118TH CONGRESS  
2D SESSION  

H. R. ______

To amend title 28, United States Code, to establish an Office of Ethics Counsel and an Office of Investigative Counsel within the Supreme Court of the United States.

IN THE HOUSE OF REPRESENTATIVES

Mr. GOLDMAN of New York introduced the following bill; which was referred to the Committee on ____________________________

A BILL

To amend title 28, United States Code, to establish an Office of Ethics Counsel and an Office of Investigative Counsel within the Supreme Court of the United States.

1 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

3 SECTION 1. SHORT TITLE.

This Act may be cited as the “Supreme Court Ethics and Investigations Act”.

(Original Signature of Member)
SEC. 2. ESTABLISHMENT OF THE OFFICE OF ETHICS COUNSEL WITHIN THE SUPREME COURT OF THE UNITED STATES.

(a) IN GENERAL.—Chapter 45 of title 28, United States Code, is amended by adding at the end the following:

§ 678. Office of Ethics Counsel

“(a) THE OFFICE OF ETHICS COUNSEL.—The Chief Justice is authorized to establish an Office of Ethics Counsel within the Supreme Court of the United States—

“(1) constituted by one chief ethics counsel who may employ such officers and employees, subject to the provisions of title 5, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates; and

“(2) to advise and provide guidance to justices of the Supreme Court, and their spouses, on matters of judicial ethics, including—

“(A) financial disclosure requirements;

“(B) the acceptance of gifts;

“(C) political activity;

“(D) conflicts of interest and recusal; and

“(E) the unauthorized disclosure of official Court documents.
“(b) Ethics Counsels.—

“(1) Staffing and compensation of counsels.—

“(A) Chief ethics counsel.—The chief ethics counsel within the Office of Ethics Counsel—

“(i) may not be employed by the Court on the date of enactment of this section;

“(ii) shall be appointed by the Chief Justice;

“(iii) shall serve not more than two 6-year terms; and

“(iv) shall receive an annual rate of pay of at least $225,000.

“(B) Other counsels.—Any counsel other than the chief ethics counsel within the Office of Ethics Counsel—

“(i) may not be employed by the Court on the date of enactment of this section;

“(ii) shall be appointed by the chief ethics counsel;

“(iii) shall serve not more than two 6-year terms; and
“(iv) shall receive an annual rate of pay of at least $180,000.

“(2) QUALIFICATIONS.—Each counsel of the Office of Ethics Counsel shall—

“(A) be licensed to practice law in a State or territory of the United States and a member of the bar in good standing; and

“(B) possess at least 5 years of experience as a practicing attorney.

“(3) EXPERTISE.—Each counsel shall be an individual of exceptional public standing who is specifically qualified to serve within the Office of Ethics Counsel by virtue of the individual’s education, training, and experience, as determined by the Chief Justice.

“(4) TERMINATION OF COUNSEL.—The employment of a counsel may only be terminated by the Chief Justice for cause.

“(c) TRAINING.—On a biannual basis, the Office of Ethics Counsel shall provide, and each justice shall take, a training course on the judicial ethics matters described in subsection (a)(2).

“(d) REPORT.—On an annual basis, the chief ethics counsel shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate a report
on the ethics advice given by the Office of Ethics Counsel
during the previous year, including—

“(1) the number of times advice was sought
and given;

“(2) whether the advice was sought by judicial
officers or by judicial employees;

“(3) information about the topics covered by
the advice given, including the number of questions
related to gifts, financial disclosures, nonpublic in-
formation, and political activity;

“(4) the number and types of mitigation meas-
ures that were recommended, including recusal, di-
vestiture, resignation;

“(5) the number of times advice described in
this subsection was not followed by the individual to
whom it was given, if known by the Office.

“(e) DEFINITIONS.—In this section:

“(1) The term ‘gift’ means any gratuity, favor,
discount, entertainment, hospitality, loan, forbear-
ance, or other item having monetary value. The term
includes services as well as gifts of training, trans-
portation, local travel, lodgings and meals, whether
provided in-kind, by purchase of a ticket, payment in
advance, or reimbursement after the expense has
been incurred.
“(2) The term ‘political activity’ means political engagements, such as paid speaking events, fundraisers, or donations to political parties, politicians, political action groups, or endorsements of political candidates.”.

(b) CLERICAL AMENDMENT.—The table of contents of chapter 45 of title 28, United States Code, is amended by inserting after the item relating to section 678 the following:

“678. Office of Ethics Counsel.”.

SEC. 3. ESTABLISHMENT OF THE OFFICE OF INVESTIGATIVE COUNSEL WITHIN THE SUPREME COURT OF THE UNITED STATES.

(a) In general.—Chapter 45 of title 28, United States Code, as amended by this Act, is further amended by adding at the end the following:

“§ 679. Office of Investigative Counsel

“(a) Office of Investigative Counsel.—The Chief Justice is authorized to establish an Office of Investigative Counsel within the Supreme Court of the United States—

“(1) constituted by one Chief Investigative Counsel and at least two additional investigative counsels; and
“(2) to review and investigate ethics complaints against justices arising from their actions or the actions of their spouses and dependents.

“(b) INVESTIGATIVE COUNSELS.—

“(1) STAFFING AND COMPENSATION OF COUNSELS.—

“(A) CHIEF INVESTIGATIVE COUNSEL.—

The Chief Investigative Counsel—

“(i) may not be employed by the court on the date of enactment of this section;

“(ii) shall be appointed by the Chief Justice;

“(iii) shall serve not more than one 6-year term; and

“(iv) shall receive an annual rate of pay of at least $225,000.

