

JUDICIAL NOMINATIONS: JUST THE FACTS

Despite claims from some Senate Republicans, the Republican Minority in the Senate has treated President Obama's judicial nominees far worse than the Democratic Majority treated President Bush's judicial nominees in the first Congress of the Bush administration. Their tactics of delay have led to skyrocketing vacancies across the country.

The Senate has confirmed just 41 circuit and district court nominees this Congress; A Democratic Majority in the first Congress of the Bush administration confirmed 100 nominations.

The Democratic Majority worked to confirm 100 judicial nominations during the first two years of the Bush administration. **The Senate so far this Congress has confirmed just 41 circuit and district court nominations.**

EVERY circuit and district court nomination favorably reported to the Senate floor by the Judiciary Committee was confirmed by the Senate, promptly receiving up-or-down votes in the Senate. There are currently 38 judicial nominations pending before the full Senate, **including 29 nominations reported unanimously by the Judiciary Committee.**

The **Senate confirmed 20 judicial nominations during the lame duck session in 2002**, the second year of the first Congress of the Bush administration. Among the 20 confirmations were the controversial circuit court nominations of Dennis Shedd and Michael McConnell. Shedd was confirmed just five days after being reported by the Judiciary Committee; McConnell was confirmed just one day after being reported by the Judiciary Committee.

While Senate Republicans have refused to proceed to votes on even non-controversial nominations, vacancies across the country have swelled to 111.

There are 111 judicial vacancies on circuit and district courts across the country – one in every eight judgeships is vacant. While the Republican Majority caused vacancies to skyrocket by pocket-filibustering President Clinton's judicial nominees, the Democratic Majority during the first Congress of the Bush administration worked to reduce judicial vacancies by 50, lowering them from 110 to 60.

Democrats continued to work to reduce judicial vacancies through the last Congress of the Bush administration, reducing vacancies to the mid-30s at the end of 2008. Because Senate Republicans have objected to votes on pending judicial nominations, **vacancies across the country have increased more than 100 percent since the start of the Obama administration, rising from 53 vacancies in January 2009 to 111 vacancies today.**

There are 52 judicial emergencies in districts and circuits across the country. This means that vacancies in 26 districts and on five circuits across the country have been designated as judicial emergencies by the non-partisan, independent Administrative Office of the U.S. Courts – they are sorely understaffed, preventing the swift disposition of pending cases.

President Obama's judicial nominees have waited far longer for confirmation votes than did President Bush's judicial nominees.

President Obama's Circuit Court nominees have waited, on average, more than FIVE AND A HALF TIMES longer to be confirmed than President Bush's nominees did after being favorably reported by the Judiciary Committee.

During the first Congress of the **Bush administration, Circuit Court nominees waited an average of 26 days to be confirmed** after being favorably reported by the Judiciary Committee. In contrast, **President Obama's Circuit Court nominees have been pending before the full Senate for an average of 135 days** after being favorably reported by the Judiciary Committee.

President Obama's District Court nominees have waited more than THREE TIMES longer than President Bush's nominees to be confirmed after being reported by the Judiciary Committee.

During the first Congress of the **Bush administration, District Court nominees waited an average of 25 days to be confirmed** after being favorably reported by the Judiciary Committee. In contrast, **President Obama's District Court nominees have been pending before the full Senate for an average of 85 days** after being favorably reported by the Judiciary Committee.

Shifting Standards: Senate Republicans insisted that a Republican President's judicial nominees should receive prompt up or down votes after being reported by the Judiciary Committee.

*Republican Leader Mitch McConnell (R-Ky.) – "Let's get back to the way the Senate operated for over 200 years, **up or down votes on the president's nominee, no matter who the president is, no matter who's in control of the Senate.** That's the way we need to operate." – May 23, 2005, The Los Angeles Times, "The Nation; Clock Ticks on Effort to Defuse Senate Battle,"*

*Senator Orrin Hatch (R-Utah), former Judiciary Committee Chairman – "...I think we should bind both Democrats and Republicans that presidential **nominees for the judiciary deserve an up-and-down vote once they reach the floor...**" – May 19, 2005, National Public Radio, "Orrin Hatch Discusses Debate in Senate"*

*Senator John Cornyn (R-Texas) – "An up-or-down vote is a matter of fundamental fairness, and it is the Senate's constitutional duty to act on each nomination. It is also critically important to our judicial system and the proper functioning of our federal government to fill these positions. **Senators have a right to vote for or against any nominee-but blocking votes on nominations is unacceptable.**" – February 7, 2008, Cornyn Senate Website*

*Senator Tom Coburn (R-Okla.) – "And the fact is . . . we need to return to what the 200-year precedent has been. If you look at the Constitution, it says the president is to nominate these people, and the Senate is to advise and consent. **That means you got to have a vote if they come out of committee.** And that happened for 200 years." – April 26, 2005, CNBC's Kudlow & Company*

There are currently 38 judicial nominations pending before the full Senate, many of which should be confirmed before the Congress adjourns later this month.

There are 38 judicial nominations pending before the full Senate. Of the 38 nominations, 16 have been pending since before the Senate's August recess and 21 of the nominations would fill judicial emergency vacancies.

Eight circuit court nominations, reported as long ago as January, are pending before the Senate. Six of the nominations were reported **UNANIMOUSLY** by the Judiciary Committee. Five of the eight nominees **enjoy strong support from Republican home state Senators.** Six of the nominations are for seats designated as judicial emergencies.

There are 30 district court nominations, reported as long ago as February, pending before the Senate, including 23 nominees reported **UNANIMOUSLY** by the Judiciary Committee. Seven nominees **enjoy strong support from Republican home state Senators.** Fifteen of the nominations are for seats designated as judicial emergencies.