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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE RESOLUTION

No. 114 Session of  
2021

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INTRODUCED BY CUTLER, KERWIN, B. MILLER, PENNYCUICK, HAMM,  
KEEFER, LEWIS, C. WILLIAMS, STAMBAUGH, DIAMOND, DOWLING,  
SMITH, GROVE, FEE, RYAN, SCHMITT, ROZZI, HELM, MIZGORSKI,  
HERSHEY, OWLETT, MENTZER, BERNSTINE, THOMAS, ROWE AND GLEIM,  
JUNE 10, 2021

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REFERRED TO COMMITTEE ON STATE GOVERNMENT, JUNE 10, 2021

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A RESOLUTION

1 Urging the Pennsylvania Supreme Court to improve its rules to  
2 more effectively promote public confidence in the integrity  
3 of the judiciary, judicial employees and attorneys formerly  
4 employed by government entities.

5 WHEREAS, The Public Official and Employee Ethics Act imposes  
6 certain responsibilities and burdens on public officials and  
7 public employees for the purpose of promoting public confidence  
8 in government; and

9 WHEREAS, Three of the cornerstone provisions contained in the  
10 Public Official and Employee Ethics Act to promote public  
11 confidence include the requirement that public officials and  
12 public employees complete a Statement of Financial Interests on  
13 an annual basis, a one-year prohibition on public officials and  
14 employees from representing a person on "any matter before the  
15 governmental body with which [the official or employee] has been  
16 associated" and a prohibition against accepting honoraria; and

17 WHEREAS, The Pennsylvania Ethics Commission, in an effort to

1 provide greater public accessibility to records, makes all  
2 Statements of Financial Interests filed with the commission  
3 available in a searchable database on its publicly accessible  
4 Internet website; and

5 WHEREAS, With very limited exception, gifts received over the  
6 course of a calendar year by public officials and public  
7 employees with an aggregate value of at least \$250 must be  
8 reported on the Statement of Financial Interests; and

9 WHEREAS, Gifts received from lobbyists in excess of the  
10 threshold value amount must be reported regardless of the  
11 personal or familial relationship between the lobbyist and the  
12 public official or public employee; and

13 WHEREAS, Transportation, lodging and hospitality received by  
14 a public official or public employee "in connection with" their  
15 position must be reported if the aggregate value exceeds \$650  
16 from each source in the calendar year; and

17 WHEREAS, The one-year prohibition on public officials and  
18 employees from representing a person before the person's former  
19 employer is a prophylactic rule that promotes integrity in the  
20 operation of government, avoiding both impropriety and the  
21 appearance of impropriety; and

22 WHEREAS, No public official or public employee may accept an  
23 honorarium, which is defined as a "payment made in recognition  
24 of published works, appearances, speeches and presentations and  
25 which is not intended as consideration for the value of such  
26 services which are nonpublic occupational or professional in  
27 nature"; and

28 WHEREAS, Under section 10 of Article V of the Constitution of  
29 Pennsylvania, the Pennsylvania Supreme Court exercises "general  
30 supervisory and administrative authority" over the courts, has

1 the power to prescribe general rules governing practice,  
2 procedure and the conduct of the courts and the power to  
3 prescribe rules governing the practice of law; and

4 WHEREAS, Pursuant to its authority under section 10 of  
5 Article V of the Constitution of Pennsylvania, the Pennsylvania  
6 Supreme Court has exempted the courts from many provisions of  
7 the Public Officers and Employees Ethics Act and has chosen  
8 instead to establish its own rules; and

9 WHEREAS, The differences between the requirements imposed on  
10 judicial officers and employees and those imposed on other  
11 public officers and employees in the Commonwealth gives the  
12 House of Representatives cause for concern; and

13 WHEREAS, Although the judges, justices and employees of the  
14 Unified Judicial System file Statements of Financial Interests  
15 on an annual basis, the Pennsylvania Supreme Court has  
16 effectively limited access to the Statements of Financial  
17 Interests by ordering that, "All statements of financial  
18 interest filed . . . shall be made available for public  
19 inspection and copying during regular office hours"; and

20 WHEREAS, The Pennsylvania Supreme Court's rules appear to be  
21 less stringent as they relate to the reporting of the receipt of  
22 gifts, transportation, lodging and hospitality, specifically  
23 excluding "[G]ifts, loans, bequests, benefits, or other things  
24 of value from friends, relatives, or other persons, including  
25 lawyers, whose appearances or interest in a proceeding pending  
26 or impending before the judge would in any event require  
27 disqualification of the judge under Rule 2.11." and "ordinary  
28 social hospitality" regardless of the aggregate value over the  
29 course of the calendar year; and

30 WHEREAS, The Pennsylvania Supreme Court has held that a

1 nonlawyer engaged in lobbying is not engaged in the practice of  
2 law, while a lawyer engaged in the same activity is engaged in  
3 the practice of law; and

4 WHEREAS, This holding leads to a situation where an attorney  
5 may resign from government service and engage in lobbying the  
6 agency with which the attorney formerly associated immediately  
7 upon leaving government employ; and

8 WHEREAS, In addition to their judicial salaries, judges and  
9 justices may accept honoraria, stipends, fees, wages, salaries,  
10 royalties or other compensation for speaking, teaching and  
11 writing; and

12 WHEREAS, The House of Representatives finds that these  
13 shortcomings in transparency and integrity in government demand  
14 the Pennsylvania Supreme Court's immediate attention; therefore  
15 be it

16 RESOLVED, That the House of Representatives urge the  
17 Pennsylvania Supreme Court to immediately address the  
18 shortcomings in its oversight duties under section 10 of Article  
19 V of the Constitution of Pennsylvania by doing the following:

20 (1) Make Statements of Financial Interests available on  
21 a publicly accessible Internet website.

22 (2) Require more restrictive rules on the reporting of  
23 the receipt of gifts, transportation, lodging and  
24 hospitality.

25 (3) Impose a one-year prohibition on the attorneys  
26 leaving government service and lobbying the governmental body  
27 with which the attorney has been associated.

28 (4) End the practice of judges and justices receiving  
29 honoraria.

30 (5) Conduct a full examination of its ethical and

1 financial reporting requirements for judges, justices and  
2 employees to determine whether additional changes to those  
3 requirements would promote greater transparency and further  
4 avoid both impropriety and the appearance of impropriety;  
5 and be it further

6 RESOLVED, That this resolution be transmitted to the Chief  
7 Justice of the Pennsylvania Supreme Court.