

# SUPREME COURT ETHICS, RECUSAL, AND TRANSPARENCY ACT

Ms. KLOBUCHAR. Mr. President, I rise because now is the time to pass Senator WHITEHOUSE's legislation to require the Supreme Court of the United States to adopt a binding and enforceable code of ethics, create a process for investigating misconduct, and improve the disclosure and transparency requirements for the Justices on our Nation's highest Court. I thank my colleagues Senators WHITEHOUSE and DURBIN for their leadership on this issue.

I have long believed that rule of law is central to our democracy and that preserving public trust in our institutions is vital to the health of our Republic. It is important that the American people have confidence that the Justices of the Supreme Court of the United States are making decisions based on the facts and the law, not private interests.

The Justices of the Supreme Court of the United States know this, too. In fact, the very first canon that the Supreme Court set out in its code of conduct last November states that "a Justice of the Supreme Court of the United States should maintain and observe high standards of conduct in order to preserve the integrity and independence of the federal judiciary."

This isn't the first time that Congress has had to address the need for transparency and ethical requirements for government officials. In 1978, in the wake of Watergate, Congress passed the Ethics in Government Act, which requires certain public officials, including Supreme Court Justices and members of the executive branch, to make disclosures about their financial interests, including income they receive from a source outside the Federal Government, gifts, debts they owe, and sales of certain real estate and stocks.

Unfortunately, in recent years, we have seen an alarming rise in reports of ethically questionable behavior by the Justices of the Supreme Court of the United States in regard to accepting and not disclosing gifts as required under the law. For example, we learned that in 2014, Justice Thomas allowed a billionaire to buy his mom's house and fix it up for her—and pay for the Justice and his wife to take lavish vacations. We also know that same billionaire paid for Justice Thomas to attend a trip to Malaysia on a private jet and a superyacht. That trip was valued at over \$500,000 and was not disclosed by Justice Thomas. Justice Thomas was required to report these gifts, but he didn't. Instead, we only found out about it through the work of investigative journalists.

There needs to be an enforceable code of ethics and mechanisms to investigate, and if necessary, take corrective action when the Justices don't take their reporting obligations seriously. That is how we preserve the American people's confidence in the in-

stitutions of government, including the Supreme Court.

Just like transparency, judges are supposed to be above politics and avoid even the appearance of bias. In 1974, Congress passed a law requiring the Supreme Court's Justices, as well as other Federal judges, "to recuse themselves when their impartiality might be reasonably questioned."

This was reiterated by the Supreme Court's own code of conduct adopted in November which states that a Justice should disqualify himself or herself where they have "a personal bias or prejudice concerning a case."

In fact, the Justices are no strangers to the practice of recusing themselves when there is an appearance of impropriety. For 50 years, the Justices have followed the recusal law. For example, in 1995, Justice Thomas recused himself from *United States v. Virginia* because of his son's enrollment at Virginia Military Institute.

If the Justices of the Supreme Court sat on any other Federal court, the clear and enforceable code of ethics would ensure that they recuse when their impartiality might be reasonably questioned. But at the Supreme Court, the decision to recuse is up to each Justice, and there is no explanation required.

These examples demonstrate why Senator WHITEHOUSE's bill—the Supreme Court Ethics, Recusal, and Transparency Act—is so important. It would require the Court to adopt an enforceable code of ethics. It requires that Justices disqualify themselves from cases in certain situations where their impartiality could be reasonably questioned such as if they have received gifts from parties appearing before the Court. It requires that Justices disclose the same information concerning gifts, income, and reimbursements as required by Members of Congress. And it provides for a process by which individuals may file complaints that a Justice has violated the code.

This is hardly a radical proposal and this isn't about attacking one Justice or another. The majority of Americans—75 percent according to a recent report—support a binding ethics code for the Justices of the Supreme Court of the United States.

I call on all my colleagues—Democratic, Republican, and Independent—to come together, pass this bill, and help bring the Justices of the Supreme Court of the United States in line with the ethical requirements and accountability procedures that every other Federal judge in this country already abides by.

## VOTE EXPLANATION

Ms. BUTLER. Mr. President, I was unable to vote on June 13 due to testing positive for COVID-19. If I had been present, I would have voted on rollcall vote No. 197 in support of the motion to invoke cloture on the motion to pro-

ceed to S. 4445, a bill to protect and expand nationwide access to fertility treatment, including in vitro fertilization.

