branch of the Government the Office of Judicial  
4 Integrity (in this section referred to as the “OJI”).

5 (b) APPOINTMENT, TERM, AND REMOVAL OF JUDI-  
6 CIAL INTEGRITY OFFICER.—

7 (1) APPOINTMENT.—The head of the OJI shall  
8 be the Judicial Integrity Officer, who shall be ap-  
9 pointed by the Commission after consultation with  
10 the Judicial Conference of the United States.

11 (2) QUALIFICATIONS.—The Judicial Integrity  
12 Officer shall by demonstrated ability, background,  
13 training, or experience, be qualified to carry out the  
14 functions of the position.

15 (3) TERM.—The Judicial Integrity Officer shall  
16 serve for a term of 4 years, and may be reappointed  
17 by the Commission, after notice and opportunity to  
18 comment and consultation by the Judicial Con-  
19 ference of the United States, for an additional term.

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

24 (A) The removal of the Judicial Integrity  
25 Officer may only be initiated in the event of

1 permanent incapacity, inefficiency, neglect of  
2 duty, or malfeasance.

3 (B) The Judicial Conference shall commu-  
4 nicate the reasons for any such removal to both  
5 Houses of Congress and the Commission not  
6 later than 14 days after removal.

7 (c) STAFFING.—

8 (1) IN GENERAL.—The Judicial Integrity Offi-  
9 cer shall, after consultation with the Commission,  
10 develop a staffing plan which shall include at min-  
11 imum—

12 (A) 6 deputies;

13 (B) Directors of Workplace Relations for  
14 each circuit; the Court of International Trade;  
15 the Court of Federal Claims; the Federal Public  
16 defender organizations of each state described  
17 in section 3006A(g) of title 18, United States  
18 Code, and every other judicial branch agency;  
19 and

20 (C) at least two employee dispute resolu-  
21 tion coordinators for each judicial district and  
22 court of appeals, the Court of International  
23 Trade, and the Court of Federal Claims, as well  
24 as employee dispute resolution coordinators for  
25 every other judicial branch agency.

1           (2) PUBLICATION OF QUALIFICATIONS.—The  
2       Commission shall develop and, after public notice  
3       and opportunity for comment, post the qualifications  
4       for the positions described in this subsection.

5       (d) DUTIES.—With respect to the judicial branch, the  
6       OJI shall, consistent with prevailing best practices:

7           (1) Administer the following elements of the  
8       workplace misconduct prevention program under sec-  
9       tion 4(f):

10           (A) The comprehensive workplace mis-  
11       conduct policy.

12           (B) The nationwide, confidential reporting  
13       system.

14           (C) In consultation with the Federal Judi-  
15       cial Center, the comprehensive training pro-  
16       gram on workplace behavior and bystander  
17       intervention.

18           (D) The development of metrics for mis-  
19       conduct response and prevention in supervisory  
20       employees' performance reviews.

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

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

1 (G) Regular public reporting of the num-  
2 ber of individuals who were interviewed for judi-  
3 cial clerkship positions and who were hired for  
4 such positions, disaggregated by circuit, by sex  
5 (including by sexual orientation and gender  
6 identity), by disability (as defined by the Amer-  
7 icas with Disabilities Act), by religion, and by  
8 the ethnic and the racial categories in the 2010  
9 decennial census (or similar categories).

10 (2) Provide employing offices of the judicial  
11 branch with confidential advice and counseling re-  
12 garding compliance with this Act (and the amend-  
13 ments made by this Act).

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

17 (4) Compile anonymized statistics on the use of  
18 the Commission, including the number and type of  
19 contacts made with the OJI, on the reason for such  
20 contacts, on the number of covered employees who  
21 initiated proceedings with the OJI under this section  
22 and the result of such proceedings, and on the num-  
23 ber of covered employees who filed a claim, the basis  
24 for the claim, and the action taken on the claim.

