

# CRS Report for Congress

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## **Judicial Nomination Statistics: U.S. District and Circuit Courts, 1977-2003**

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# Judicial Nomination Statistics: U.S. District and Circuit Courts, 1977-2003

## Summary

Statistics regarding procedural actions taken on U.S. district and circuit court nominations have been compiled by CRS for the period January 4, 1977 to December 9, 2003. The statistics are complete for the 95<sup>th</sup> Congress up through the first session of the 108<sup>th</sup> Congress. Among other things, the statistics for the 1977-2003 period show:

- Over the course of five successive presidencies, the Senate confirmation percentage for a President's circuit court nominations has declined.
- The great majority of each President's district and circuit court nominations have been confirmed, except for the circuit court nominations of Presidents William J. Clinton and George W. Bush
- The confirmation percentage for district and circuit court nominations combined was greater than 60% for every congressional session from 1977 through 1990, whereas the district and circuit combined confirmation rate has been less than 60% for nine of the last 13 congressional sessions.
- The average number of days elapsing between nomination date and confirmation has been higher for most Congresses in the post-1990 period than for prior Congresses.
- Starting with the 100<sup>th</sup> Congress (1987-1988), and in five of the eight Congresses since, an average of more than 100 days has elapsed between nomination dates and committee votes on either district or circuit court nominations, or on both.
- For almost every Congress in the post-1990 period, the percentages of district and circuit court nominations left pending at the end of the Congress were higher than corresponding percentages for the pre-1990 Congresses.
- The Senate returned substantially more nominations during the 102<sup>nd</sup>, 106<sup>th</sup>, and 107<sup>th</sup> Congresses than during any other Congresses in the 1977-2002 period.
- The average number of days between nomination date and final action increased in Congresses ending in presidential election years.
- The vast majority of judicial nominations submitted during the 1977-2003 period received committee hearings and votes, as well as full Senate votes. However, the share of nominations receiving committee and Senate action declined during the 102<sup>nd</sup>, 106<sup>th</sup>, and 107<sup>th</sup> Congresses, and less than half of the circuit court nominations in the current 108<sup>th</sup> Congress received Senate votes on whether to confirm by the end of the first session.

This report will be updated upon the final adjournment of the 108<sup>th</sup> Congress. For a listing, and a statistical breakdown, by President and by Congress, of resubmitted lower court nominations during the 1977-2003 period, see CRS Report RL32134, *U.S. Circuit and District Court Nominations: Resubmissions, 1977-2003*. For a listing of all of President George W. Bush's circuit and district court nominations during the 107<sup>th</sup> Congress and the first session of the 108<sup>th</sup> Congress, see CRS Report RL31868, *U.S. Circuit and District Court Nominations by President George W. Bush During the 107<sup>th</sup> and 108<sup>th</sup> Congresses*.

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# Judicial Nomination Statistics: U.S. District and Circuit Courts, 1977-2003

## Procedural Steps for Judicial Appointments

The process for making lifetime appointments to judgeships in the U.S. District Courts and U.S. Courts of Appeals involves the same formal steps as those involved in the appointment of Supreme Court justices.<sup>1</sup> The process officially begins when the President selects someone to fill a judicial vacancy, submitting a nomination in writing to the Senate. Usually, on the same day it is received by the Senate, the nomination is referred by the Senate Executive Clerk to the Committee on the Judiciary, the Senate committee having jurisdiction over district and appellate, as well as most other federal court, nominations. In the next step in the appointment process the Judiciary Committee holds a hearing on the nomination. Then, the committee votes on whether to report the nomination to the full Senate. The final step occurs when the Senate votes to confirm or disapprove the nomination. Confirmation requires a simple majority vote. If the Senate votes in the negative on whether to confirm, a resolution of disapproval is forwarded to the President.

As with nominations in general, however, judicial nominations sometimes fail to advance through each procedural step in the appointment process. After referral to committee, a nomination might fail to receive a hearing or, after receiving a hearing, might fail to receive a committee vote on whether it should be reported. Even if reported by committee, it might fail to receive a vote by the Senate on whether to confirm. If it fails to receive a Senate vote, the nomination ultimately will either be withdrawn by the President or returned to the President by the Secretary of the Senate upon a Senate adjournment or recess of more than 30 days.<sup>2</sup>

## Methodology in Preparing Statistical Tables

In the following pages, 18 tables provide statistics or tracking information concerning procedural actions, as described above, taken on U.S. district court and U.S. court of appeals nominations during the period January 4, 1977 to December 9,

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<sup>1</sup> See CRS Report RL31989, *Supreme Court Appointment Process: Roles of the President, Judiciary Committee, and Senate*, by Denis Steven Rutkus; CRS Report RL31980, *Senate Consideration of Presidential Nominations: Committee and Floor Procedure*, by Elizabeth Rybicki; and CRS Report RS21735, *U.S. District and Circuit Court Nominations: A Diagram of Customary Procedures*, by Mitchel A. Sollenberger.

<sup>2</sup> Rule XXXI, paragraph 6, *Standing Rules of the Senate*, provides, in part, that “if the Senate shall adjourn or take a recess for more than thirty days, all nominations pending and not finally acted upon at the time of taking such adjournment or recess shall be returned by the Secretary to the President and shall not again be considered unless they shall again be made to the Senate by the President.”

2003. The time period begins with the convening of the 95<sup>th</sup> Congress and carries up to the first session of the 108<sup>th</sup> Congress. The period coincides with the terms in office of the five most recent Presidents (starting with the presidency of Jimmy Carter on January 20, 1977 and carrying through the first three years of the presidency of George W. Bush).<sup>3</sup> Depending on the table, statistics are broken down by year, presidency, Congress, or congressional session.

**Data Collected by CRS.** The following tables, except for **Table 1**,<sup>4</sup> were generated from a CRS database of nomination dates and actions created by Mitchel Sollenberger, Analyst in American National Government, with guidance from Denis Steven Rutkus, CRS Specialist in American National Government. The data for the CRS database were collected from the daily editions of the *Congressional Record*, various volumes of the *Journal of the Executive Proceedings of the Senate*, and final editions of the *Legislative and Executive Calendar* of the Senate Judiciary Committee (which are published at the close of each Congress and include a calendar of actions taken on every judicial nomination referred to the committee during that Congress).