“(B) ADDITIONAL INVESTIGATIVE COUNSELS.—The investigative counsels—

“(i) may not be employed by the court on the date of enactment of this section;

“(ii) shall be appointed by the Chief Investigative Counsel;

“(iii) shall serve at the pleasure of the Chief Investigative Counsel; and
“(iv) shall receive an annual rate of pay of at least $180,000.

“(C) QUALIFICATIONS.—Each investigative counsel of the Office of Investigative Counsel shall—

“(i) be licensed to practice law in a State or territory of the United States and a member of the bar in good standing; and

“(ii) possess at least 7 years of experience as a practicing attorney.

“(D) EXPERTISE.—Each investigative counsel and the Chief Investigative Counsel shall be an individual of exceptional public standing who is specifically qualified to serve within the Office of Investigative Counsel by virtue of the individual’s education, training, and experience.

“(E) TERMINATION OF COUNSELS.—The employment of the Chief Investigative Counsel may only be terminated by the Chief Justice for cause.

“(2) SUBPOENA POWER.—

“(A) IN GENERAL.—For the discharge of their duties, the Chief Investigative Counsel shall have the authority to issue subpoenas to
compel witnesses to appear and testify and to produce books, papers, correspondence, memora-
danda, documents, or other relevant records.
The Chief Investigative Counsel may issue sub-
poenas requiring the attendance and testimony of witnesses and the production of any evidence relating to any matter under investigation by the Office of Investigative Counsel, which the Office is empowered to investigate by this sec-
tion. The attendance of witnesses and the pro-
duction of evidence may be required from any place within the United States at any des-
ignated place of hearing within the United States.

“(B) FAILURE TO OBEY A SUBPOENA.—If a person refuses to obey a subpoena issued under subparagraph (A), the Chief Investigative Counsel may apply to a United States district
court for an order requiring that person to ap-
pear before the Office of Investigative Counsel
to give testimony, produce evidence, or both, re-
lating to the matter under investigation. The application may be made within the judicial dis-
trict where the hearing is conducted or where that person is found, resides, or transacts busi-
ness. Any failure to obey the order of the court shall be punishable by contempt of court.

“(C) SERVICE OF SUBPOENAS.—The subpoenas of the Office of Investigative Counsel shall be served in the manner provided for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

“(D) SERVICE OF PROCESS.—All process of any court to which application is made under subparagraph (B) may be served in the judicial district in which the person required to be served resides or may be found.

“(c) ETHICS COMPLAINTS.—

“(1) FILING.—An ethics complaint against a justice may be filed with the Office of Investigative Counsel by—

“(A) the chair or ranking minority member of the Committee on the Judiciary of the House of Representatives or of the Senate;

“(B) the Majority Leader or Minority Leader of the Senate; or

“(C) the Speaker or the Minority Leader of the House of Representatives.
“(2) REVIEW.—Not later than 60 days after an ethics complaint is filed under paragraph (1), the Office of Investigative Counsel shall review the complaint and determine whether a full investigation is appropriate. In making a determination under this paragraph, the Office shall consider whether the alleged behavior of a justice violates the Code of Conduct of the Supreme Court, the Judicial Code of Conduct, or any applicable law or regulation. Upon making a determination under this paragraph, the chief counsel shall respond to each ethics complaint filed under paragraph (1), regardless of whether the Office of Investigative Counsel determines that an investigation is appropriate.

“(3) INVESTIGATION.—If the Office determines that a full investigation is appropriate, it shall open the investigation not later than 15 days after making such determination.

“(4) REPORTING.—

“(A) IN GENERAL.—The Office of Investigative Counsel shall submit to the Chief Justice a report containing its findings and recommendations about an ethics complaint filed under paragraph (2) (including in the case of a complaint with respect to which the Office de-
terminates that no violation has occurred), except that in the case of an ethics complaint with respect to which the Chief Justice is the subject, the Office shall deliver such report to the most senior associate justice.

“(B) CONTENTS.—A report under subparagraph (A) shall include—

“(i) each violation of the Code of Conduct for the Supreme Court committed by the justice who was the subject of the investigation under paragraph (3), including any such violation that arose as a result of the actions of a spouse or dependant of the justice; and

“(ii) substantive and actionable recommendations from the Office of Investigative Counsel including recusal, divestment and neutralization conflicts of interest, and other remedies.

“(C) PUBLICATION.—

“(i) CHIEF JUSTICE.—The Chief Justice may, in his sole discretion, release to the public a report received under subparagraph (A), but may not alter such a report in any way, except to redact any classified
or personally identifiable information. In
the case of an ethics complaint with re-
spect to which the Chief Justice is the sub-
ject, the most senior associate justice is
authorized to carry out this clause.

“(ii) AVAILABILITY TO CONGRESS.—
Not later than 10 days after completing a
report under subparagraph (A), the Office
of Investigative Counsel shall make the re-
port available to—

“(I) the Committees on the Judi-
 ciary of the House of Representatives
 and of the Senate;

“(II) the Committee on Oversight
 and Accountability of the House of
 Representatives; and

“(III) the Committee on Home-
 land Security and Governmental Af-
 fairs of the Senate.

“(iii) DUTY TO INFORM THE ATTOR-
NEY GENERAL.—In carrying out the duties
of the Office, the Investigative Counsel
shall report expeditiously to the Attorney
General whenever the Investigative Counsel
has reasonable grounds to believe there has been a violation of Federal criminal law.”.

(b) CLERICAL AMENDMENT.—The table of contents of chapter 45 of title 28, United States Code, is amended by inserting after the item relating to section 678, as added by section 2, the following:

“679. Office of Investigative Counsel.”.

SEC. 4. SEVERABILITY.

If any provision of this Act, or any application of such provision to any person or circumstance, is held to be unconstitutional, the remainder of this Act and the application of this Act to any other person or circumstance shall not be affected.