1 (e) POWERS.—In carrying out the duties of the Of-  
2 fice, the Judicial Integrity Officer shall have the power  
3 to—

4 (1) make investigations and reports;

5 (2) obtain information or assistance from any  
6 Federal, State, or local governmental agency, or  
7 other entity, or unit thereof, including all informa-  
8 tion kept in the course of business by the Judicial  
9 Conference of the United States, the judicial coun-  
10 cils of circuits, the Administrative Office of the  
11 United States Courts, the Federal Judicial Center,  
12 the United States Sentencing Commission, and a de-  
13 fender organization described in section 3006A(g) of  
14 title 18, United States Code;

15 (3) employ such officers and employees, subject  
16 to the provisions of title 5, governing appointments  
17 in the competitive service, and the provisions of  
18 chapter 51 and subchapter III of chapter 53 of such  
19 title relating to classification and General Schedule  
20 pay rates;

21 (4) obtain services as authorized by section  
22 3109 of title 5 at daily rates not to exceed the equiv-  
23 alent rate for a position at level IV of the Executive  
24 Schedule under section 5315 of such title; and

1           (5) the extent and in such amounts as may be  
2       provided in advance by appropriations Acts, to enter  
3       into contracts and other arrangements for audits,  
4       studies, analyses, and other services with public  
5       agencies and with private persons, and to make such  
6       payments as may be necessary to carry out the du-  
7       ties of the Office.

8       (f) REPORTS.—

9           (1) WHEN TO BE MADE.—The Judicial Integ-  
10      rity Officer shall—

11           (A) make an annual report to the Commis-  
12      sion, the Judicial Conference, each judicial  
13      council, and to Congress relating to the activi-  
14      ties of the Office; and

15           (B) make prompt reports to the Commis-  
16      sion, the Judicial Conference, judicial councils  
17      of circuits, and to Congress on matters that  
18      may require action by the Judicial Conference,  
19      the judicial councils of circuits, or Congress.

20           (2) SENSITIVE MATTER.—If a report contains  
21      sensitive matter, the Judicial Integrity Officers may  
22      so indicate and the Commission may receive that re-  
23      port in closed session.

1 **SEC. 6. SPECIAL COUNSEL FOR EQUAL EMPLOYMENT OP-**  
2 **PORTUNITY.**

3 (a) ESTABLISHMENT.—There is established for the  
4 judicial branch of the Government the Office of Special  
5 Counsel for Equal Employment Opportunity (in this sec-  
6 tion referred to as the “Office”).

7 (b) APPOINTMENT AND TERM.—

8 (1) APPOINTMENT.—The head of the Office  
9 shall be the Special Counsel for Equal Employment  
10 Opportunity, who shall be appointed by the Commis-  
11 sion after consultation with the Judicial Conference  
12 of the United States and the Council of the Inspec-  
13 tors General on Integrity and Efficiency.

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

16 (c) QUALIFICATIONS.—The Special Counsel shall by  
17 demonstrated ability, background, training, or experience,  
18 be especially qualified to carry out the functions of the  
19 position, and shall not be a current or former officer or  
20 employee of the Judicial Branch.

21 (d) REMOVAL.—The Special Counsel may be removed  
22 from office by a majority vote of the Judicial Conference  
23 of the United States, with each vote recorded and accom-  
24 panied by a statement explaining the reason for said vote.



1           (1) The removal of the Special Counsel may  
2           only be initiated in the event of permanent inca-  
3           pacity, inefficiency, neglect of duty, or malfeasance.

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

8           (e) DUTIES.—With respect to the judicial branch, the  
9           Office shall—

10           (1) conduct investigations of alleged workplace  
11           misconduct in the judicial branch and any policies or  
12           procedures promulgated under this Act that may re-  
13           quire oversight or other action within the judicial  
14           branch or by Congress;

15           (2) conduct and supervise audits and investiga-  
16           tions regarding workplace misconduct and com-  
17           plaints;

18           (3) conduct investigations pursuant to section  
19           353 of title 28, United State Code;

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

22           (5) conduct biennial workplace climate assess-  
23           ments described in 2(f) in accordance with sub-  
24           section (f).

1 (f) WORKPLACE CULTURE ASSESSMENT OF EMPLOY-  
2 ING OFFICES.—

3 (1) REQUIREMENT TO CONDUCT ASSESS-  
4 MENT.—Not later than 90 days after the appoint of  
5 the first Special Counsel for Equal Employment Op-  
6 portunity under this section, and every year there-  
7 after, the Special Counsel for Equal Employment  
8 Opportunity shall conduct an assessment of the  
9 workplace culture of employing offices under this  
10 section. Such assessment shall be consistent with  
11 prevailing best practices and shall include the fol-  
12 lowing:

13 (A) Indicators of positive and negative  
14 trends for maintaining a safe, respectful, di-  
15 verse, and inclusive workplace.

16 (B) The specific types of misconduct that  
17 have occurred, and the incidence of such mis-  
18 conduct.

19 (C) The effectiveness of Judicial Branch  
20 policies designed to prevent and remedy work-  
21 place misconduct.