Data collection focused on the dates and procedural actions taken on nominations made to judgeships in the U.S. District Courts (including the Territorial district courts) and the U.S. Courts of Appeals in the 1977-2003 period. (Note: Courts within the latter system are often called circuit courts, because they are divided into 12 geographic circuits and an additional nationwide circuit having specialized subject matter jurisdiction; in the following pages and tables, nominations to court of appeals judgeships are referred to as “circuit court nominations,” and the courts are referred to as “circuit courts.”) The primary purpose in compiling these statistics was to provide a comparative look — from presidency to presidency, from Congress to Congress, and from one congressional session to another — at the number of district and circuit court nominations submitted to the Senate, the number and percentage receiving committee and Senate action, and the average time taken to hold hearings, conduct committee votes, and conduct Senate votes on the nominations.

**Resubmitted Nominations.** Most of the following statistical tables account for all nominations made to district and circuit court judgeships during the 1977-2003 period. These tables, in other words, account for every instance in which a district or circuit court nomination was made, including renominations of individuals

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<sup>3</sup> The 1977 starting point for the time period examined is the same as that of several earlier multi-year statistical studies of the lower court appointment process. See Garland W. Allison, “Delay in Senate Confirmation of Federal Judicial Nominees,” *Judicature*, vol. 80 (July-Aug. 1996), pp. 8-15; Miller Center of Public Affairs, *Improving the Process of Appointing Federal Judges: A Report of the Miller Center Commission on the Selection of Federal Judges* (Charlottesville: University of Virginia, 1996), 42 p.; and “Report of the Task Force on Federal Judicial Selection,” in *Uncertain Justice: Politics and America’s Courts: The Reports of the Task Forces of Citizens For Independent Courts* (New York: The Century Foundation Press, 2000), pp. 11-75.

<sup>4</sup> The data for **Table 1**, involving annual number of judgeships and vacancies, were supplied by the Administrative Office of the U.S. Courts.

to the same judgeship. However, three of the statistical tables — **Table 2(b)**, **Table 4(b)**, and **Table 5(c)** — are different, in that they account only for the number of *individuals* nominated. These tables exclude from their totals the number of “resubmitted” nominations — i.e., those made when individuals were renominated to the same judgeship. Calculations in these tables adjust downward the number of total nominations by the number of resubmissions to show the number of actual persons nominated and the percentage of persons nominated who were confirmed.

The distinction between the number of nominations and the number of nominees can be an important one — especially when a substantial number of individuals are nominated more than once to the same judgeship within a given time frame. If resubmitted nominations are included in the nominations total for a particular presidency, Congress, or session of Congress, the confirmation percentage for that time frame will be less than if the resubmitted nominations are excluded.<sup>5</sup> For a table to accurately present the total number of persons nominated, and the percentage of them confirmed, it is necessary to count only nominees — by subtracting the number of resubmissions made within the given time frame from the number of total nominations. These adjustments have been made in **Tables 2(b)**, **4(b)**, and **5(b)**. Hence, while **Tables 2(a)**, **4(a)**, and **5(a)** account for *nominations* in recent presidencies, Congresses, and sessions of Congress, **Tables 2(b)**, **4(b)**, and **5(b)** serve as companion tables, accounting only for *nominees* within the same time frames.

The differences between total nominations and total nominees are most pronounced in the 107<sup>th</sup> Congress. Compared with other Congresses in the 1977-2003 period, an unusually high number of judicial nominations were resubmitted during the 107<sup>th</sup> Congress — 20 district court and 21 circuit court nominations.<sup>6</sup> Because of these additional nominations, the confirmation percentages for district court nominations, circuit court nominations, and district and circuit nominations combined in the 107<sup>th</sup> Congress are significantly less than the confirmation percentages for nominees in these categories. Differences between confirmation percentages for nominations and nominees exist as well in other Congresses in which nominations were resubmitted, but to a lesser degree than in the 107<sup>th</sup> Congress. To compare the percentages of nominations confirmed with percentages of nominees confirmed in each Congress, see **Table 4(a)** and **Table 4(b)**, respectively.

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<sup>5</sup> Resubmitted nominations also serve to skew downward calculations of the average time taken on nominations on the appointment process. Resubmissions of nominations within a Congress, or in a succeeding Congress, will cause, for time averaging purposes, the overall time in which each of the individuals in question was in nominee status to be divided by two or more time segments, rather than by just one.

<sup>6</sup> During the 107<sup>th</sup> Congress, the Senate, upon adjourning for its August 2001 recess, returned 20 district court nominations and 20 circuit court nominations to President George W. Bush, who in turn resubmitted all 40 nominations to the Senate when it reconvened on Sept. 4, 2001. One other circuit court nomination was resubmitted during the 107<sup>th</sup> Congress as well — when President Bush, after having withdrawn a nomination initially made by outgoing President William J. Clinton, renominated the individual. See **Table 15**.

Two other tables in the following pages focus exclusively on resubmitted nominations. **Table 14**, starting with the 95<sup>th</sup> Congress, shows the number of unconfirmed U.S. district and circuit court nominations in each Congress which were resubmitted in the *next* Congress and the number of these resubmitted nominations that were confirmed. **Table 15**, also starting with the 95<sup>th</sup> Congress, shows the number of unconfirmed district and circuit court nominations in each Congress which were resubmitted later in the *same* Congress and the number of these resubmissions that were confirmed.<sup>7</sup>

**Report by The Constitution Project.** The tables below provide judicial nomination and confirmation data similar in significant respects to data released recently by The Constitution Project, a bipartisan nonprofit organization headquartered in Washington, D.C. In a 1999 report,<sup>8</sup> and in an updated report released in January 2002,<sup>9</sup> The Constitution Project and Professor Wendy Martinek of Binghamton University analyzed nomination and confirmation data for lower federal judges from 1977 through 2001. A principal purpose of their reports was to determine the average time taken to nominate and confirm federal judges and to determine to what extent that time average had changed over the years spanned by the study. Hence, The Constitution Project and CRS databases are similar in their scope, in recording and counting the number of days between nomination dates and confirmation or other final actions.

