

# **OUR PLAN TO SAVE THE SUPREME COURT BY THE NUMBERS**

## **4 SEATS**

*We must add 4 seats to the Supreme Court to restore balance and protect our democracy from Trump justices set to serve for life. This requires only an act of Congress, not a change to the Constitution.*

## **180 DAYS**

*President-Elect Joe Biden has promised to appoint a commission to recommend ideas for reforming the Supreme Court within six months. We must convince this commission to endorse the only idea that can actually restore balance and legitimacy to the Supreme Court: adding 4 seats.*

## **25,000 VOLUNTEERS**

*We need to train 25,000 volunteers to become Court reform advocates in their communities so we can pressure members of Congress to act on the commission's recommendations.*

## **51 VOTES IN THE SENATE AND 218 IN THE HOUSE**

*Congress can change the number of justices at any time. Now that Democrats control both houses of Congress, we need the Senate to eliminate the filibuster, as Barack Obama and others have urged, and then we just need a simple majority of each house of Congress to pass a bill expanding the Court.*

**The Crisis**

***This is not a drill. Republicans have installed an illegitimate, partisan majority on the Supreme Court. If we do nothing, it will last for decades.***

- Republicans have stolen two Supreme Court seats, refusing to fill one vacancy under President Obama eight months before an election and then jamming through a Trump confirmation just eight *days* before the 2020 election concluded -- even though more than 60 million Americans had already voted.
- They have undermined the legitimacy of the Supreme Court. For a democracy to function properly, we all need to be able to trust that our legal system is impartial and fair. By turning the Supreme Court into a partisan institution, Republicans have undermined that idea.
- Right now, Supreme Court justices serve for life. If we do nothing, the illegitimate Republican majority could endure for decades.

***With three Trump justices and an illegitimate Republican majority on the Supreme Court, our democracy and our rights are at risk.***

- Republicans fought so hard to install a far-right majority because they know it will deliver big policy wins for the Republican Party.
- Basic civil rights for women, people of color, workers, and LGBTQ+ people are at risk. Long-settled precedent like *Roe v. Wade* could be overturned.
- The right to vote is especially endangered. The current Republican majority has already done enormous damage, gutting the Voting Rights Act and campaign finance laws. Now, an even more partisan Republican majority could embolden Republican voter suppression even further.
- And the Republican majority will threaten to overturn or gut any major progressive legislation that Democrats get through Congress or executive action by a Democratic president. So even if we enact Medicare for All or a Green New Deal or gun violence reform, the illegitimate, anti-democratic majority on the Supreme Court could strike it down.

## ***The Solution: Building A Movement to Add Seats and Restore Balance***

***The fight isn't over. We can restore balance by adding 4 seats to the Supreme Court.***

- Mitch McConnell and Donald Trump want us to think the fight is over and give up hope.
- But now that Democrats control both houses of Congress, there is a simple way to undo the damage Trump and McConnell have done.
- We must add four seats to the Supreme Court to restore balance to the Court and protect our rights and our democracy.
- Adding four seats to the Supreme Court would restore the balance of the Court to what it would have been had Republicans not blocked Obama's nominee to replace Justice Scalia in 2016 and then rushed Trump's nominee to replace Justice Ginsburg in the middle of the 2020 election.
- Having 13 justices would also represent a return to the tradition of having the number of Supreme Court justices correspond to the number of circuit courts in the United States, of which there are now 13.

***Adding Supreme Court seats only takes an act of Congress.***

- The founders made adding seats easy! The number of seats on the Supreme Court is not set in the Constitution, so Congress can change it at any time.
- Adding seats is nothing new. Congress has changed the number of justices on the Supreme Court seven times throughout our history.
- All Congress has to do to add seats is pass a bill. If the Senate eliminates the filibuster, that means we need a simple majority in each house of Congress.

***We have 180 days to build a movement.***

- President-elect Joe Biden has promised that he will appoint a bipartisan commission to recommend ideas to reform the Supreme Court within six months. That's a good sign that he recognizes the need for reform, but we need to make sure members of the commission and then members of Congress understand there is political will for adding seats to restore balance.
- We have to get to work organizing in our communities right away. As the commission deliberates, it needs to see that there is real support across the country for adding seats, because that's the only way to actually restore balance to the Court. Then we need members of Congress to know we support and will fight for real reform.

