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(Original Signature of Member)

119TH CONGRESS
1ST SESSION

H. R.

To establish a panel to review certiorari petitions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. RASKIN introduced the following bill; which was referred to the Committee
on _____

A BILL

To establish a panel to review certiorari petitions, and for
other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Supreme Court Certio-
5 rari Oversight and Transparency Standards Act” or the
6 “SCCOTUS Act”.

1 **SEC. 2. CERTIFICATION PANEL.**

2 (a) IN GENERAL.—Chapter 81 of title 28, United
3 States Code, is amended by inserting after section 1254
4 the following:

5 **“§ 1255. Supreme Court certification panel**

6 “(a) ESTABLISHMENT.—There is established a body
7 to be known as the Supreme Court Certification Panel
8 (hereinafter ‘the Panel’).

9 “(b) COMPOSITION.—The Panel shall consist of 13
10 circuit judges of the United States courts of appeals.

11 “(c) RANDOM SELECTION AND ROTATION.—

12 “(1) TERM DESIGNATIONS.—At the beginning
13 of each term of the Supreme Court, the Director of
14 the Administrative Office of the United States
15 Courts shall, using the random selection process es-
16 tablished under subsection (g)(11)(B), designate 1
17 circuit judge from each United States court of ap-
18 peals, who shall serve on the Panel for that term.

19 “(2) DESIGNATION PROCESS.—Each circuit
20 judge designated under this section shall be—

21 “(A) an active judge who has served in
22 Federal judicial office not less than 5 years; or

23 “(B) a senior or retired judge who is listed
24 on the roster maintained under section 294.

25 “(3) CONSECUTIVE SERVICE.—No judge may
26 serve on the Panel for more than 1 consecutive term.

1 “(4) ASSIGNMENT.—The Panel shall be as-
2 signed all petitions for writs of certiorari for review.

3 “(d) PRESIDING JUDGE.—The most senior judge
4 shall serve as Presiding Judge of the Panel for that term.

5 “(e) SUPPORT STAFF.—The Director of the Adminis-
6 trative Office of the United States Courts shall provide
7 administrative and clerical support to the Panel.

8 “(f) VACANCY.—If a member of the panel dies, re-
9 tires, or is unable to serve the remainder of the member’s
10 term, within 90 days of the occurrence of the vacancy, the
11 vacancy shall be filled by a circuit judge in accordance
12 with subsection (c)(2). The circuit judge so designated
13 shall serve for the remainder of the term of the former
14 member.

15 “(g) JURISDICTION AND DUTIES OF PANEL.—

16 “(1) PRIMARY FUNCTION.—The Panel shall re-
17 view all petitions for writs of certiorari filed with the
18 Supreme Court and grant or deny such petitions.

19 “(2) REVIEWING A PETITION FOR A WRIT OF
20 CERTIORARI.—

21 “(A) IN GENERAL.—A decision to grant a
22 petition for a writ of certiorari shall require the
23 concurrence of 4 members of the Panel.

24 “(B) WRITTEN STATEMENT.—Each deci-
25 sion to grant a petition for a writ of certiorari

1 shall include a written statement briefly ex-
2 plaining the reason for granting such request
3 and identifying the questions presented for re-
4 view.

5 “(C) CONSOLIDATION.—The Panel may
6 consolidate petitions for writs of certiorari pre-
7 senting substantially identical questions of law
8 and certify them jointly.

9 “(3) DENIALS.—When a petition for a writ of
10 certiorari is denied, the Panel shall enter an order
11 of denial stating that none of the criteria in para-
12 graph (5) were sufficiently met and no further expla-
13 nation is required.

14 “(4) STAYS PENDING APPEAL.—A member of
15 the Panel shall have the same authority to grant a
16 stay as a Justice of the Supreme Court has under
17 Supreme Court Rule 23 (or any successor rule).