Distinct from the CRS database, The Constitution Project reports also have calculated, for each President during the 1977-2001 period, the average number of days elapsing between the creation of judicial vacancies and a President's nomination of judicial candidates.<sup>10</sup> For its part, the CRS database, and the tables below, are distinctive in counting hearings and committee votes, as well as Senate votes and other final actions on district and circuit court nominations, and for determining time-lapse averages not only between nomination and Senate and other final action but also between nomination and hearings, and nomination and committee votes.

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<sup>7</sup> For a list, as well as a statistical breakdown, by President and by Congress, of resubmitted lower court nominations during the 1977-2003 period, see CRS Report RL32134, *U.S. Circuit and District Court Nominations: Resubmissions, 1977-2003*, by Mitchel A. Sollenberger..

<sup>8</sup> "Report of the Task Force on Federal Judicial Selection," in *Uncertain Justice: Politics and America's Courts*, pp. 11-75.

<sup>9</sup> "Justice Held Hostage': An Update of the 1999 Study by The Constitution Project and Wendy Martinek, Ph.d., of Binghamton State University, January 2002," available at [<http://www.constitutionproject.org/ci/reports/fedcourtdupd.pdf>], visited Feb. 19, 2004.

<sup>10</sup> The Constitution Project studies also collected data on the gender and race of each nominee to determine to what extent the "success rate" (the percentage of all nominations that were actually confirmed) and average number of days between nomination and final action varied, according to the gender or race of the nominees. The studies also examined the effect of "divided government" (when one party has control of the Senate and the other party the White House) on confirmation "success rates" and average number of days between nomination and final action.



## Overview of the Statistical Tables

**Table 1** identifies the annual number of full-time district and circuit court judgeships authorized by law and the number and percentage of these judgeships which were vacant at a specified time each year. Also, the notes to **Table 1** indicate when legislation was enacted, or when other developments occurred, which changed the number of judgeships authorized by law. In **Table 1**, the 5.4% vacancy percentage for U.S. district and circuit court judgeships combined, as of September 30, 2003, was the lowest vacancy percentage for combined district and circuit judgeships since 1988.

**Tables 2(a), 2(b), and 3** provide a presidency-by-presidency breakdown of judicial nomination and confirmation statistics for the 1977-2003 period. **Table 2(a)** shows the number of district and circuit court nominations submitted by each President and the number and percentage of these nominations confirmed by the Senate. A companion table, **Table 2(b)**, shows the number of persons nominated by each President to district and circuit court judgeships, and the number and percentage of them who were confirmed. (The number of persons nominated in both court categories was arrived at by subtracting from a President's total nominations, shown in **Table 2(a)**, the number of nominations that the President resubmitted.) **Tables 2(a) and 2(b)** reveal, over the course of five successive presidencies, a continuing decline in the confirmation percentage for nominations, and nominees, to circuit court judgeships, as well as for district and circuit court judgeships combined.

**Table 3** breaks down each President's district and circuit court nomination totals by the type of final action taken on them, with every nomination categorized according to one of four possible types of final action: (1) confirmation by the Senate; (2) withdrawal by the President; (3) Senate return of the nomination to the President upon a Senate adjournment or recess or more than 30 days; or (4) Senate rejection by a vote disapproving a nomination. The table shows that the great majority of nominations during the 1977-2003 period were confirmed, except for the circuit court nominations of Presidents William J. Clinton and George W. Bush. In the case of President Clinton's circuit nominations, almost as many were either returned or withdrawn (50) as were confirmed (65). In the case of President Bush, more circuit nominations were returned (35) than were confirmed (30). Further, the table shows that the number of withdrawals per President has varied — from 20 for Clinton, eight for Ronald Reagan, and six for Jimmy Carter, to one each for George H. W. Bush and George W. Bush — and that the Senate has voted its disapproval of a nomination only once.

**Tables 4(a) through 8** provide judicial nominations statistics by Congress. **Table 4(a)** presents, for each Congress during the 1977-2003 period, the number of district and circuit court nominations received by the Senate, and the number and percent of those nominations confirmed. A companion table, **Table 4(b)**, presents the number of persons nominated to district and circuit court judgeships during each Congress, and the number and percentage of them who were confirmed. The two tables indicate that during three Congresses (the 96<sup>th</sup>, 99<sup>th</sup>, and 102<sup>nd</sup>), significantly more district and circuit court nominations were received by the Senate, and more persons were nominated to these judgeships, than during the immediately preceding

Congress. In the case of each of the three Congresses, a statute creating new judgeships had been enacted the year before. (The precise number of judgeships that were created by each statute are given in source notes to **Table 1**.) **Table 4(a)** shows that in a fourth Congress as well (the 107<sup>th</sup>), significantly more nominations were received by the Senate than during the immediately preceding Congress. In this case, the relatively large numbers of district and circuit court nominations received were attributable in part to the return by the Senate of a significant number of nominations to the President at the start of an August recess, followed by the renomination of all of the individuals involved when the Senate reconvened in September.

**Tables 4(a)** and **4(b)** show for the 1977-2000 period an uninterrupted pattern in which the Senate confirmed a smaller percentage of a President's district and circuit nominations, and nominees, during the second Congress of the President's term in office than in the first Congress of the presidential term. **Table 4(b)** also shows that the same confirmation pattern is holding thus far for both district and circuit nominees during the 2001-2003 period (spanning the 107<sup>th</sup> Congress and the first session of the current 108<sup>th</sup> Congress). Whether or not the pattern ultimately will be the same upon the final adjournment of the 108<sup>th</sup> Congress remains to be seen.

