§ 105. Custody of and public access to reports

(a) Each agency, each supervising ethics office in the executive or judicial branch, the Clerk of the House of Representatives, and the Secretary of the Senate shall make available to the public, in accordance with subsection (b), each report filed under this title with such agency or office or with the Clerk or the Secretary of the Senate, except that—

(1) this section does not require public availability of a report filed by any individual in the Office of the Director of National Intelligence, the Central Intelligence Agency, the Defense Intelligence Agency, the National Geospatial-Intelligence Agency, or the National Security Agency, or any individual engaged in intelligence activities in any agency of the United States, if the President finds or has found that, due to the nature of the office or position occupied by such individual, public disclosure of such report would, be revealing the identity of the individual or other sensitive information, compromise the national interest of the United States; and such individuals may be authorized, notwithstanding section 104(a), to file such additional reports as are necessary to protect their identity from public disclosure if the President first finds or has found that such filing is necessary in the national interest; and

(2) any report filed by an independent counsel whose identity has not been disclosed by the division of the court under chapter 40 of title 28, United States Code, and any report filed by any person appointed by that independent counsel under such chapter, shall not be made available to the public under this title.

(b) (1) Except as provided in the second sentence of this subsection, each agency, each supervising ethics office in the executive or judicial branch, the Clerk of the House of Representatives, and the Secretary of the Senate shall, within thirty days after any report is received under this title by such agency or office or by the Clerk or the Secretary of the Senate, as the case may be, permit inspection of such report by or furnish a copy of such report to any person requesting such inspection or copy. With respect to any report required to be filed by May 15 of any year, such report shall be made available for public inspection within 30 calendar days after May 15 of such year or within 30 days of the date of filing of such a report for which an extension is granted pursuant to section 101(g). The agency, office, Clerk, or Secretary of the Senate, as the case may be may require a reasonable fee to be paid in any amount which is found necessary to recover the cost of reproduction or mailing of such report excluding any salary of any employee involved in such reproduction or mailing. A copy of such report may be furnished without charge or at a reduced charge if it is determined that waiver or reduction of the fee is in the public interest.

(2) Notwithstanding paragraph (1), a report may not be made available under this section to any person nor may any copy thereof be provided under this section to any person except upon a written application by such person stating—

(A) that person’s name, occupation and address;

(B) the name and address of any other person or organization on whose behalf the inspection or copy is requested; and

(C) that such person is aware of the prohibitions on the obtaining or use of the report.

Any such application shall be made available to the public throughout the period during which the report is made available to the public.

(3) 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 Marshals Service, that revealing
personal and sensitive information could endanger that individual or a family member of that individual.

(B) A report may be redacted pursuant to this paragraph only—

(i) to the extent necessary to protect the individual who filed the report or a family member of that individual; and

(ii) for as long as the danger to such individual exists.

(C) The Administrative Office of the United States Courts shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate and the Senate Committee on Homeland Security and Governmental Affairs and the House Committee on Oversight and Government Reform an annual report with respect to the operation of this paragraph including—

(i) the total number of reports redacted pursuant to this paragraph;

(ii) the total number of individuals whose reports have been redacted pursuant to this paragraph;

(iii) the types of threats against individuals whose reports are redacted, if appropriate;

(iv) the nature or type of information redacted;

(v) what steps or procedures are in place to ensure that sufficient information is available to litigants to determine if there is a conflict of interest;

(vi) principles used to guide implementation of redaction authority; and

(vii) any public complaints received relating to redaction.

(D) The Judicial Conference, in consultation with the Department of Justice, shall issue regulations setting forth the circumstances under which redaction is appropriate under this paragraph and the procedures for redaction.

(E) This paragraph shall expire on December 31, 2017, and apply to filings through calendar year 2017.

(c) (1) It shall be unlawful for any person to obtain or use a report—

(A) for any unlawful purpose;

(B) for any commercial purpose, other than by news and communications media for dissemination to the general public;

(C) for determining or establishing the credit rating of any individual; or

(D) for use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose.

(2) The Attorney General may bring a civil action against any person who obtains or uses a report for any purpose prohibited in paragraph (1) of this subsection. The court in which such action is brought may assess against such person a penalty in any amount not to exceed $10,000. Such remedy shall be in addition to any other remedy available under statutory or common law.

(d) Any report filed with or transmitted to an agency or supervising ethics office or to the Clerk of the House of Representatives or the Secretary of the Senate pursuant to this title shall be retained by such agency or office or by the Clerk or the Secretary of the Senate, as the case may be. Such report shall be made available to the public for a period of six years after receipt of the report. After such six-year period the report shall be destroyed unless needed in an ongoing investigation, except that in the case of an individual who filed the report pursuant to section 101 (b) and was not subsequently confirmed by the Senate, or who filed the report pursuant to section 101 (c) and was not subsequently elected, such reports shall be destroyed one year after the individual either is no longer under consideration by the Senate or is no longer a candidate for nomination or election to the Office of President, Vice President, or as a Member of Congress, unless needed in an ongoing investigation.

