

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

District Court Judgeships Act of 2021 - [H.R.4886](#) (Johnson, GA-4) - 117th 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.
- **District Court Judgeships Act of 2021** - adds 203 new lower court judgeships across 47 judicial districts.

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 issue 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](#).

- **District Court Judgeships Act of 2021** - addresses the massive case backlog due to a shortage of federal judges in districts across the country, which is preventing Americans from having their day in court and their matters adjudicated. Justice delayed is justice denied.

For decades, Congress and the Judicial Conference used a threshold of 400 case filings per judgeship when determining whether a judicial district needed additional judgeships. In 1993, the Judicial Conference raised that threshold to 430 filings in an effort to [control the growth of the judiciary](#). The District Court Judgeships Act of 2021 “reverts to the [original standard of 400](#) case filings per judgeship to relieve these overburdened courts and improve access to justice.”

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, plus adding more seats on the Supreme and lower courts 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 136 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.
- **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 District Court Judgeships Act of 2021** had [25](#) Cosponsors in the House in the 117th Congress. We anticipate this bill will be reintroduced later this year.

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