**Tables 5(a)** and **5(b)** present district and circuit court nominations and confirmations statistics for each session of Congress. Specifically, **Table 5(a)** shows the number of nominations received in each congressional session, the number of nominations carried over (i.e., remaining in "status quo") from the first session to the second session, and the number and percent confirmed each session.<sup>11</sup> A companion table, **Table 5(b)**, presents the number of persons nominated to district and circuit court judgeships during each session, and the number and percentage of them who were confirmed. The tables show that the confirmation percentages for district and circuit court nominations combined, and for district and circuit court nominees combined, were greater than 60% for every congressional session during the years 1977 through 1990 and that, by contrast, from 1991 to December 9, 2003, the district and circuit combined confirmation rates, for both nominations and nominees, have been less than 60% for nine of the last 13 congressional sessions (including the first session of the 108<sup>th</sup> Congress).

**Table 6** breaks down, for each Congress, the total number of district and circuit court nominations by the final action taken on them. Final action, as in **Table 3**, covers one of four mutually exclusive outcomes: confirmation by the Senate; withdrawal by the President; Senate return of the nomination to the President upon a Senate adjournment or recess or more than 30 days; and Senate rejection by a vote disapproving a nomination. The table shows that during the Congresses coinciding with the last two years of the presidencies of George H. W. Bush and William J. Clinton and with the first two years of the presidency of George W. Bush (the 102<sup>nd</sup>, 106<sup>th</sup>, and 107<sup>th</sup> Congresses respectively), the Senate returned substantially more judicial nominations (54 during the 102<sup>nd</sup> Congress, 42 during the 106<sup>th</sup> Congress, and 70 during the 107<sup>th</sup> Congress) than during any other Congresses in the 1977-2002

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<sup>11</sup> For each Congress, the number of nominations carried over from the first session is added to the number of nominations received in the second session — the sum of which is the total number of nominations that were pending at some point during the second session.

period. In the case of the 70 returned judicial nominations of George W. Bush, 40 of the returns occurred at the start of the Senate's August 2001 recess in the first session of the 107<sup>th</sup> Congress.<sup>12</sup> (On August 3, 2001, just before it adjourned for its August recess, the Senate, in an unusual pre-adjournment stalemate, failed to reach a unanimous consent agreement to have all or nearly all nominations then pending remain in status quo over the recess, resulting in the return of 164 nominations, including 20 district court and 20 circuit court nominations.)<sup>13</sup>

**Table 7** focuses on the number of district and circuit court nominations pending at the final adjournment of each Congress.<sup>14</sup> The number of judicial nominations pending at the end of each Congress is broken down between those which received, and those which did not receive, a committee hearing. Further, the number is presented as a percentage of all nominations received by the Senate during the Congress. **Table 7** shows, over the 1977-2002 period, a consistent pattern: In each Congress ending in a presidential election year, judicial nominations pending at the final adjournment constituted a larger percentage of all nominations received than in either the immediately preceding or immediately following Congress.<sup>15</sup> The table also shows that for 10 of the 13 Congresses in the 1977-2002 time frame, the percentages of circuit court nominations left pending at the end of the Congresses were higher than corresponding percentages for district court nominations.

**Table 8** presents, for each Congress, the average number of days which elapsed between the President's submission of judicial nominations to the Senate and the dates on which the nominations received final action. For district and circuit court nominations respectively, in each Congress, the table shows two time-lapse averages: first, for successful nominations, the average number of days between nomination and confirmation; second, for unconfirmed nominations, the average number of days between nomination and withdrawal by the President, return by the Senate (upon an adjournment or recess of more than 30 days), or rejection by Senate vote.<sup>16</sup> **Table 8**

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<sup>12</sup> Nearly all of the returns in the 102<sup>nd</sup> and 106<sup>th</sup> Congresses, by contrast, were made at the close of the Congresses, allowing Presidents George H. W. Bush and William J. Clinton, if they were so inclined, to resubmit the nominations only as out-going Presidents during the first few weeks of the next Congress — after which, it might be anticipated, any such resubmitted nominations likely would be withdrawn by the incoming President. In this respect, the returns were in contrast to the nominations made in earlier Congresses, when there remained to Presidents Bush and Clinton the opportunity to resubmit the nominations in Congresses coinciding with years remaining in their presidencies.

<sup>13</sup> See "Unanimous Consent Request — Executive Calendar," *Congressional Record*, daily edition, vol. 147 (Aug. 3, 2001), pp. S8888-S8891.

<sup>14</sup> Nominations data for the current 108<sup>th</sup> Congress are incomplete for purposes of **Table 7** and therefore are excluded from the table.

<sup>15</sup> The highest combined number of district and circuit nominations pending at the end of a Congress were the 53 nominations by President George H. W. Bush, at the end of the 102<sup>nd</sup> Congress; the next highest number were the 41 nominations by President Clinton pending at the end of the 106<sup>th</sup> Congress.

<sup>16</sup> Averages are not provided for unconfirmed nominations in the 108<sup>th</sup> Congress, because as of Dec. 9, 2003 all of the unconfirmed nominations, except for one, were pending (and, (continued...))

shows that the average number of days elapsing from nomination date to final action, for both district and circuit nominations, has been much higher for most Congresses in the post-1990 period than for prior Congresses.<sup>17</sup> The table also shows a general pattern in which the average number of days elapsing between nomination date and final action increased in Congresses ending in a presidential election year and decreased in the following Congress, only to increase again in the next Congress ending in a presidential election year.

**Tables 9, 10 and 11** provide statistics for committee action, as well as for Senate or other final action, in the judicial appointment process. **Table 9** shows, for each Congress, how many district court and circuit court nominations were referred to the Senate Judiciary Committee, received a committee hearing, were voted on by the committee, and received a Senate vote on whether to confirm. **Table 10** provides these same statistics for each session of Congress.<sup>18</sup> The two tables show that in the case of most Congresses during the 1977-2003 period, the vast majority of judicial nominations submitted received committee hearings and votes as well as full Senate votes. Exceptions to this generalization were the 102<sup>nd</sup>, 106<sup>th</sup>, and the 107<sup>th</sup> Congresses, where there was a sharp drop-off in the share of nominations receiving committee hearings or votes. In the first session of the 108<sup>th</sup> Congress, **Table 10** shows, most district and circuit court nominations received hearings and committee votes (although less than half of the circuit nominations received Senate votes on whether to confirm). The data for the 108<sup>th</sup> Congress, however, are incomplete and hence, for purposes of **Table 9**, must await the final adjournment of the Congress.

