



A project of  **FIX THE COURT**

## Facts About the Supreme Court Term Limits and Regular Appointments Act of 2020

To reaffirm the Supreme Court's proper role within our constitutional structure, safeguard its independence and incentivize both comity and humility, **Fix the Court is proud to endorse the Supreme Court Term Limits and Regular Appointments Act of 2020**, introduced Sept. 29, by Reps. Ro Khanna (D-Calif.), Don Beyer (D-Va.) and Joe Kennedy III (D-Mass). We believe, along with [wide majorities](#) of both Democratic and Republican voters, that Supreme Court justices should not serve for life.

**The bill, mandating an 18-year term limit for future justices – with a new justice added, and another rotating off, every two years – has emerged as the reform most likely to solve the partisanship and acrimony plaguing the Supreme Court.**

**Here is it works** (further justification in this [law review article](#) by Fix the Court staff):

1. The president would nominate a new justice to the Supreme Court in his or her first and third years in office. If re-elected, the president would nominate a new justice in the first and third years of his or her second term.
2. Each Supreme Court justice appointed after the law passed would retain life tenure as a federal judge as guaranteed in the Constitution. But only 18 years of that service may be on the Supreme Court, unless there's a vacancy.
3. If there's a vacancy on the Court due to death, resignation or impeachment/removal, the most recently retired justice would be pulled back into service until a new justice is confirmed.

*This plan has support from both [conservative and liberal legal scholars](#) because it is **fair** and **nonpartisan** and **does not require amending the Constitution**. American jurisprudence should not be tied to the health of octogenarians. Term limits would strengthen the Court and restore public trust in the institution.*

**According to polling data from May 2020, here's what Americans think** (details [here](#)):

1. 77% of Americans favor restrictions on length of SCOTUS service, vs. 23% against
2. 78% of Democrats and 79% of Republicans favor restrictions on length of SCOTUS service, vs. 21% against for each party
3. 70% of Americans find the following statement somewhat or very persuasive: "No one with a position as powerful as Supreme Court justice should serve for life."



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## *Recent Supreme Court Term Limits Endorsements:*

**Ro Khanna, U.S. Representative (D-Calif.)** ([link](#)): “Implementing term limits for the Supreme Court would be a step toward repairing and normalizing a process that raises the stakes of vacancies beyond what our politics, or the human beings who serve on the Court, can comfortably bear.” (Sept. 25, 2020)

**Joe Kennedy, U.S. Representative (D-Mass.)** ([link](#)): “[O]ur country’s top constitutional questions shouldn’t be decided by a panel of jurists who are biding their time until a president of their choice is elected. It’s time to standardize and democratize the Supreme Court.” (Sept. 25, 2020)

**Pete Peterson, Dean of Pepperdine University School of Public Policy, and Stephen Heinz, President and CEO of Rockefeller Brothers Fund** ([link](#)): “It is fair to surmise that our founders never envisioned Supreme Court terms of 30 years or more. [...] If Congress enacted [...] 18-year terms paired with regular appointments, [...] each president would be responsible for two nominations, rather than our current, randomized system where one president may nominate multiple justices while another does not get to nominate any. Justices would no longer be incentivized to time their retirement to ensure an ideologically similar judge fills their seat.” (Oct. 5, 2020)

**Ezra Klein, Editor-at-Large at Vox** ([link](#)): “Implementing term limits for the Supreme Court would be a step toward repairing and normalizing a process that raises the stakes of vacancies beyond what our politics, or the human beings who serve on the Court, can comfortably bear. (Sept. 18, 2020)

**Steve Calabresi, Professor at Yale Law School** ([link](#)): “[Term limits] would end what has become a poisonous process of picking a Supreme Court justice. It will depoliticize the court and judicial selection, and thus promote the rule of law.” (Sept. 22, 2020)

**Andrew Yang, Businessman** ([link](#)): “I suggested 18 year term limits, which would be plenty of time for judges to make choices feeling free of political influence, and would also depoliticize their appointments.” (Sept. 22, 2020)

**Washington Post Editorial Board** ([link](#)): “This plan would also eliminate the incentive for presidents to pick young and relatively inexperienced judges merely because they are likely to live longer. And leaders from both parties could tell their voters that they have ensured that the other side will never again get a lifetime appointment.” (Sept. 21, 2020)

**Boston Globe Editorial Board** ([link](#)): “One sensible way to lower the temperature on appointments, and preserve the legitimacy of the court, is to establish term limits for justices.” (Sept. 22, 2020)

**Steven Hill, Reporter at Salon** ([link](#)): “More than any other single factor, the lifetime appointments has been responsible for bruising and bitter confirmation battles.” (Oct. 27, 2020)

**Adam Winkler, Professor at UCLA Law** ([link](#)): “I do think that Congress could be more assertive in its powers in a wide variety of ways that would tend not to necessarily limit the Supreme Court’s power, but do what the framers thought, which was counter power with power.” (Sept. 23, 2020)

**Keith McWalter, Ohio-Based Attorney and Political Commentator** ([link](#)): “Term limits (say, 18 years) for Supreme Court justices would reduce the intense partisanship that inevitably surrounds appointments to a lifetime position while ensuring a predictable freshening of the lifeblood of the court.” (Oct. 27, 2020)

**Mark Weston, Legal Commentator at ABC News** ([link](#)): “The Founding Fathers gave Supreme Court justices lifetime terms because they wanted them to be resistant to political pressure, but 18-year terms are also long enough to preserve a justice’s independence. [...] Supreme Court justices are judges, not monarchs. Eighteen years on the Court is enough.” (Oct. 12, 2020)