

118TH CONGRESS
1ST SESSION

S. 2420

To amend the District of Columbia Home Rule Act to provide for the automatic appointment of judges to the District of Columbia courts without the advice and consent of the Senate, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 20, 2023

Mr. CARPER (for himself, Mr. VAN HOLLEN, Mr. KAINE, Mr. CARDIN, and Mr. BOOKER) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To amend the District of Columbia Home Rule Act to provide for the automatic appointment of judges to the District of Columbia courts without the advice and consent of the Senate, 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 “District of Columbia
5 Courts Judicial Vacancy Reduction Act”.

6 **SEC. 2. AUTOMATIC APPOINTMENT OF JUDGES TO DIS-** 7 **TRICT OF COLUMBIA COURTS.**

8 (a) APPOINTMENTS BY PRESIDENT.—

(1) IN GENERAL.—Section 433(a) of the District of Columbia Home Rule Act (sec. 1–204.33(a), D.C. Official Code) is amended by striking “the President shall nominate” and all that follows and inserting the following: “from the list of persons recommended by the District of Columbia Judicial Nomination Commission established under section 434, the President shall appoint all judges of the District of Columbia courts.”.

(2) CONFORMING AMENDMENTS.—Section 433 of such Act (sec. 1–204.33, D.C. Official Code) is further amended—

(A) in the heading, by striking “NOMINATION AND”;

(B) in subsection (b)—

(i) in the matter preceding paragraph (1), by striking “nominated or”;

(ii) in paragraph (2), by striking “his nomination” and inserting “the appointment”;

(iii) in paragraph (3), by striking “his nomination” and inserting “the appointment”;

(iv) in paragraph (4), by striking “the President, for such nomination and ap-

pointment,” and inserting “the President for such appointment”; and

(v) in paragraph (5), by striking “his nomination” and inserting “the appointment”; and

(C) in subsection (c)—

(i) in the fifth sentence, by striking “then the President may nominate” and all that follows and inserting “the President may reappoint such candidate as judge.”;

(ii) in the sixth sentence, by striking “not to so nominate such declaring candidate, he shall nominate another candidate” and inserting “not to so reappoint such declaring candidate, the President shall appoint another candidate”; and

(iii) in the seventh sentence, by striking “then the President shall not submit to the Senate for advice and consent the re-nomination of the declaring candidate as judge” and inserting “the President shall not reappoint the declaring candidate as judge”.

1 (3) CLERICAL AMENDMENT.—The table of con-
 2 tents of such Act is amended by amending the item
 3 relating to section 433 to read as follows:

“Sec. 433. Appointment of judges.”.

4 (b) APPOINTMENTS BY JUDICIAL NOMINATION COM-
 5 MISSION.—Section 434(d) of such Act (sec. 1–204.34(d),
 6 D.C. Official Code) is amended—

7 (1) in paragraph (1)—

8 (A) in the first sentence, by striking “for
 9 possible nomination and appointment” and in-
 10 serting “for possible appointment”;

11 (B) in the second sentence, by striking
 12 “more than one nominee” and inserting “more
 13 than one person”;

14 (C) in the third sentence, by striking “of
 15 nominees”; and

16 (D) in the fourth sentence—

17 (i) by striking “the President fails to
 18 nominate, for Senate confirmation,” and
 19 inserting “the President fails to appoint”;
 20 and

21 (ii) by striking “the Commission shall
 22 nominate, and with the advice and consent
 23 of the Senate, appoint” and inserting “the
 24 Commission shall appoint”; and

1 (2) in paragraph (3), by striking “nomination”
 2 each place it appears and inserting “appointment”.

3 **SEC. 3. AUTHORIZING CONGRESS TO PREVENT APPOINT-**
 4 **MENT THROUGH RESOLUTION OF DIS-**
 5 **APPROVAL.**

6 (a) RESOLUTIONS OF DISAPPROVAL.—Part C of title
 7 IV of the District of Columbia Home Rule Act (sec. 1–
 8 204.31 et seq., D.C. Official Code) is amended by insert-
 9 ing after section 434 the following new section:

10 “AUTHORIZING CONGRESS TO PREVENT APPOINTMENT
 11 THROUGH RESOLUTION OF DISAPPROVAL

12 “SEC. 434A. (a) REQUIRING TRANSMISSION OF NO-
 13 TICE OF APPOINTMENT TO CONGRESS.—Notice of the ap-
 14 pointment of a judge of a District of Columbia court under
 15 this part shall be transmitted to the Speaker of the House
 16 of Representatives and the President pro tempore of the
 17 Senate by—

18 “(1) the President, in the case of an appoint-
 19 ment under section 433; or

20 “(2) the District of Columbia Judicial Nomina-
 21 tion Commission, in the case of an appointment
 22 under section 434(d)(1).