**Table 11** presents for each Congress the average number of days between the President's submission of judicial nominations to the Senate and the dates on which the nominations received a hearing or a committee vote. The table shows, among other things, that the 100<sup>th</sup> Congress, in 1987-1988, was the first Congress in the time period of this study during which an average of more than 100 days elapsed

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<sup>16</sup> (...continued)

thus, had yet to receive final action).

<sup>17</sup> The table shows that a forerunner of these relatively high time averages for the most recent Congresses was the 100<sup>th</sup> Congress, when the average times elapsing between nomination date and final action for all district court nominations (136 days) and for all circuit court nominations (172 days) were more than three times greater than the time averages of four of the previous five Congresses. Standing out among the five earliest Congresses in the 1977-1986 period for its relatively high average times between nomination date and final action was the 96<sup>th</sup> Congress (1979-1980). A major contributing factor in the increased average times between nomination date and final action in the 96<sup>th</sup> Congress likely was the statutory creation in 1978 of 117 new district judgeships and 35 new circuit judgeships (see **Table 1** and applicable table note), which resulted in an unusually heavy nominations workload for the Senate Judiciary Committee and the Senate as a whole in 1979 and 1980.

<sup>18</sup> In some of the 2-year periods of **Table 10**, it should be noted, various nominations referred to committee in the first year received hearings, committee votes, or Senate votes only in the second year (the second session of that particular Congress). This carryover of action on nominations into the second year explains why, in some cases, numbers in the action columns for the second year of a 2-year period are higher than the number of nominations referred to committee in the second year.

between nomination dates and committee votes on district and circuit court nominations. The average time elapsing between nomination date and committee vote has exceeded 100 days, for district court or circuit court nominations (or for both) in five of the eight Congresses since the 100th Congress.

**Table 12** focuses on judicial confirmation percentages in the context of party control of the presidency and the Senate. Specifically, the table differentiates between time periods when one party controlled both the presidency and the Senate (referred to as periods of “unified government”) and when the presidency and the Senate were controlled by opposing parties (referred to as periods of “divided government”). **Table 12** presents annual and multi-year percentages of district and circuit court nominations confirmed for each “unified government” and “divided government” time period. The table reveals that during periods of “unified government,” the multi-year confirmation percentages for district and circuit nominations combined were higher than during periods of “divided government.” **Table 12** also shows that the multi-year confirmation percentage for circuit court nominations fell to 50% or below during three periods of “divided government” — those coinciding with the 100<sup>th</sup> Congress, with the 104<sup>th</sup> to 106<sup>th</sup> Congresses, and with most, but not all, of the 107<sup>th</sup> Congress.

**Table 13** presents Senate Judiciary Committee votes on lower court nominations other than those approving motions to report favorably. Specifically, this table lists every vote by the Committee, during the 1977-2003 period, on motions made to report a circuit or district court nomination adversely or without recommendation, as well as motions to report favorably which were defeated. Arranged chronologically by the date each nomination was received in the Senate, the table lists, for each nomination, the motion and vote of the Judiciary Committee and the final outcome in the Senate.<sup>19</sup>

**Table 14** presents the number of unconfirmed district and circuit court nominations in each Congress which were resubmitted in the next Congress and the number of these resubmitted nominations that were confirmed. The table indicates that during the 99<sup>th</sup>, 105<sup>th</sup> and 108<sup>th</sup> Congresses, significantly more U.S. district court nominations were resubmitted by the President from the previous Congress than during any other periods.

**Table 15** presents the number of unconfirmed district and circuit court nominations in each Congress that were resubmitted later in that same Congress, and the number of these resubmissions that were confirmed. The table reveals that one or more resubmissions occurred within a Congress during six of the 14 Congresses covered for this report. The 107<sup>th</sup> Congress recorded the most instances of resubmissions within a Congress, 41 — more than four times as many as the next highest number of resubmissions, nine, in the 99<sup>th</sup> Congress.

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<sup>19</sup> For a report which reviews instances, from 1939 through 2003, in which the Senate or the Senate Judiciary Committee voted to reject, table, or report lower court nominations other than favorably, see CRS Report RS21734, *Votes Other Than Favorably on Judicial Nominations, 1939-2003*, by Mitchel A. Sollenberger.

**Table 1. U.S. District Court and Circuit Court Judgeships:  
Number Authorized, Number Vacant, and Percent Vacant, by Year, 1977-2003**