22 (D) The effectiveness of current processes  
23 for complaints on and investigations into work-  
24 place misconduct.

1 (E) Any other issues relating to workplace  
2 misconduct as the Commission considers appro-  
3 priate.

4 (F) A secure, confidential, and anonymous  
5 survey of current and former employees who  
6 have departed after the last such assessment.

7 (G) Focus groups and confidential indi-  
8 vidual interviews of randomly selected current  
9 and former employees.

10 (H) The first such assessment shall in-  
11 clude a survey of current and former employees  
12 from the last 10 years.

13 (2) CONSULTATION WITH COMMITTEES.—The  
14 Special Counsel shall carry out this section in con-  
15 sultation with the Committee on the Judiciary of the  
16 House of Representatives, the Committee on Over-  
17 sight and Reform of the House of Representatives,  
18 and the Committee on the Judiciary of the Senate.

19 (3) PUBLIC REPORT.—An anonymized report  
20 on the results of the assessment shall be made pub-  
21 licly available not later than 30 days after the com-  
22 pletion of the assessment.

23 (g) REPORT TO CONGRESS.—Upon the completion of  
24 any action under this section, the Special Counsel shall

1 submit to Congress a report containing the results of the  
2 such action.

3 (h) POWERS.—

4 (1) POWERS.—In carrying out the duties of the  
5 Office, the Special Counsel shall have the power to—

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

8 (B) obtain assistance from any Judicial  
9 Branch agency, including the Judicial Con-  
10 ference of the United States, the judicial coun-  
11 cils of circuits, the Administrative Office of the  
12 United States Courts, the Federal Judicial Cen-  
13 ter, the United States Sentencing Commission,  
14 and a defender organization;

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

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

24 (E) employ such officers and employees,  
25 subject to the provisions of title 5, United

1 States Code, governing appointments in the  
2 competitive service, and the provisions of chap-  
3 ter 51 and subchapter III of chapter 53 of such  
4 title relating to classification and General  
5 Schedule pay rates;

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

11 (G) the extent and in such amounts as  
12 may be provided in advance by appropriations  
13 Acts, to enter into contracts and other arrange-  
14 ments for audits, studies, analyses, and other  
15 services with public agencies and with private  
16 persons, and to make such payments as may be  
17 necessary to carry out the duties of the Office.

18 (2) LIMITATION.—The Special Counsel shall  
19 not have the authority to investigate or review any  
20 matter that is directly related to the merits of a de-  
21 cision or procedural ruling by any judge, justice, or  
22 court.

23 (i) REPORTS.—

24 (1) WHEN TO BE MADE.—The Special Counsel  
25 shall—

1 (A) make an annual report to the Commis-  
2 sion, the Judicial Conference, to each judicial  
3 council, and to Congress relating to the activi-  
4 ties of the Office;

5 (B) make prompt reports to the Commis-  
6 sion, the Judicial Conference, judicial councils  
7 of circuits, and to Congress on matters that  
8 may require action by Commission, the Judicial  
9 Conference, the judicial councils of circuits,  
10 Congress, or the Department of Justice; and

11 (C) make a biennial report to Congress.

12 (2) SENSITIVE MATTER.—If a report contains  
13 sensitive matter, the Special Counsel may so indicate  
14 and the Commission and Congress may receive that  
15 report in closed session.

16 **SEC. 7. OFFICE OF EMPLOYEE ADVOCACY.**

17 (a) ESTABLISHMENT.—There is established for the  
18 judicial branch of the Government the Office of Employee  
19 Advocacy (hereafter in this section referred to as the  
20 “OEA”).

21 (b) DIRECTOR OF EMPLOYEE ADVOCACY.—

22 (1) APPOINTMENT.—The head of the OEA  
23 shall be Director of Employee Advocacy, who shall  
24 be appointed by the Commission after consultation  
25 with the Judicial Conference of the United States,

1 the Equal Employment Opportunity Commission,  
2 and the U.S. Commission on Civil Rights.

3 (2) TERM.—The Director shall serve for a sin-  
4 gle term of 5 years.

5 (3) QUALIFICATIONS.—The Director shall by  
6 demonstrated ability, background, training, or expe-  
7 rience, be especially qualified to carry out the func-  
8 tions of the position.

9 (c) FUNCTIONS.—

10 (1) LEGAL ASSISTANCE, CONSULTATION, AND  
11 REPRESENTATION.—Subject to subsection (c), the  
12 OEA shall carry out the following functions:

13 (A) Receive complaints from any Judiciary  
14 Branch covered employee of workplace mis-  
15 conduct.