23 “(b) TIMING OF APPOINTMENT.—The appointment
 24 of a judge of the District of Columbia courts shall take
 25 effect upon the expiration of the 60-calendar-day period
 26 (excluding Saturdays, Sundays, and holidays, and any day

1 on which neither House is in session because of an ad-
 2 journment sine die, a recess of more than three days, or
 3 an adjournment of more than three days) beginning on
 4 the date on which notice of the appointment is transmitted
 5 to the Speaker of the House of Representatives and the
 6 President pro tempore of the Senate under subsection (a),
 7 unless during such 60-calendar-day period there has been
 8 enacted into law a joint resolution disapproving of the ap-
 9 pointment.

10 “(c) APPLICATION OF EXPEDITED PROCEDURES FOR
 11 CONSIDERATION OF RESOLUTIONS OF DISAPPROVAL OF
 12 COUNCIL ACTS TO CONSIDERATION OF RESOLUTIONS OF
 13 DISAPPROVAL OF APPOINTMENT OF JUDGES.—

14 “(1) APPLICATION OF PROCEDURES.—The pro-
 15 visions of section 604 shall apply with respect to a
 16 joint resolution described in paragraph (2) in the
 17 same manner and to the same extent as such provi-
 18 sions apply to a joint resolution which is described
 19 in section 604(b) and which disapproves an act of
 20 the District of Columbia Council which is trans-
 21 mitted pursuant to section 602(c)(1).

22 “(2) RESOLUTIONS DESCRIBED.—A resolution
 23 described in this paragraph is a resolution, the mat-
 24 ter after the resolving clause of which is as follows:
 25 ‘That the _____ disapproves of the ap-

1 pointment of _____ as a judge of the
 2 _____.’, with the first blank filled in
 3 with the name of the House of Congress involved,
 4 the second blank filled in with the name of the indi-
 5 vidual involved, and the third blank filled in with the
 6 name of the District of Columbia court involved, but
 7 does not include any resolution which specifies more
 8 than one action.”.

9 (b) CLERICAL AMENDMENT.—The table of contents
 10 of such Act is amended by inserting after the item relating
 11 to section 434 the following new item:

“Sec. 434A. Authorizing Congress to prevent appointment through resolution of
 disapproval.”.

12 **SEC. 4. EFFECTIVE DATE.**

13 (a) IN GENERAL.—The amendments made by this
 14 Act shall apply with respect to appointments of judges of
 15 the District of Columbia courts which are made on or after
 16 the date of the enactment of this Act.

17 (b) TRANSITION RULE FOR CURRENT NOMINEES.—
 18 Section 434A of the District of Columbia Home Rule Act
 19 (as added by section 3(a)) shall apply with respect to an
 20 individual whose nomination as a judge of the District of
 21 Columbia courts is pending as of the date of the enact-
 22 ment of this Act as follows:

23 (1) In the case of an individual nominated by
 24 the President under section 433 of such Act (as in

1 effect prior to the effective date of this Act), the
2 President shall be deemed to have transmitted notice
3 of the appointment of the individual as a judge of
4 the District of Columbia courts to the Speaker of
5 the House of Representatives and the President pro
6 tempore of the Senate on the date of the enactment
7 of this Act.

8 (2) In the case of an individual nominated by
9 the District of Columbia Judicial Nomination Com-
10 mission under section 434 of such Act (as in effect
11 prior to the effective date of this Act), the Commis-
12 sion shall be deemed to have transmitted notice of
13 the appointment of the individual as a judge of the
14 District of Columbia courts to the Speaker of the
15 House of Representatives and the President pro
16 tempore of the Senate on the date of the enactment
17 of this Act.

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