Year <sup>a</sup>	District Courts <sup>b</sup>			Circuit Courts			District and Circuit combined		
	Authorized Judgeships	Vacancies	Percent Vacant	Authorized Judgeships	Vacancies	Percent Vacant	Authorized Judgeships	Vacancies	Percent Vacant
1977	398	25	6.3%	97	10	10.3%	495	35	7.1%
1978	399	15	3.8%	97	2	2.1%	496	17	3.4%
1979 <sup>c</sup>	516	119	23.1%	132	38	28.8%	648	157	24.2%
1980	516	32	6.2%	132	6	4.5%	648	38	5.9%
1981	516	41	7.9%	132	9	6.8%	648	50	7.7%
1982 <sup>d</sup>	515	20	3.9%	132	7	5.3%	647	27	4.2%
1983 <sup>e</sup>	515	25	4.9%	144	4	2.8%	659	29	4.4%
1984	515	16	3.1%	144	2	1.4%	659	18	2.7%
1985 <sup>f</sup>	575	75	13.0%	168	22	13.1%	743	97	13.1%
1986	575	40	7.0%	168	11	6.5%	743	51	6.9%
1987	575	43	7.5%	168	13	7.7%	743	56	7.5%
1988	575	28	4.9%	168	10	6.0%	743	38	5.1%
1989	575	36	6.3%	168	12	7.1%	743	48	6.5%
1990	575	34	5.9%	168	10	6.0%	743	44	5.9%
1991 <sup>g</sup>	649	112	17.3%	179	24	13.4%	828	136	16.4%
1992	649	84	12.9%	179	17	9.5%	828	101	12.2%
1993	649	107	16.5%	179	20	11.2%	828	127	15.3%
1994	649	60	9.2%	179	18	10.1%	828	78	9.4%
1995	649	46	7.1%	179	11	6.1%	828	57	6.9%
1996 <sup>h</sup>	647	44	6.8%	179	18	10.1%	826	62	7.5%
1997	647	69	10.7%	179	24	13.4%	826	93	11.3%
1998 <sup>i</sup>	646	55	8.5%	179	17	9.5%	825	72	8.7%
1999	646	38	5.9%	179	24	13.4%	825	62	7.5%
2000 <sup>j</sup>	655	43	6.6%	179	23	12.8%	834	66	7.9%
2001 <sup>k</sup>	665	75	11.3%	179	32	17.9%	844	107	12.7%
2002	665	51	7.7%	179	27	15.1%	844	78	9.2%
2003 <sup>l</sup>	680	28	4.1%	179	18	10.1%	859	46	5.4%

**Sources:** Authorized judgeship and judicial vacancy numbers for each year, as well as the table note citations to statutes creating new judgeships, were supplied by the Administrative Office of the U.S. Courts (AO). The percentage of authorized judgeships vacant each year, based on the judgeship and vacancy numbers provided by the AO, were calculated by the Congressional Research Service.

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- a. Data for 1977 to 1992 are as of June 30 of each year. Data for 1993 through 2003 are as of Sept. 30 of each year.
- b. U.S. District Courts include the Territorial Courts.
- c. P.L. 95-486 (Oct. 20, 1978), 92 Stat. 1629, created 35 circuit court and 117 district court judgeships.
- d. The U.S. District Court for the District of the Canal Zone was closed March 31, 1982, in accordance with P.L. 96-70 (Sept. 27, 1979), 93 Stat. 452.
- e. P.L. 97-164 (April 2, 1982), 96 Stat. 25, created the U.S. Court of Appeals for the Federal Circuit with 12 judgeships.
- f. 1984 Act - P.L. 98-353 (July 10, 1984), 98 Stat. 333, created 24 circuit court and 61 district court judgeships. One temporary judgeship created by P.L. 95-486 was never converted to a permanent position.
- g. P.L. 101-650 (Dec. 1, 1990), 104 Stat. 5089, created 11 circuit court and 74 district court judgeships.
- h. Two temporary judgeships created by P.L. 101-650 were never converted to permanent positions.
- i. One temporary judgeship created by P.L. 101-650 was never converted to a permanent position.
- j. P.L. 106-113 (Nov. 29, 1999), 113 Stat. 1535, created 9 district court judgeships.
- k. P.L. 106-553 (Dec. 21, 2000), 114 Stat. 2762, created 10 district court judgeships on Dec. 21, 2000.
- l. P.L. 107-273 (Nov. 2, 2002), 116 Stat. 1786, created 8 new permanent district judgeships and 7 new temporary district judgeships, effective July 15, 2003.

**Table 2 (a). U.S. District and Circuit Court Nominations of Five Most Recent Presidents (1977-December 9, 2003): Number Submitted, Number Confirmed, and Percent Confirmed**

<b>President</b> <i>(Congresses, years)</i>		<b>District Court Nominations<sup>a</sup></b>	<b>Circuit Court Nominations</b>	<b>District and Circuit Combined</b>
<b>Jimmy Carter</b> <i>(95<sup>th</sup> to 96<sup>th</sup>, 1977-1980)</i>	N	228	61	289
	C	206	56	262
	%	90.4%	91.8%	90.7%
<b>Ronald Reagan</b> <i>(97<sup>th</sup> to 100<sup>th</sup>, 1981-1988)</i>	N	336	102	438
	C	292	83	375
	%	86.9%	81.4%	85.6%
<b>George H. W. Bush</b> <i>(101<sup>st</sup> to 102<sup>nd</sup>, 1989-1992)</i>	N	199	54	253
	C	150	42	192
	%	75.4%	77.8%	75.9%
<b>William J. Clinton</b> <i>(103<sup>rd</sup> to 106<sup>th</sup>, 1993-2000)</i>	N	382	115 <sup>c</sup>	497
	C	307	65	372
	%	80.4%	56.5%	74.8%
<b>George W. Bush</b> <i>(107<sup>th</sup> to 108<sup>th</sup>, 2001-Dec. 9, 2003)</i>	N	201 <sup>d</sup>	93 <sup>e</sup>	294
	C	138	30	168
	%	68.7%	32.3%	57.1%

**Note:** The cells in this table account for the number of nominations submitted to the Senate for U.S. District and Circuit Court judgeships during each of the five most recent presidential administrations. The cells account for all instances in which an individual was nominated to the same judgeship during a particular presidency — including not only the first nomination but also any “re-submitted” nominations made when an individual was re-nominated to the same judgeship. By contrast, for an accounting only of individuals nominated to U.S. District and Circuit Court judgeships (excluding the number of “resubmitted” nominations), see the following **Table 2 (b)**.

**Legend:** N=number submitted by the President to the Senate; C=number confirmed; %=percent confirmed.

- Includes nominations to the Territorial district courts in the U.S. Virgin Islands, Guam and the Northern Mariana Islands.
- Includes one district court nomination submitted by President Carter on Jan. 8, 1981, at the start of the 97<sup>th</sup> Congress, and withdrawn by President Reagan on Jan. 21, 1981.
- Includes nine circuit court nominations submitted by President Clinton on Jan. 3 and 4, 2001, at the start of the 107<sup>th</sup> Congress, and withdrawn by President George W. Bush on March 19, 2001.
- Includes 20 district court nominations submitted by President George W. Bush between June 18, 2001 and Aug. 2, 2001, which the Senate returned on Aug. 3, 2001, at the start of its August 2001 recess, and which the President resubmitted as new nominations on Sept. 4, 2001.
- Includes 20 circuit court nominations submitted by President Bush between May 9, 2001 and Aug. 2, 2001, which the Senate returned on Aug. 3, 2001, at the start of its August 2001 recess, and which the President resubmitted as new nominations on Sept. 4, 2001. Excludes nine circuit nominations submitted by President Clinton on Jan. 3, 2001 and Jan. 4, 2001 near the end of his presidential term — all of which were withdrawn by President Bush on Mar. 19, 2001.



