

118TH CONGRESS
1ST SESSION

H. R. 5566

To amend title 28, United States Code, to provide for the duration of active service of justices of the Supreme Court, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 19, 2023

Mr. JOHNSON of Georgia (for himself, Ms. SCHAKOWSKY, Mr. SCHIFF, Ms. LEE of California, Mr. THANEDAR, Mr. NADLER, and Mr. GOLDMAN of New York) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 28, United States Code, to provide for the duration of active service of justices of the Supreme Court, 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 Tenure
5 Establishment and Retirement Modernization Act of
6 2023”.

1 **SEC. 2. SUPREME COURT TERMS OF OFFICE.**

2 (a) IN GENERAL.—Chapter 1 of title 28, United
3 States Code, is amended by adding at the end the fol-
4 lowing:

5 **“§ 7. Appointment**

6 “(a) REGULAR APPOINTMENT OF JUSTICES.—The
7 President shall, during the first and third years after a
8 year in which there is a Presidential election, nominate,
9 and by and with the advice and consent of the Senate,
10 appoint one justice of the Supreme Court.

11 “(b) EXCLUSIVE METHOD OF APPOINTMENT.—The
12 President shall not appoint any justice of the Supreme
13 Court except as provided in this section.

14 “(c) LIMITATION ON REPEAT APPOINTMENTS.—An
15 individual, once confirmed by the Senate, may only serve
16 one 18-year term as a Supreme Court Justice.

17 “(d) SENATE CONFIRMATION.—

18 “(1) IN GENERAL.—The Senate shall exercise
19 its authority to provide advice and consent on nomi-
20 nations made under subsection (a) not later than 90
21 days after the date on which the individual is nomi-
22 nated by the President.

23 “(2) WITHDRAWAL OR DISAPPROVAL.—If the
24 President withdraws a nomination under subsection
25 (a) or the Senate disapproves such a nomination, the
26 President shall make another nomination under sub-

1 section (a). The Senate shall exercise its authority to
2 provide advice and consent on such a subsequent
3 nomination not later than 120 days after the date
4 on which the individual is nominated by the Presi-
5 dent.

6 **“§ 8. Duration of active service**

7 “(a) NEW JUSTICES.—Each justice shall serve in
8 regular active service for 18 years beginning on the date
9 on which the justice is sworn in, after which the justice
10 shall be deemed to have retired from regular active service
11 under section 371.

12 “(b) CURRENT JUSTICES.—Each justice who was ap-
13 pointed before the date of enactment of this section and
14 who is serving as a justice on the date of enactment of
15 this section shall, notwithstanding the period of service of
16 the justice, in order of duration of service beginning with
17 the justice who has served on the Supreme Court for the
18 longest period of time, be deemed to have retired from reg-
19 ular active service under section 371(b) upon the date of
20 commission of each new justice as they are appointed
21 under section 7.”.

22 (b) CLERICAL AMENDMENT.—The table of sections
23 for chapter 1 of title 28, United States Code, is amended
24 by adding at the end the following:

“7. Appointment.

“8. Duration of active service.”.

1 **SEC. 3. SENIOR JUSTICES.**

2 Section 294 of title 28, United States Code, is
3 amended—

4 (1) in subsection (d), by striking the period at
5 the end and inserting “except as provided by sub-
6 section (e).”;

7 (2) by redesignating subsection (e) as sub-
8 section (f); and

9 (3) by inserting after subsection (d) the fol-
10 lowing:

11 “(e) In the event that the number of justices of the
12 Supreme Court falls below that provided in section 1 due
13 to vacancy, disability, or disqualification, a justice of the
14 Supreme Court who has retired from regular active service
15 under section 371 but retained their office shall be chosen
16 by the Chief Justice through a publicly transparent and
17 randomized process to serve as an associate justice until
18 the number of justices who have not retired from regular
19 active service equals that provided in section 1.”.

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