

FREEDOM FROM RELIGION *foundation*

Judicial Reform Bills Supported by FFRF Legislative Brief

Supreme Court Ethics, Recusal, and Transparency (SCERT) Act - [S. 359](#)
(Whitehouse, RI) & [H.R. 926](#) (Johnson, GA-4) - 118th Congress

Judiciary Act - [S. 1616](#) (Markey, MA) & [H.R. 3422](#) (Johnson, GA-4) - 118th Congress

Supreme Court Tenure Establishment and Retirement Modernization (TERM) Act
- [H.R. 5566](#) (Johnson, GA-4) - 118th Congress.

Which judicial reform bills does FFRF Support and what do they do?

- **Supreme Court Ethics, Recusal, and Transparency (SCERT) Act of 2022** - requires Supreme Court justices to “[adopt](#) and follow a code of ethics, places transparency standards on gifts and travel, codifies recusal standards and requires the court to disclose lobbying and dark money interests before it.”
- **Judiciary Act of 2021** - adds four associate justices to the Supreme Court of the United States, bringing the total number of Supreme Court justices from 9 to 13.
- **Supreme Court Tenure Establishment and Retirement Modernization (TERM) Act** - The president would appoint a justice every two years, with the approval of the Senate, and that justice would spend 18 years in active service. Current justices would take senior status in order of seniority as new justices took their commissions.

Why are these reforms important?

- **Supreme Court Ethics, Recusal, and Transparency (SCERT) Act of 2022** - seeks to restore public trust in the Supreme Court by bringing much-needed accountability and transparency to this institution. SCERT brings the Supreme Court into closer alignment with the rest of the federal judiciary with a mandated code of ethics; disclosure rules that are, at a minimum, the same as members of Congress; and brings much-needed transparency to lobbying efforts via the [amicus system](#) that are used to influence the Supreme Court.

In addition to the above criteria, [the bill also calls](#) for:

- Recusal reforms aimed at the recent ethics scandals:
 - **Lobbying on the judge:** Recusal would be required if a party or affiliate lobbied or spent substantial funds to get the justice/judge confirmed.
 - **Giving the judge or justice income, gifts, or reimbursements:** Recusal would be required if the justice/judge or spouse or minor child or a privately held entity under their control received income/gifts/reimbursements from a party or affiliate in the case within 6 years of the judge being assigned to the case.
 - **Duty to know:** Impose a clear duty for the judge/justice to know their and their family's financial interests and interests that could be substantially affected by cases before them.
 - **Duty to notify:** Require the judge/justice to inform the parties of any circumstances that could reasonably require recusal.
 - **Review by other justices and judges:** Ensures that the full Court can protect the integrity of its own proceedings by creating a path for full-Court consideration of a recusal motion. For lower courts, ensures that recusal motions can be considered by a randomly selected panel drawn from across the judiciary.
 - **Public notice:** Requires brief explanations of judges' recusal decisions to be posted online.
 - **Disclosure of lobbying, gifts, and payments by parties:** Requires the Court to issues rules requiring all parties and amici to list any lobbying or substantial expenditures in support of the justice's nomination, confirmation, or appointment; and any gifts, income, or reimbursements made to the justices within two years of the start of the proceeding. The Comptroller General of the United States shall conduct an annual audit to ensure compliance with this section.
 - **Dark money amicus disclosure:** Requires parties that file amicus briefs to disclose their major sources of funding and authorizes the courts to strike amicus briefs that would require a judge to recuse.
- **Judiciary Act of 2021** - restores balance to the nation's highest court. In order for the Court to fulfill its duty to deliver equal justice under the law, protect the rights and well-being of millions of Americans, and secure the separation of state and church, additional Supreme Court justices are needed. Adding seats balances the court and better reflects the country as a whole.

The number of justices is meant to be changed, by Congress, without a constitutional amendment. The number of justices has changed [seven times](#) in American history.

Historically, the number has been tied to the number of judicial circuits (justices each oversee one circuit). Now there are 13 circuits. There should be [13 justices](#).

- **Supreme Court TERM Act:** The Act limits Supreme Court justices to 18 years of active service. Every two years, the president would have the opportunity to nominate a new justice, subject to Senate approval. After completing 18 years, justices would transition to a senior status, where they would no longer participate in new Supreme Court cases but could still serve in other judicial capacities.

The Act applies retroactively to current justices, placing them into senior status in a phased manner according to their length of service, allowing for a smooth and gradual transition. This ensures a regular, predictable rotation of justices, reducing the long-term influence of any single appointment.

The TERM Act is important because it addresses the increasing politicization of lifetime appointments by introducing regular turnover, preventing any single president from disproportionately shaping the court's composition for decades. By creating more frequent appointments, it ensures that the court reflects the evolving values of the country, while also helping to restore public confidence in its impartiality and balance.

Why are these reforms important to FFRF's members?

FFRF issued a [report](#) on the record of influence of Christian nationalism resulting from Trump Supreme Court and lower court appointments. These judicial nominations are moving the judicial system further from the will of the American people by threatening state/church separation, true religious freedom, reproductive rights, voting rights, and civil rights.

Adding a binding code of ethics, clear rules on Supreme Court justices recusing themselves, mandatory disclosure laws, adding more seats on the Supreme courts, and limiting the terms for Supreme Court Justices will help to make our courts freer, fairer, and meet the independent judicial needs of all Americans, including secular Americans.

What is the Current Status of the Bills?

- **Supreme Court Ethics, Recusal, and Transparency (SCERT) Act** has 161 Cosponsors in the House and 43 in the Senate. All Democrats on the Senate Judiciary Committee have cosponsored the bill, and ordered out of committee on September 5, 2023. 15 out of 18 Democrats on House Judiciary have cosponsored the bill.

- **The Judiciary Act of 2021** has 63 Cosponsors in the House, including Representatives Raskin, Nadler, Porter, Kim, and Dean. In the Senate there are two co-sponsors,(Smith & Warren) in the Senate.
- **The Supreme Court TERM Act** has 65 Cosponsors in the House, including Representatives Nadler, Raskin, Huffman, Schiff, Sorensen, and Gottheimer.

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