AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

112TH CONGRESS
1st Session
HOUSE OF REPRESENTATIVES
REPORT
112–189

EXTENSION OF REDACTION AUTHORITY CONCERNING SENSITIVE SECURITY INFORMATION

JULY 29, 2011.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. SMITH of Texas, from the Committee on the Judiciary, submitted the following

R E P O R T

[To accompany H.R. 1059]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 1059) to protect the safety of judges by extending the authority of the Judicial Conference to redact sensitive information contained in their financial disclosure reports, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

CONTENTS

	Page
Purpose and Summary	1
Background and Need for the Legislation	2
Hearings	3
Committee Consideration	3
Committee Votes	3
Committee Oversight Findings	3
New Budget Authority and Tax Expenditures	3
Congressional Budget Office Cost Estimate	3
Performance Goals and Objectives	4
Advisory on Earmarks	4
Section-by-Section Analysis	4
Agency Views	5
Changes in Existing Law Made by the Bill, as Reported	6

Purpose and Summary

Judges and certain other judicial branch employees are required to file annual financial disclosure reports under the Ethics in Government Act. Given the security risks that confront members of the

99–006

Judiciary, however, the Judicial Conference is authorized to redact sensitive information from these reports that could otherwise be used to compromise the safety of the filers or their families. The statutory authority of the Judicial Conference to redact this information expires on December 31, 2011. H.R. 1059 permanently extends the authority beyond this date.

Background and Need for the Legislation

Under the Ethics in Government Act[1], judges and other high-level judicial branch officials must file annual financial disclosure reports, the purpose of which is to increase public confidence in government officials and better enable the public to judge the performance of those officials.

However, recognizing the nature of the judicial function and the increased security risks it entails, Congress enacted section 7 of the "Identity Theft and Assumption Deterrence Act of 1998,"[2] which allowed the Judicial Conference to redact statutorily required information in a financial disclosure report where the release of the information could endanger the filer or his or her family. Those seeking to harm or intimidate Federal judges might use a disclosure form to identify where someone's spouse or child works or goes to school on a regular basis. Individuals targeting judges for harassment have also been known to file false liens on property owned by judges and their families. Harassers could use judicial financial disclosure reports to more easily identify such property.

The Judicial Conference delegated to its Committee on Financial Disclosure ("the Committee") the responsibility for implementing the financial disclosure requirements for judges and judicial employees under the Ethics in Government Act. The Committee monitors the release of financial disclosure reports to ensure compliance with the statute. In consultation with the U.S. Marshals Service, the Committee reviews and approves or disapproves any request for the redaction of statutorily mandated information where the filer believes the release of the information could endanger the filer and his family. Under the regulations promulgated by the Judicial Conference, no redaction will be granted in the absence of a clear nexus between a security risk and the information for which redaction is sought.

Since redactions were approved in only a limited number of cases where judges or their family members were endangered by the release of the information, the Committee recommended that the sunset date of December 31, 2001, in section 7 be repealed. Due to Senate opposition to a permanent extension, however, Public Law 107–126 extended the authorization for an additional 4 years, through December 31, 2005.

The 110th Congress repeated the exercise twice by enacting Public Law 110–24, which extended the authority to December 31, 2009; and Section 104 of Public Law 110–177, which extends the authority through December 31, 2011. If not extended again, the authority lapses after this date.

Finally, between 2007 and 2010, the Judicial Conference notes that out of 17,658 filings, 750 (or 4.2%) resulted in redaction re-

[1] 5 U.S.C. app. 105.
[2] Pub. L. No. 105–318.

quests. Of those, 645 (or 86%) were granted in full, and another 70 (or 9.3%) were partially granted. The majority of the redactions concern information that reveals the presence of the filer or members of the filer's family at unsecured locations or reveals the location of the filer's residence.

Hearings

The Committee on the Judiciary held no hearings on H.R. 1059.

Committee Consideration

On July 20, 2011, the Committee met in open session and ordered the bill H.R. 1059 favorably reported without amendment, by voice vote, a quorum being present.

Committee Votes

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that there were no recorded votes during the Committee's consideration of H.R. 1059.

Committee Oversight Findings

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

New Budget Authority and Tax Expenditures

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

Congressional Budget Office Cost Estimate

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 1059, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 27, 2011.

Hon. LAMAR SMITH, CHAIRMAN,
Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1059, a bill to protect the safety of judges by extending the authority of the Judicial Conference to redact sensitive information contained in their financial disclosure reports, and for other purposes.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Martin von Gnechten, who can be reached at 226–2860.