16 (B) Provide confidential support and infor-  
17 mation, including referrals to medical and men-  
18 tal health care.

19 (C) Provide legal assistance and consulta-  
20 tion to covered employees described in section  
21 7(c)(1)(A) under this Act and the Judicial Con-  
22 duct and Disability Act regarding the proce-  
23 dures of such Acts and the procedures applica-  
24 ble to civil actions arising under such Acts, in-  
25 cluding—

1 (i) the roles and responsibilities of the  
2 Commission, the Office of Judicial Integ-  
3 rity, the Special Counsel for Equal Em-  
4 ployment Opportunity, the judicial councils  
5 of circuits, circuit directors of workplace  
6 relations, EDR coordinators, and similar  
7 authorities;

8 (ii) any proceedings conducted under  
9 such Act;

10 (iii) the authority of the Special Coun-  
11 sel to compel cooperation and testimony  
12 under investigations and proceedings con-  
13 ducted under this Act; and

14 (iv) the employee's rights and duties  
15 relating to such proceedings.

16 (D) Provide legal assistance and represen-  
17 tation—

18 (i) in personal civil legal matters re-  
19 lated to the initiation of or participation in  
20 proceedings under this Act by a covered  
21 employee; and

22 (ii) in any proceedings under the  
23 chapter 16 of title 28, United States Code,  
24 or this Act, or before any other adminis-  
25 trative or judicial body related to the al-



1           leged violations of such Act which are the  
2           subject of the proceedings initiated by the  
3           covered employee, or the proceedings in  
4           which the covered employee participates.

5           (E) Operate a hotline through which cov-  
6           ered employees under such Act may contact the  
7           OEA.

8           (2) AUTHORITY TO PROVIDE ASSISTANCE IN  
9           ANY JURISDICTION.—Notwithstanding any law re-  
10          garding the licensure of attorneys, an attorney who  
11          is employed by the OEA and is authorized to provide  
12          legal assistance and representation under this sec-  
13          tion is authorized to provide that assistance and rep-  
14          resentation in any jurisdiction, subject to such regu-  
15          lations as may be prescribed by the OEA.

16          (3) NATURE OF RELATIONSHIP.—The relation-  
17          ship between the OEA and an employee to whom the  
18          OEA provides legal assistance, consultation, and  
19          representation under this section shall be the rela-  
20          tionship between an attorney and client.

21          (4) PROHIBITING ACCEPTANCE OF AWARD OF  
22          ATTORNEY FEES OR OTHER COSTS.—The OEA may  
23          not accept any award of attorney fees or other litiga-  
24          tion expenses and costs under any hearing or civil  
25          action brought under this Act.

1           (5) PROHIBITING ASSISTANCE IN OTHER MAT-  
2       TERS OR PROCEEDINGS.—The OEA may not provide  
3       any legal assistance, consultation, or representation  
4       with respect to any matter or proceeding which does  
5       not arise under this Act or the Judicial Conduct and  
6       Disability Act.

7   **SEC. 8. ACCOUNTABILITY FOR JUDICIAL MISCONDUCT.**

8       (a) ESTABLISHING DISCRIMINATION AND RETALIA-  
9       TION AS JUDICIAL MISCONDUCT.—Section 358 of title 28,  
10      United States Code, is amended—

11           (1) by replacing the text of subsection (a) with  
12      the following:

13           “(a) Each judicial council and the Judicial Con-  
14      ference shall prescribe rules for the conduct of proceedings  
15      under this chapter, including the processing of petitions  
16      for review that—

17           “(1) ensure the independence, integrity, impar-  
18      tiality, and competence of proceedings under this  
19      chapter;

20           “(2) ensure the greatest possible public con-  
21      fidence in proceedings under this chapter and main-  
22      tain public confidence in federal judiciary;

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

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

3           (2) in subsection (b)—

4                 (A) in paragraph (3) by inserting “(with  
5                 the right to be accompanied by counsel)” after  
6                 “appear”; and

7                 (B) by adding the following at the end:

8           “(4) providing that workplace misconduct (as  
9           defined in the Judiciary Accountability Act of 2021)  
10          constitutes a violation of this chapter, including con-  
11          duct prohibited under sections 964 and 965 of this  
12          title.”;

13          (3) in the first sentence of subsection (c), by re-  
14          placing “and” after “public notice” with a comma  
15          and adding at the end “, and written explanation in  
16          the Federal Register.”; and

17          (4) by adding the following after subsection (c):

18          “(d) The Chief Justice or, if applicable, the presiding  
19          officer of the judicial council, shall transmit to the Con-  
20          gress not later than 180 days before the date on which  
21          a rule prescribed under this section is to become effective  
22          a copy of the proposed rule. The rule shall take effect un-  
23          less otherwise provided by law.”.

