

S. 359, Supreme Court Ethics, Recusal, and Transparency Act of 2023

As ordered reported by the Senate Committee on the Judiciary on July 20, 2023

By Fiscal Year, Millions of Dollars	2023	2023-2028	2023-2033
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	0	5	not estimated
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Statutory pay-as-you-go procedures apply?	No
		Mandate Effects	
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Contains intergovernmental mandate?	Yes, Under Threshold
		Contains private-sector mandate?	Yes, Under Threshold

S. 359 would require the Supreme Court and other federal courts to implement several ethics and transparency practices, and would direct federal agencies to study and report on the implementation of the bill’s requirements.

Using information from the affected agencies, CBO estimates that implementing S. 359 would cost \$5 million over the 2023-2028 period; any spending would be subject to the availability of appropriated funds.

S. 359 would require the Supreme Court to establish a code of conduct for justices and law clerks and set disclosure requirements for gifts, travel, and income received by them. In addition, the bill would require the Court to establish procedures for people to file ethics complaints against justices and for the adjudication of those complaints by a panel of circuit court judges. Using information from the Court and the Judicial Conference, CBO estimates that implementing those provisions would cost about \$1 million over the 2023-2028 period.

S. 359 also contains several audit and reporting requirements. Under the bill, any party filing an amicus brief in a federal court would need to disclose the identities of individuals and organizations that prepared the brief, as well as financial contributors to those entities. Each year, the Administrative Office of the United States Courts (AOUSC) would audit and report on compliance with that requirement. The Federal Judicial Center also would need to track

See also

[CBO’s Cost Estimates Explained](#), [CBO Describes Its Cost-Estimating Process](#), [Glossary](#)



and report instances in which federal judges recuse themselves or are not assigned a case because of a conflict of interest. Every two years, the center would report on and recommend ways to improve compliance with the recusal requirements. Every five years, the Government Accountability Office (GAO) would evaluate and report on the methods used by the Federal Judicial Center.

Using information from the affected agencies, CBO estimates that over the 2023-2028 period, implementing the bill would cost the AOUSC \$3 million for audits and the Federal Judicial Center \$1 million to collect and report information. Using information about the cost of similar activities, CBO estimates that GAO's costs would be less than \$500,000.

S. 359 would impose an intergovernmental and private-sector mandate as defined in the Unfunded Mandates Reform Act (UMRA) by requiring intergovernmental and private-sector entities filing amicus briefs before any federal court to disclose the identities of certain financial contributors to their organization as well as any financial contributions made to individual justices in the two years prior to a judicial proceeding.

About 1,400 federal court cases receive amicus briefs from individuals or organizations each year. Under current regulations, amicus briefs filed in Supreme Court cases must disclose the people or entities that submit them or pay for their preparation; most briefs filed on behalf of a state or territory are exempt from those requirements.

Using information from the Supreme Court, other federal courts, and law firms on the small number of amicus briefs filed in federal courts, the number of petitions to the Supreme Court, and the clerical nature of the mandate, CBO estimates that the costs of complying with the mandates in S. 359 would be small for state, local, and tribal governments and private-sector entities. Those costs would fall well below the thresholds established in UMRA (\$99 million and \$198 million, respectively, in 2023, adjusted annually for inflation).

The CBO staff contacts for this estimate are Jon Sperl (for federal costs) and Erich Dvorak (for mandates). The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

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