

117TH CONGRESS
2D SESSION

S. 4706

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

IN THE SENATE OF THE UNITED STATES

AUGUST 2, 2022

Mr. WHITEHOUSE (for himself, Mr. BOOKER, Mr. BLUMENTHAL, Mr. SCHATZ, and Ms. HIRONO) introduced the following bill; which was read twice and 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 the Chief Justice of the United States and associate justices of the Supreme Court of the United States, 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 2022”.

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 a Chief Justice of the United States or an asso-
11 ciate justice of the Supreme Court of the United States.

12 “(b) EXCLUSIVE METHOD OF APPOINTMENT.—The
13 President shall not appoint any Chief Justice of the
14 United States or associate justice of the Supreme Court
15 of the United States except as provided in this section.

16 **“§ 8. Duration of Active Service**

17 “(a) NEW JUSTICES.—A Chief Justice of the United
18 States or an associate justice of the Supreme Court of the
19 United States shall serve in regular active service for an
20 18-year period beginning on the date of the commission
21 of the Chief Justice or associate justice, after which the
22 justice shall be deemed to have retired from regular active
23 service under section 371.

24 “(b) CURRENT JUSTICES.—Each Chief Justice of the
25 United States and associate justice of the Supreme Court
26 of the United States who was appointed before the date

1 of enactment of this section and who is serving as the
 2 Chief Justice or associate justice, as applicable, on the
 3 date of enactment of this section shall, notwithstanding
 4 the period of service of the justice, in order of duration
 5 of service beginning with the justice who has served on
 6 the Supreme Court of the United States for the longest
 7 period of time, be deemed to have retired from regular
 8 active service under section 371(b) upon the date of com-
 9 mission of each new Chief Justice or associate justice, as
 10 applicable, as they are appointed under section 7.”.

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

“7. Appointment
 “8. Duration of Active Service”.

14 **SEC. 3. SENIOR JUSTICES.**

15 Section 294 of title 28, United States Code, is
 16 amended—

17 (1) in subsection (d), by inserting “, except as
 18 provided by subsection (e)” before the period at the
 19 end;

20 (2) by redesignating subsection (e) as sub-
 21 section (f); and

22 (3) by inserting after subsection (d) the fol-
 23 lowing:

1 “(e) If number of justices of the Supreme Court of
2 the United States falls below that provided in section 1
3 due to vacancy, disability, or disqualification, the Chief
4 Justice or associate justice of the Supreme Court who has
5 most recently retired from regular active service under
6 section 371 but retained their office shall serve as an asso-
7 ciate justice until the number of justices who have not re-
8 tired from regular active service equals that provided in
9 section 1.”.

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