18 “(5) CRITERIA FOR CERTIFICATION.—The
19 Panel may grant a petition for a writ of certiorari
20 only if one or more of the following criteria are met:

21 “(A) CONSIDERATIONS GOVERNING RE-
22 VIEW.—A petition for a writ of certiorari may
23 be granted only for compelling reasons, includ-
24 ing—

1 “(i) a United States court of appeals
2 has entered a decision in conflict with the
3 decision of another United States court of
4 appeals on the same important matter;

5 “(ii) has decided an important Fed-
6 eral question in a way that conflicts with
7 a decision by a State court of last resort,
8 or has so far departed from the accepted
9 and usual course of judicial proceedings, or
10 sanctioned such a departure by an inferior
11 court, as to call for an exercise of super-
12 visory power of the Supreme Court;

13 “(iii) a State court of last resort has
14 decided an important Federal question in a
15 way that conflicts with the decision of an-
16 other State court of last resort or of a
17 United States court of appeals;

18 “(iv) a State court or a United States
19 court of appeals has decided an important
20 question of Federal law that has not been,
21 but should be, settled by the Supreme
22 Court, or has decided an important Fed-
23 eral question in a way that conflicts with
24 relevant decisions of this Court.

1 “(B) GRANTING A PETITION BEFORE
2 JUDGMENT.—A petition for a writ of certiorari
3 to review a case pending in a United States
4 court of appeals, before judgment is entered in
5 that court, may only be granted upon a showing
6 that the case is of such imperative public im-
7 portance as to justify deviation from normal ap-
8 pellate practice and to require immediate deter-
9 mination by the Supreme Court.

10 “(6) LIMITATION.—The Panel may not reexam-
11 ine factual findings or weigh the sufficiency of evi-
12 dence in the record.

13 “(7) OPERATING PROCEDURES.—

14 “(A) MEETINGS.—The Panel shall sit as a
15 motions court, meeting at least once monthly
16 during the term, and may conduct business
17 electronically when necessary.

18 “(B) QUORUM.—Six judges shall con-
19 stitute a quorum.

20 “(C) PUBLIC REPORTING.—

21 “(i) IN GENERAL.—At the close of
22 each term, the Panel shall issue a public
23 report, published on the website of the Ad-
24 ministrative Office of the United States
25 Courts and submitted to the Committees

1 on the Judiciary of the House of Rep-
2 resentatives and the Senate summa-
3 rizing—

4 “(I) the number of petitions re-
5 viewed;

6 “(II) the number of petitions
7 granted and denied; and

8 “(III) general statistical data on
9 grounds for granting such petitions.

10 “(ii) LIMITATION.—No report issued
11 pursuant to clause (i) may disclose con-
12 fidential deliberations or identifying infor-
13 mation about pending cases.

14 “(8) TRANSMISSION TO THE SUPREME
15 COURT.—Each petition for a writ of certiorari that
16 is granted shall be transmitted to the Clerk of the
17 Supreme Court to be entered on the docket.

18 “(9) REVIEW BY THE SUPREME COURT.—A pe-
19 tition for a writ of certiorari granted by the Panel
20 shall be deemed granted by the Supreme Court. The
21 Supreme Court shall set the case for oral argument
22 pursuant to Supreme Court Rules.

23 “(10) ETHICS AND DISQUALIFICATION.—

1 “(A) ETHICS.—Panel judges shall be sub-
2 ject to the Code of Conduct for United States
3 Judges and standards for recusal.

4 “(B) DISQUALIFICATION.—A judge who
5 participated in a case in an inferior court shall
6 be disqualified from any consideration of a peti-
7 tion for writ of certiorari with respect to that
8 case.

9 “(11) IMPLEMENTATION.—

10 “(A) RULES.—Not later than 1 year after
11 the date of enactment of this section, the Judi-
12 cial Conference of the United States shall pro-
13 mulgate rules governing the administration and
14 operation of the Panel consistent with this sec-
15 tion.

16 “(B) RECORD KEEPING.—The Director of
17 the Administrative Office of the United States
18 Courts shall establish the random-selection
19 mechanism and maintain public records of the
20 selection process.

21 “(h) DEFINITIONS.—In this section, the term ‘term’
22 means the term commencing on the first Monday in Octo-
23 ber of each year and such other adjourned or special term
24 as the Supreme Court may hold.”.

1 (b) CLERICAL AMENDMENT.—The table of sections
2 for chapter 81 of title 28, United States Code, is amended
3 by inserting after the item relating to section 1255 of title
4 28, United States Code, the following:

“1254A. Supreme Court certification panel.”.

5 **SEC. 3. SEVERABILITY.**

6 If any provision of this Act, an amendment made by
7 this Act, or the application of such a provision or amend-
8 ment to any particular person or circumstance is held in-
9 valid, the remaining provisions of this Act and the amend-
10 ments made by this Act, and the application of such re-
11 maining provisions and amendments to any other person
12 or circumstance, shall not be affected thereby.