

2023BCDCC-00X-GOV-07042023 – Reforming SCOTUS Nomination and Confirmation Process

WHEREAS recent SCOTUS nominations have been confirmed by Congress in an arbitrary and contradictory manner, with each political party attempting to appoint justices favorable to the views of the party currently in power, resulting in the justices being seen as partisans rather than independent and impartial justices; and the confidence in the legitimacy of the SCOTUS sinking to historic lows[1];

WHEREAS Senate Majority Leader McConnell (Rep-KY) refused to consider then-President Obama's nomination of Merrick Garland for more than nine months before the end of President Obama's term [2], with McConnell frequently citing the 1992 "Biden Rule" [3], on the grounds that "the people deserved to have a new Congress in place" before the Senate could vote to approve or disapprove his nomination, resulting in the SCOTUS operating short-handed with only eight justices for months;

WHEREAS Amy Coney Barrett's nomination to the SCOTUS [4] was rushed to a vote in 31 days by Senate Majority Leader McConnell on the grounds that the current Congress deserved to have an opportunity to vote on her approval to the SCOTUS;

WHEREAS this conduct is a result of rules governing the nomination and confirmation processes for justices to the Supreme Court being susceptible to gaming by interested parties;

WHEREAS recent confirmations since 1992 have all been controversial [4], the SCOTUS is accused of legislating from the bench [5], and the legitimacy of the SCOTUS is being challenged [6];

BE IT RESOLVED that the Washington State Democratic Congressional delegation work with their Congressional colleagues to institute these common-sense reforms listed below so that that the confirmation process is more rule-based and straightforward, less susceptible to becoming a political circus show, and minimizes the elapsed time to confirm a justice, maximizes the time that the SCOTUS have a full complement of justices, and will meet the goals of reforming the SCOTUS [7];

BE IT FINALLY RESOLVED that once a justice is nominated for the SCOTUS, the Senate shall vote up or down on its approval to join the SCOTUS during a time window of not less than 45 days to not more than 90 days post-nomination; and if said vote not be conducted after 90 days post-nomination, then said justice shall be henceforth confirmed to join to the SCOTUS without a vote and without further delay.

References:

1. https://en.wikipedia.org/wiki/Merrick_Garland_Supreme_Court_nomination
2. <https://news.gallup.com/poll/394103/confidence-supreme-court-sinks-historic-low.aspx>
3. <https://www.politifact.com/article/2020/sep/21/context-there-biden-rule-supreme-court-nominations/>
4. https://en.wikipedia.org/wiki/Amy_Coney_Barrett_Supreme_Court_nomination
5. <https://www.nytimes.com/2016/02/23/us/politics/joe-biden-argued-for-delaying-supreme-court-picks-in-1992.html>
6. <https://law.lclark.edu/live/files/9581-lcb111peabodypdf>
7. <https://www.whitehouse.gov/wp-content/uploads/2021/12/SCOTUS-Report-Final-12.8.21-1.pdf>

Originated by Charles A. LoPresti, BCDCC Resolutions Committee, July 10, 2023

BCDCC Point of Contact _____

BCDCC Chair _____

BCDCC Secretary _____