## RIGHT TO IVF ACT

Ms. BUTLER. Mr. President, I rise today to join my colleagues in support of the Right to IVF Act of 2024. I would like to start by thanking Senators DUCKWORTH, MURRAY, BOOKER, and LEADER SCHUMER for their work championing this legislation, which would help ensure IVF services are available and accessible to patients across the country.

It should appall all of us that one of the most common forms of assisted reproductive technology is under attack, but it should not surprise us. Extreme MAGA Republicans across the Nation will stop at nothing to exert control over women's bodies.

Just 3 months ago, my Republican colleagues in this Chamber had the opportunity to stand with women and families. Instead, they blocked a bill to expand IVF access and family-building services for veterans and servicemembers, which after serving our Nation, for many, is the only way to make their dream of having a family possible. And in February, the Alabama Supreme Court issued a ruling that ground IVF treatments to a halt and ushered in weeks of chaos and confusion for would-be parents.

But it is not just Alabama; women and families across the Nation face fear and uncertainty as extreme Republicans in several other States seek to limit access to IVF altogether. Following the Alabama Supreme Court's ruling that embryos created through in vitro fertilization are considered children, so-called fetal personhood bills have been introduced in Kansas, Florida, Colorado, Iowa, Louisiana, Georgia, Illinois, Indiana, Massachusetts, Missouri, New York, Oklahoma, South Carolina, and Utah during the 2024 legislative session.

We have seen example after example of MAGA Republicans' shameful crusade to rip reproductive health services out of the hands of people who need them. It is dumbfounding to see this level of blatant contradiction from Republicans who love to tout themselves as being the "pro-life party" on the campaign trail. But here, in the room where it happens, they are advocating for policies that would foreclose for so many families the opportunity to have children. Their actions speak much louder than their words. According to the Department of Health and Human Services, IVF has proven to be a necessary family-building tool. Yet the "party of family values" is intent on blocking this bill.

Across the country, including in States represented by my Republican colleagues, there are stories of countless women and their significant others who have spent years waiting, saving, and praying for the day they could

bring a child into the world. These are constituents—our collective constituents—who stand to benefit tremendously from legislation like the Right to IVF Act.

This week, I heard from Karli from Santa Rosa, CA, who wrote to me about her experience receiving IVF care. She says, “The biggest dream of my life was to be a Mama. When I married my husband, he had gotten a vasectomy 18 years earlier. He had surgery to reverse it, so we could try to have a baby naturally. We tried for years with no success. We looked into adoptions but had no idea the process could be so long, so expensive, and no guarantee we would be chosen as parents . . .

“After 3 years of fertility issues, we finally saw a reproductive specialist. We chose to use donated embryos, and after our 3rd transfer, we had a successful pregnancy and live birth. Our daughter is the biggest blessing of my life, brings joy, love and laughter to everyone she meets.

“Without the help of reproductive intervention, she would not have been born, and I would not have been able to be a Mama. I am beyond grateful, and the world is absolutely a better place with my angel in it. . . .”

I am proud to know that California is leading the charge to protect IVF access and reproductive freedom across the board. But there are thousands of Karli's in Missouri, in Alabama, in Georgia, and across the Nation who are not guaranteed those same rights.

The Right to IVF Act is needed and necessary legislation. The American people are counting on us to safeguard the right to these vital services, and I urge my colleagues to join me in advancing this bill.

#### SUPREME COURT ETHICS, RECUSAL, AND TRANSPARENCY ACT

Ms. BUTLER. Mr. President, I rise today to join my colleagues in urging that the Supreme Court be held to a higher standard of transparency and accountability and that we immediately pass the Supreme Court Ethics, Recusal, and Transparency Act.

Let me begin by thanking my colleagues Senators WHITEHOUSE and DURBIN for their tireless work on this issue. They understand that Congress has a responsibility to hold those in places of power to account, and I am proud to join their effort.

The American public's confidence in our democratic institutions has reached new lows. In February of this year, a poll by the Marquette School of Law found that 60 percent of respondents disapproved of the Supreme Court. And who could blame them? The egregious behavior we have seen from some Supreme Court Justices in the last few months is deeply concerning and has eroded trust in our institutions. The highest Court in the land is no place for anyone with personal bias and questionable ethics.

Take for example, Justice Clarence Thomas, who failed to disclose significant gifts and financial transactions from wealthy conservative billionaires. Meanwhile, Justice Thomas's wife involved herself in efforts to overturn the 2020 Presidential election results. How should the American public expect Justice Thomas to “faithfully and impartially discharge and perform all the duties incumbent upon him?” They can't.