***It's not going to be easy, but, together, we can organize and create the political will needed to save the Supreme Court.***

- We want to be honest: fixing our Supreme Court will not be easy. We need more Democrats to step up. Right now, we have a few champions -- including Sen. Ed Markey, Mondaire Jones and Jamaal Bowman -- but not nearly enough.
- The good news is that adding seats is incredibly straightforward. Now that Democrats control both houses of Congress, the only thing holding them back is political will. That's where we come in.
- Now that we control the Senate, we need to build a movement ready to push for the kind of big change we need. There's no time to waste.
- We need 25,000 court reform advocates to build support for adding seats and ensure Democratic members of Congress understand the urgency.
- If you are represented by a Democrat in the Senate or the House, then you can and should demand they support Court reform.
  - Call your Senators' offices at **202-224-3121** and demand that they support adding Supreme Court seats.
  - Use our tool to [email your Representative](#) and tell them why court reform matters to you.
- We can't do this alone! We're forming Demand Justice chapters across the country to harness the power and energy needed to pass court reform on Capitol Hill. If you're ready to help build this movement, our Organizing Team wants to hear from you! Use this [quick form](#) so we can contact you.
- **Together, we have the power to push Democrats to do the right thing -- and we have the power to win.**

### ***What You Need to Know About Court Reform***

***Court reform is about restoring balance and taking politics and partisanship out of the Supreme Court.***

- The Supreme Court has become too partisan and too political. The Court should be impartial and fair, applying the law without regard to partisan politics. But in recent years, Mitch McConnell and Donald Trump have done real damage to that idea -- preventing President Obama from filling a vacancy and rushing through a nominee even though an election had already started. We need to fix that so that everyone can trust the Supreme Court is applying the law equally.
- Expanding the size of the Supreme Court is a way to restore balance to the Supreme Court so that it works for everyone and protects our constitutional rights.

***Expanding the size of the Supreme Court can make the Court more diverse and effective.***

- By adding more justices, we could create a Supreme Court that more fully reflects the diversity of our country. The current Supreme Court does not look like modern America -- all but two justices are white, and two-thirds are men. There has never been a Black woman, Asian American, or Native American justice. There also has not been a criminal defense lawyer on the Court since Thurgood Marshall retired in 1991. Adding seats could add a wider diversity of perspectives to the decision making process.
- The number of Americans has grown dramatically since Congress set the number of Supreme Court justices at nine. More justices could hear more cases and engage more with the public. And each individual confirmation process would become less significant and thus ratchet down political gamesmanship around each nomination

***Republicans are going to threaten to retaliate if we unrig the Court. We have to act anyway.***

- A lot of people worry that if Democrats add seats to the Supreme Court that Republicans will just add more seats when they regain power. It's highly likely that if Democrats start to pursue bold Court reform, Republicans will threaten to retaliate. We should act anyway for the following reasons:
- If we do nothing, that just encourages Republicans to keep breaking the rules the next time they get power. If a thief steals your wallet, you should try to get it back; you don't let him keep it because you assume he'll just steal it again if you get it back. Likewise, if we let Republicans reap the benefits of repeated rule-breaking by leaving their illegitimate 6-3 majority in place, we would be telling them that the next time they regain power, they can engage in even more illegitimate power grabs because Democrats will never do anything to reverse their ill-gotten gains.
- With comprehensive Court reform, we can create a sustainable status quo that discourages future rule-breaking. Adding seats can be the first step, but we should go further. By creating term limits for justices and regularizing the number of justices a president appoints in a given term, we can reduce the need for a party that wins elections to try to game the system going forward -- but we can't create that kind of fair set of rules if we are paralyzed by fear of what Republicans will do.
- Even if all of that weren't true, the status quo is the worst possible scenario. Even if our efforts at de-escalation failed, all Republicans would do is install a partisan, far-right majority -- which is what we already have now. With the urgency of addressing crises like climate change and voting rights *right now*, we can't give up and indefinitely accept the Republican theft of the Supreme Court.

***Adding seats is just the beginning.***

In addition to adding seats, we should pursue the following three reforms to improve our courts, make them less political, and increase accountability.

1. **Depoliticize the Supreme Court by passing legislation to establish term limits.** Justices should be term-limited to serve a uniform period of time on the Supreme Court. The nomination, confirmation, and retirement of Supreme Court justices has become far too politicized. This reform could ensure that each president appoints the same number of Supreme Court justices each presidential term, thereby lowering the stakes of each nomination, ensuring that the Court is more democratically representative, and ending the gamesmanship of justices timing their retirements to ensure an ideologically-comparable replacement. It also would remove the incentive to nominate the youngest possible justices instead of those more established or qualified.
2. **Mandate accountability and transparency for the Supreme Court.** The Supreme Court is the least accountable part of our government; it does not even have a code of ethics. The Court should be forced to adopt and follow a code of ethics, including rules to prevent conflicts of interest, and it should be more transparent, including live-streaming its oral arguments and decisions. Transparency and accountability measures should also be extended to the lower courts.
3. **Modernize our lower federal courts to improve access to justice and diversity.** It has been three decades since our lower courts were expanded to keep up with increased population and caseload demands. As a result, our courts are overwhelmed with cases, leaving Americans waiting years for access to justice and courts forced to adopt shortcuts that hurt people who are not rich and powerful. Our courts also face a crisis of diversity. Judges in America do not look like the people they serve, and Trump has made the problem worse by appointing an overwhelmingly white and male group of judges. Congress must modernize our federal courts by dramatically expanding the number of circuit and district court judgeships, and a future administration must fill them with a group of lawyers who will enhance the courts' legitimacy by improving their diversity.