**Table 2 (b). U.S. District and Circuit Court Nominees of Five Most Recent Presidents (1977-December 9, 2003): Number Nominated, Number Confirmed, and Percent Confirmed**

President (Congresses, years)		District Court Nominees <sup>a</sup>	Circuit Court Nominees	District and Circuit Combined
<b>Jimmy Carter</b> (95 <sup>th</sup> to 96 <sup>th</sup> , 1977-1980)	N	224 <sup>b</sup>	61	285
	C	206	56	262
	%	92.0%	91.8%	91.9%
<b>Ronald Reagan</b> (97 <sup>th</sup> to 100 <sup>th</sup> , 1981-1988)	N	309	94	403
	C	292	83	375
	%	94.5%	88.3%	93.1%
<b>George H. W. Bush</b> (101 <sup>st</sup> to 102 <sup>nd</sup> , 1989-1992)	N	189	53	242
	C	150	42	192
	%	79.4%	79.2%	79.3%
<b>William J. Clinton</b> (103 <sup>rd</sup> to 106 <sup>th</sup> , 1993-2000)	N	352	91	443
	C	307	65	372
	%	87.2%	71.4%	84.0%
<b>George W. Bush</b> (107 <sup>th</sup> to 108 <sup>th</sup> , 2001-Dec. 9, 2003)	N	165	50	215
	C	138	30	168
	%	83.6%	60.0%	78.1%

**Note:** The cells in this table account only for the number of individuals who were nominees to U.S. District and Circuit Court judgeships during each of the five most recent presidential administrations. The cells do not count “re-submitted” nominations made when individuals were re-nominated to the same judgeship during a particular presidency. By contrast, for an accounting of all nominations made to U.S. District and Circuit Court judgeships (including “re-submitted” nominations), see the preceding **Table 2 (a)**.

**Legend:** N=number submitted by the President to the Senate; C=number confirmed; %=percent confirmed.

- a. Includes nominations to the Territorial district courts in the U.S. Virgin Islands, Guam and the Northern Mariana Islands.
- b. Includes one district court nomination submitted by President Carter on Jan. 8 1981, at the start of the 97<sup>th</sup> Congress, and withdrawn by President Reagan on Jan. 21, 1981.

**Table 3. Total Number of U.S. District and Circuit Court Nominations of Five Most Recent Presidents (1977-December 9, 2003), Broken Down by Final Action<sup>a</sup>**

President	Congresses	District Court Nominations <sup>b</sup>					Circuit Court Nominations				
		Con- firmed	With- drawn	Returned	Rejected <sup>c</sup>	Total	Con- firmed	With- drawn	Returned	Rejected <sup>c</sup>	Total
Jimmy Carter	95 <sup>th</sup> - 96 <sup>th</sup>	206	5 <sup>d &amp; e</sup>	17	0	228	56	1	4	0	61
Ronald Reagan	97 <sup>th</sup> -100 <sup>th</sup>	292	5	38 <sup>d</sup>	0	335	83	3	16 <sup>d</sup>	0	102
George H. W. Bush	101 <sup>st</sup> -102 <sup>nd</sup>	150	1	48	0	199	42	0	12 <sup>d</sup>	0	54
William J. Clinton	103 <sup>rd</sup> -106 <sup>th</sup>	307	8	66	1	382	65	12 <sup>f</sup>	38	0	115
George W. Bush	107 <sup>th</sup> - 108 <sup>th g</sup>	138	0	35	0	173 <sup>h</sup>	30	1	36 <sup>i</sup>	0	67 <sup>j</sup>

- a. Final action covers one of four mutually exclusive outcomes: (1) confirmation by the Senate; (2) withdrawal of a nomination by the President; (3) Senate return of the nomination to the President (upon a Senate adjournment or recess of more than 30 days), and (4) Senate rejection by a vote disapproving a nomination.
- b. Includes nominations to the Territorial district courts in the U.S. Virgin Islands, Guam and the Northern Mariana Islands.
- c. Counts only rejections voted by the full Senate. Six nominations which, over the 1977-2002 period, were defeated in committee (by Senate Judiciary Committee votes against reporting the nominations to the Senate) are counted either in the "Withdrawn" or "Returned" columns, as indicated in table notes "d" and "g".
- d. Includes one nomination defeated in the Senate Judiciary Committee.
- e. Includes one nomination submitted by President Carter on Jan. 8, 1981, at the start of the 97<sup>th</sup> Congress, and withdrawn by President Reagan on Jan. 21, 1981.
- f. Includes nine circuit court nominations submitted by President Clinton on Jan. 3, 2001 and Jan. 4, 2001, at the start of the 107<sup>th</sup> Congress, and withdrawn by President George W. Bush on March 19, 2001.
- g. Current to Dec. 9, 2003.
- h. Does not include 26 district court nominations pending as of Dec. 9, 2003 which, as of that date, had yet to receive final action.
- i. Includes two nominations defeated in the Senate Judiciary Committee.
- j. Does not include 17 circuit court nominations pending as of Dec. 9, 2003 which, as of that date, had yet to receive final action.