Or consider Justice Samuel Alito who similarly accepted undisclosed trips and gifts funded by conservative benefactors. And an inverted American flag—a symbol carried by January 6 insurrectionists—was seen at his home less than 2 weeks after the violent attack on the Capitol. How should the American public expect Justice Alito to “faithfully and impartially discharge and perform all the duties incumbent upon him?” They can't.

So it should come as no surprise to us that more than half of Americans disapprove of the Supreme Court. But maintaining the public's trust and confidence in the Court is essential to the credibility of the judicial branch. The Supreme Court Ethics, Recusal, and Transparency Act is our first step toward slowly, but surely, rebuilding that.

In 2022, while speaking at the annual convention of the American Constitution Society, Justice Sonia Sotomayor said, “We have to have continuing faith in the court system and our system of government,” adding that she hoped “to regain the public's confidence that we—as a court, as an institution—have not lost our way.”

It is our job as the U.S. Congress to ensure that our way truly is not lost. Establishing basic transparency of those who interpret the highest law of the land are not just matters of common sense, it is a moral imperative. It is a necessary function of Congress to keep those in power in check. If we fail to fulfill this responsibility, then we ultimately fail the millions of Americans we are sworn to serve.

As we consider this legislation, let us remember that the judiciary is the bedrock of our democracy. Getting this bill across the finish line takes a needed step toward preserving the integrity of our highest Court and the democratic principles it upholds. I strongly urge my colleagues to help restore confidence in our Nation's institutions by supporting this critical legislation.

#### REMEMBERING DR. JAMES “JIM” E. AUER

Mr. HAGERTY. Mr. President, Dr. James “Jim” E. Auer, who passed away in Nashville, TN, on May 16, 2024, was a pillar of the U.S.-Japan Alliance. I had the privilege of knowing Dr. Auer for a number of years, as he would attend events hosted by the Japan-America Society of Tennessee.

While I would speak with Jim from time to time, he never talked about—nor even hinted at—his own truly in-

credible accomplishments with respect to the U.S.-Japan Alliance. That is until, one day, it leaked out that President Trump was nominating me to be U.S. Ambassador to Japan, and Jim told my longtime assistant Betsy Van Dam that he needed to meet with me in person soon. And so Jim and I met, and he began to unpack for me his accumulated knowledge amassed over the decades of his experience with Japan.

Let me summarize some of that experience: Jim began his career working with the U.S. Navy in 1963 assigned to a minesweeper based in Sasebo, Japan. He would go on to be the first U.S. Navy officer to study at the Japan Maritime Self-Defense Force Staff College in Tokyo. In 1973, he would be a key figure in homeporting the U.S.S. *Midway*, the first U.S. aircraft carrier to be permanently based in a foreign country, in Yokosuka, Japan—a distinction that Japan continues to hold to this day.

From 1979 to 1988, he served as the Special Assistant for Japan in the Office of the Secretary of Defense, acting as a bridge between the Japanese Defense Agency—now Japan's Ministry of Defense—and the U.S. Department of Defense. After his retirement from the U.S. Navy, Jim would spend the next 25 years serving as a professor at Vanderbilt University. At Vanderbilt, he founded the Center for U.S.-Japan Studies and Cooperation in 1988. For his devotion to the U.S.-Japan relationship, Jim was awarded the Japanese Order of the Rising Sun in December 2008. Jim Auer was a true treasure to the U.S.-Japan Alliance, and his efforts to strengthen the U.S.-Japan relationship are profound and enduring.

On a personal note, I found him to be an invaluable resource when I had the honor of serving as the 30th U.S. Ambassador to Japan. Indeed, I deeply appreciate that the strength of the U.S.-Japan Alliance today was made possible by the earlier accomplishments of trailblazers like Dr. Jim Auer. On May 24, 2024, I was honored to attend the Japan-America Society of Tennessee's annual meeting in Nashville and to remember Jim's legacy during a panel discussion with Japanese Ambassador to the United States Shigeo Yamada that was moderated by Chairwoman Masami Tyson. Jim's children Tei, Helen, and John Ed and the rest of the Auer family should know that our Nation is eternally grateful for his contributions.

I ask unanimous consent to have printed in the RECORD this obituary in memory of Dr. Jim Auer that was published in the Tennessean on May 28, 2024.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GENTLEMAN, DEVOTED HUSBAND, LOVING FATHER, NAVAL OFFICER, SHIP CAPTAIN, POLICY MAKER, SCHOLAR, PROFESSOR  
THE BEDROCK OF UNITED STATES SECURITY RELATIONS WITH JAPAN

James Edward Auer loved God, his wife, and his children. A true American patriot,