Footnotes
1 So in original. Probably should be “by”.
2 So in original.
3 So in original. Probably should be followed by a comma.


Codification
Section was formerly classified to section 705 of Title 2, The Congress.

Amendments
Subsec. (b)(3)(C). Pub. L. 112–84, § 1(2), inserted “and the Senate Committee on Homeland Security and Governmental Affairs and the House Committee on Oversight and Government Reform” after “of the Senate”.
Subsec. (b)(3)(C)(iv) to (vii). Pub. L. 110–24, § 3(b), added cls. (iv) to (vii).
1991—Subsec. (b)(1). Pub. L. 102–90 substituted “Except as provided in the second sentence of this subsection, each agency” for “Each agency” and inserted after first sentence “With respect to any report required to be filed by May 15 of any year, such report shall be made available for public inspection within 30 calendar days after May 15 of such year or within 30 days of the date of filing of such a report for which an extension is granted pursuant to section 101 (g).”
1990—Subsec. (a). Pub. L. 101–280, § 3(6)(A), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “Each agency and each supervisory ethics office shall make each report filed with it under this title available to the public in accordance with the provisions of subsection (b) of this section, except that this section does not require public availability of a report filed by—
“(1) any individual in the Central Intelligence Agency, the Defense Intelligence Agency, or the National Security Agency, or any individual engaged in intelligence activities in any agency of the United States, if the President finds that, due to the nature of the office or position occupied by such individual, public disclosure of such report would, by revealing the identity of the individual or other sensitive information, compromise the national interest of the United States. In addition, such individuals may be authorized, notwithstanding section 104 (a), to file such additional reports as are necessary to protect their identity from public disclosure if the President first finds that such filing is necessary in the national interest; or
“(2) an independent counsel or person appointed by independent counsel under chapter 40 of title 28, United States Code, whose identity has not otherwise been disclosed.”

Subsec. (b)(1). Pub. L. 101–280, § 3(6)(B)(i)(I), substituted “, each supervising ethics office in the executive or judicial branch, the Clerk of the House of Representatives, and the Secretary of the Senate” for “and each supervising ethics office”.

Pub. L. 101–280, § 3(6)(B)(i)(II), substituted “under this title by such agency or office or by the Clerk or the Secretary of the Senate, as the case may be,” for “by such agency or office under this title”.

Pub. L. 101–280, § 3(6)(B)(ii), substituted “, office, Clerk, or Secretary of the Senate, as the case may be” for “or office”.

Subsec. (d). Pub. L. 101–280, § 3(6)(C), inserted “or to the Clerk of the House of Representatives or the Secretary of the Senate” after “ethics office” and “or by the Clerk or the Secretary of the Senate” after “or office”.

1989—Pub. L. 101–194 amended section generally, substituting provisions relating to custody of and public access to reports for provisions relating to review and compliance procedures. See section 106 of this Appendix.

Effective Date of 2004 Amendment

For Determination by President that amendment by Pub. L. 108–458 take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 401 of Title 50, War and National Defense.

Amendment by Pub. L. 108–458 effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108–458, set out as an Effective Date of 2004 Amendment; Transition Provisions note under section 401 of Title 50, War and National Defense.

Effective Date of 1996 Amendment

Amendment by Pub. L. 104–201 effective Oct. 1, 1996, see section 1124 of Pub. L. 104–201, set out as a note under section 193 of Title 10, Armed Forces.

Effective Date of 1989 Amendment


Transfer of Functions

Certain functions of Clerk of House of Representatives transferred to Director of Non-legislative and Financial Services by section 7 of House Resolution No. 423, One Hundred Second Congress, Apr. 9, 1992. Director of Non-legislative and Financial Services replaced by Chief Administrative Officer of House of Representatives by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995.


Section 9 of Pub. L. 101–280 provided that: “Those reports filed under title I [formerly classified to section 701 et seq. of Title 2, The Congress], II [formerly set out under the heading Executive Personnel Financial Requirements in this Appendix], or III [formerly set out under the heading Judicial Personnel Financial Disclosure Requirements in the Appendix to Title 28, Judiciary and Judicial Procedure] of the Ethics in Government Act of 1978 [Pub. L. 95–521], as in effect before January 1, 1991, shall be made available to the public on or after such date in accordance with section 105 of that Act [this section], as amended by the Ethics Reform Act of 1989 [Pub. L. 101–194], and the provisions of such section shall apply with respect to those reports.”