Sincerely,

DOUGLAS W. ELMENDORF,
DIRECTOR.

Enclosure

cc: Honorable John Conyers, Jr.
Ranking Member

H.R. 1059—A bill to protect the safety of judges by extending the authority of the Judicial Conference to redact sensitive information contained in their financial disclosure reports, and for other purposes.

H.R. 1059 would repeal the sunset provision of the Ethics in Government Act of 1978 involving the financial disclosure requirements for judges. The bill would prevent public disclosure of certain information if it is determined that such disclosure could endanger the individual. Under current law, those provisions expire at the end of calendar year 2011. Based on information from the Administrative Office of the United States Courts, CBO estimates that implementing those provisions would have no significant impact on the Federal budget. Enacting the bill would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 1059 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of State, local, or tribal governments.

The CBO staff contact for this estimate is Martin von Gnechten, who can be reached at 226–2860. This estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

Performance Goals and Objectives

The Committee states that pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 1059 enhances the security of Federal judges and other judicial employees by extending the authority of the U.S. Judicial Conference to redact sensitive information from their financial disclosure reports.

Advisory on Earmarks

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 1059 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of Rule XXI.

Section-by-Section Analysis

The following discussion describes the bill as reported by the Committee.

Sec. 1. Extension of Redaction Authority Concerning Sensitive Security Information. Section 1 corrects a misspelling set forth in the redaction portion of the Ethics in Government Act ("Marshals" in lieu of "Marshall"). Section 1 also strikes the sunset provision (De-

cember 31, 2011) that applies to the redaction authority, thereby making it permanent.

Agency Views

JUDICIAL CONFERENCE OF THE UNITED STATES
WASHINGTON, D.C. 20544

THE CHIEF JUSTICE
OF THE UNITED STATES
Presiding

JAMES C. DUFF
Secretary

July 19, 2011

Honorable Lamar S. Smith
Chairman
Committee on the Judiciary
United States House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

On behalf of the Judicial Conference of the United States, the policy-making body of the Federal Judiciary, I am writing to convey strong support of H.R. 1059, legislation to protect the safety of judges by extending the authority of the Judicial Conference to redact sensitive information contained in their financial disclosure reports.

The legislation permanently extends the Judiciary's authority to redact personal identifying information in a federal judge's or judicial employee's financial disclosure report where release of the information could endanger the filer or the filer's family. As you are aware, this critical authority expires on December 31, 2011. Failure to extend this authority will create severe security risks to judges, Judiciary employees, and their families. Federal judges and Judiciary employees such as probation officers routinely interact with disgruntled litigants and convicted criminals who may bear grudges against them. Without this legislation, these individuals will be able to learn sensitive information such as the unsecured locations of judges, probation officers, and their families. Redaction of this sensitive information protects these public servants and their families from harm. H.R. 1059 would provide for their continued protection without interruption.

H.R. 1059 recognizes that the Judicial Conference uses its redaction authority carefully and responsibly. Under regulations issued by the Judicial Conference, there must be a clear nexus between a security risk and the information for which redaction is sought, before redaction will be permitted. As required by statute, the Judicial Conference reports to Congress annually on the number of redactions and the reasons for them. Each year, just slightly more than four percent of the financial disclosure reports

filed contain an approved redaction of some information in the report. Moreover, a June 2004 Government Accountability Office report found that the Judiciary's exercise of its redaction authority enhances security for at-risk individuals, while not substantially interfering with dissemination of information to the public.

Thank you for your consideration of this important legislation. We urge swift passage of H.R. 1059. If you have any questions regarding this legislation, please do not hesitate to contact our Office of Legislative Affairs at (202) 502-1700.

Sincerely,

James C. Duff
Secretary

Identical letter sent to: Honorable John Conyers, Jr.

Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

ETHICS IN GOVERNMENT ACT OF 1978

* * * * * * *

TITLE I—FINANCIAL DISCLOSURE REQUIREMENTS OF FEDERAL PERSONNEL

* * * * * * *

CUSTODY OF AND PUBLIC ACCESS TO REPORTS

SEC. 105. (a) * * *
(b)(1) * * *

* * * * * * *

(3)(A) This section does not require the immediate and unconditional availability of reports filed by an individual described in section 109(8) or 109(10) of this Act if a finding is made by the Judicial Conference, in consultation with United States [Marshall] *Marshals* Service, that revealing personal and sensitive information could endanger that individual or a family member of that individual.

* * * * * * *

[(E) This paragraph shall expire on December 31, 2011, and apply to filings through calendar year 2011.]

* * * * * * *

○