24          (b) FILING AND IDENTIFYING COMPLAINTS.—Sec-  
25          tion 351 of title 28, United States Code, is amended—

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

6           (2) by adding at the end the following:

7           “(e) IDENTIFYING COMPLAINT BY JUDICIAL CON-  
8           FERENCE.—In the interests of the effective and expedi-  
9           tious administration of the business of the courts and on  
10          the basis of information available to the Judicial Con-  
11          ference, the Judicial Conference may, by written order  
12          stating reasons therefor, identify a complaint for purposes  
13          of this chapter and thereby dispense with filing of a writ-  
14          ten complaint. Upon identifying a complaint under this  
15          paragraph, the Judicial Conference shall refer the com-  
16          plaint in accordance with the transmittal procedures de-  
17          scribed in subsection (c).

18          “(f) SPECIAL RULE FOR EMPLOYEES FILING COM-  
19          PLAINTS.—

20                 “(1) IN GENERAL.—A complaint described in  
21                 subsection (a) made by a current or former covered  
22                 employee (as such term is defined in the Judiciary  
23                 Accountability Act of 2021) may be filed with the  
24                 Judicial Conference.

1           “(2) TRANSMITTAL BY JUDICIAL CON-  
2       FERENCE.—Upon receipt of a complaint filed under  
3       this subsection, the Judicial Conference shall trans-  
4       mit the complaint in accordance with subsection  
5       (c).”.

6       (c) EXPANDED DEFINITION OF JUDGE.—Section  
7       351(d)(1) of title 28, United States Code, is amended by  
8       striking “a circuit judge” and all that follows and insert-  
9       ing “a judge described in chapter 17 of this title or an  
10      individual who was such a judge during the conduct de-  
11      scribed in the complaint.”.

12      (d) EFFECT OF RESIGNATION OR RETIREMENT OF  
13      JUDGE.—Chapter 16 of title 28, United States Code, is  
14      amended—

15           (1) in section 352, by adding at the end the fol-  
16      lowing:

17      “(e) EFFECT OF VACANCY OF OFFICE.—The resigna-  
18      tion, retirement from office under section 371, or death  
19      of a judge who is the subject of a complaint under section  
20      351 shall not be grounds for—

21           “(1) the dismissal of the complaint under sub-  
22      section (b)(1); or

23           “(2) the conclusion that the complaint is no  
24      longer necessary under subsection (b)(2).”; and

1           (2) in section 353, by adding at the end the fol-  
2       lowing:

3       “(d) EFFECT OF VACANCY OF OFFICE.—The special  
4       committee shall complete its investigation and file a report  
5       under subsection (c) without regard for the resignation,  
6       retirement from office under section 371, or death of the  
7       judge whose conduct is the subject of the complaint.”.

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

11           (1) in clause (i)—

12               (A) by inserting after “on a temporary  
13               basis for a time certain” the following “or sub-  
14               ject to the completion of any corrective meas-  
15               ures recommended by the judicial council”; and

16               (B) by inserting before the semicolon at  
17               the end the following: “, or that any current  
18               cases assigned to the judge be reassigned”;

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

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

22           (4) by adding at the end the following:

23               “(iv) in the case of a complaint based  
24               on workplace misconduct, ordering such  
25               action as the judicial council determines

1 appropriate to protect employees from such  
2 misconduct.”.

3 (f) FAIR AND IMPARTIAL INVESTIGATIONS AND DE-  
4 TERMINATIONS BY SPECIAL COMMITTEE AND JUDICIAL  
5 COUNCIL.—Chapter 16 of title 28, United States Code,  
6 is amended—

7 (1) in section 353, by striking the text of sub-  
8 section (a)(1) and inserting the following:

9 “(1) appoint himself or herself; and equal num-  
10 bers of circuit judges and district judges from other  
11 circuits and members of the Commission on Judicial  
12 Integrity, all selected by random, to special com-  
13 mittee to investigate the facts and allegations con-  
14 tained in the complaint.”; and

15 (2) in section 354, by adding at the end the fol-  
16 lowing:

17 “(c) DISQUALIFICATION AND ADDITIONAL MEM-  
18 BERS.—

19 “(1) For purposes of this section, the judicial  
20 council—

21 “(A) shall not include any member of the  
22 special committee described in section 353; and

23 “(B) shall include at least one randomly  
24 selected member of the Commission on Judicial  
25 Integrity.

1           “(2) The following individuals or their des-  
2       ignees shall serve as nonvoting observers:

3                   “(A) The Comptroller General of the  
4       United States.

5                   “(B) The Judicial Integrity Officer.”.

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

9       “(c) VIOLATIONS REPORTED TO CONGRESS.—If the  
10 Judicial Conference concurs in the determination of the  
11 judicial council, or makes its own determination, that tak-  
12 ing an action as described in section 354(a)(1)(C) and (2)  
13 is appropriate, the Judicial Conference shall submit the  
14 determination and the record of the proceedings to Con-  
15 gress for whatever action Congress considers to be nec-  
16 essary.”.

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

19           (1) in subsection (a), by inserting after “section  
20       355” the following: “and subsections (c) and (d) of  
21       this section”; and

22           (2) by adding at the end the following:

23       “(c) REPORTS.—

24           “(1) REPORT TO JUDICIAL CONFERENCE.—



1           “(A) NOTICE OF COMPLAINTS FILED.—  
2           Not later than 30 days after a complaint is  
3           filed by an employee or former employee or  
4           identified under section 351, the clerk of a  
5           court of appeals shall notify the Judicial Con-  
6           ference of such complaint.

7           “(B) REPORT OF SPECIAL COMMITTEE.—  
8           Each committee appointed under section 353  
9           shall submit the report filed with the judicial  
10          council of the circuit under subsection (c) of  
11          that section to the Judicial Conference.

12          “(C) REDACTION OF PERSONALLY IDENTI-  
13          FYING INFORMATION.—To the extent prac-  
14          ticable, a notification and report under this  
15          paragraph shall not include any personally iden-  
16          tifying information except for the identity of the  
17          judge whose conduct is the subject of the com-  
18          plaint. The identity of the judge may be re-  
19          dacted only with the consent of the complain-  
20          ant.

21          “(2) REPORT TO CONGRESS.—

22                 “(A) IN GENERAL.—On a biannual basis,  
23                 the Judicial Conference shall submit to Con-  
24                 gress a report, signed by every member of the  
25                 Executive Committee, that includes, with re-

1           spect to complaints under this chapter for each  
2           judicial circuit during the previous 180-day pe-  
3           riod, the following information:

4                   “(i) The number, type, and disposi-  
5                   tion of such complaints.

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

8                   “(iii) A description of voluntary reme-  
9                   dial or corrective actions taken by judges  
10                  subject to such complaints.

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

14                  “(B) REDACTION OF PERSONALLY IDENTI-  
15                  FYING INFORMATION.—Reports submitted  
16                  under this paragraph may not contain the per-  
17                  sonally identifying information of a complainant  
18                  or judge.

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

23                  (i) EXPENSES FOR COMPLAINANTS AND THIRD PAR-  
24                  TIES.—Section 361 of title 28, United States Code, is

1 amended by retitling the current text as subsection (a)  
2 and adding at the end the following:

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

12 **SEC. 9. RULE OF CONSTRUCTION.**

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

15 (1) to abolish, diminish, or infringe upon any  
16 right or remedy provided by the Constitution or any  
17 other law;

18 (2) to relieve any person or Government agency  
19 from liability under the Constitution or any other  
20 law; or

21 (3) to relieve any Government agency or official  
22 of their responsibility to assure nondiscrimination in  
23 employment.

24 **SEC. 10. DEFINITIONS.**

25 In this Act:

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

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

11 (B) any individual who carries or carried  
12 out an official duty of a court of the United  
13 States, an office or agency described in chapter  
14 15 or part III of title 28, United State Code,  
15 or a defender organization described in section  
16 3006A(g) of title 18, United States Code, but  
17 who is not paid by such court for carrying out  
18 such duties, including an intern.

19 (2) MISCONDUCT; WORKPLACE MISCONDUCT.—  
20 The term “workplace misconduct” means mis-  
21 conduct impacting the workplace and employment,  
22 including discrimination, harassment, retaliation,  
23 sexual assault, bullying, and conduct prohibited  
24 under sections 964 and 965 of title 28, United  
25 States Code.

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

2       There are authorized to be appropriated such funds  
3 as are necessary to carry out the provisions of this Act.