**Table 4 (a). U.S. District and Circuit Court Nominations for Each Congress: Number Received, Number Confirmed, and Percent Confirmed, 95<sup>th</sup> Congress to 108<sup>th</sup> Congress (1977-December 9, 2003)**

Congress	Years	President	District Court <sup>a</sup>			Circuit Court			District and Circuit combined		
			Nominations Received	Nominations Confirmed		Nominations Received	Nominations Confirmed		Nominations Received	Nominations Confirmed	
				No.	%		No.	%		No.	%
95 <sup>th</sup>	1977-78	Jimmy Carter	57	52	91.2%	12	12	100.0%	69	64	92.8%
96 <sup>th</sup>	1979-80		170	154	90.6%	49	44	89.8%	219	198	90.4%
97 <sup>th</sup>	1981-82	Ronald Reagan	71 <sup>b</sup>	69	97.2%	20	19	95.0%	91	88	96.7%
98 <sup>th</sup>	1983-84		79	61	77.2%	22	14	63.6%	101	75	74.3%
99 <sup>th</sup>	1985-86		107	95	88.8%	34	33	97.1%	141	128	90.8%
100 <sup>th</sup>	1987-88		80	67	83.8%	26	17	65.4%	106	84	79.2%
101 <sup>st</sup>	1989-90	George H. W. Bush	52	48	92.3%	23	22	95.7%	75	70	93.3%
102 <sup>nd</sup>	1991-92		147	101	68.7%	31	20	64.5%	178	121	68.0%
103 <sup>rd</sup>	1993-94	William J. Clinton	119	108	90.8%	22	19	86.4%	141	127	90.1%
104 <sup>th</sup>	1995-96		85	62	72.9%	20	11	55.0%	105	73	69.5%
105 <sup>th</sup>	1997-98		95	80	84.2%	30	20	66.7%	125	100	80.0%
106 <sup>th</sup>	1999-2000		83	57	68.7%	34	15	44.1%	117	72	61.5%
107 <sup>th</sup>	2001-02	George W. Bush	118	83	70.3%	61 <sup>c</sup>	17	27.9% <sup>d</sup>	179	100	55.9% <sup>e</sup>
108 <sup>th</sup> , 1 <sup>st</sup> sess.	2003 <sup>f</sup>		83	55	66.3%	32	13	40.6%	115	68	59.1%

**Note:** The cells in this table account for all instances in which individuals were nominated to U.S. District and Circuit Court judgeships in the Congresses listed. The cells, therefore, count not only the first instances in which individuals were nominated to District or Circuit judgeships during a Congress but also any “re-submitted” nominations made when they

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were re-nominated to the same judgeship during the Congress. By contrast, for an accounting only of individuals nominated to U.S. District and Circuit judgeships (excluding the number of “re-submitted” nominations), see the following **Table 4(b)**.

- a. Includes nominations to the Territorial district courts in the U.S. Virgin Islands, Guam and the Northern Mariana Islands.
- b. Includes one district court nomination submitted by President Carter on Jan. 8, 1981, near the end of his presidential term, and withdrawn by President Reagan on Jan. 21, 1981.
- c. Includes nine circuit court nominations submitted by President William Clinton on Jan. 3 and 4, 2001, near the end of his presidential term — all of which were withdrawn by President George W. Bush on Mar 19, 2001.
- d. The confirmation percentage is 32.7% if the 9 circuit court nominations submitted by President Clinton on Jan. 3 and 4, 2001 (see preceding table note) are excluded from the “Nominations Received” column, making the number in that column 52 instead of 61.
- e. The confirmation percentage is 58.9% if the 9 circuit court nominations submitted by President Clinton on Jan. 3 and 4, 2001 (see preceding two table notes) are excluded from the “Nominations Received” column, making the number in that column 170 instead of 179.
- f. Current to Dec. 9, 2003.

**Table 4 (b). Nominees to U.S. District and U.S. Circuit Court Judgeships During Each Congress: Number Nominated, Number Confirmed, and Percent Confirmed, 95<sup>th</sup> Congress to 108<sup>th</sup> Congress (1977-December 9, 2003)**

Congress	Years	President	District Court <sup>a</sup>			Circuit Court			District and Circuit Combined		
			Number of Nominees	Nominees Confirmed		Number of Nominees	Nominees Confirmed		Number of Nominees	Nominees Confirmed	
				No.	%		No.	%		No.	%
95 <sup>th</sup>	1977-78	Jimmy Carter	54	52	96.3%	12	12	100.0%	66	64	97.0%
96 <sup>th</sup>	1979-80		169	153	90.5%	49	44	89.8%	218	197	90.4%
97 <sup>th</sup>	1981-82	Ronald Reagan	71 <sup>b</sup>	69	97.2%	20	19	95.0%	91	88	96.7%
98 <sup>th</sup>	1983-84		75	61	81.3%	19	14	73.7%	94	75	79.8%
99 <sup>th</sup>	1985-86		100	95	95.0%	33	33	100.0%	133	128	96.2%
100 <sup>th</sup>	1987-88		79	67	84.8%	26	17	65.4%	105	84	80.0%
101 <sup>st</sup>	1989-90	George H. W. Bush	50	48	96.0%	23	22	95.7%	73	70	95.9%
102 <sup>nd</sup>	1991-92		146	102	69.9%	31	20	64.5%	177	122	68.9%
103 <sup>rd</sup>	1993-94	William J. Clinton	119	108	90.8%	22	19	86.4%	141	127	90.1%
104 <sup>th</sup>	1995-96		85	62	72.9%	20	11	55.0%	105	73	69.5%
105 <sup>th</sup>	1997-98		95	80	84.2%	30	20	66.7%	125	100	80.0%
106 <sup>th</sup>	1999-2000		83	57	68.7%	34	15	44.1%	117	72	61.5%
107 <sup>th</sup>	2001-02	George W. Bush	98 <sup>c</sup>	83	84.7%	40 <sup>d</sup>	17	42.5% <sup>e</sup>	138	100	72.5% <sup>f</sup>
108 <sup>th</sup> , 1 <sup>st</sup> sess.	2003 <sup>g</sup>		83	55	66.3%	32	13	40.6%	115	68	59.1%

**Note:** The cells in this table account only for the number of individuals who were nominees to U.S. District and Circuit Court judgeships in any given Congress. The cells do not count “resubmitted” nominations made when individuals were re-nominated to the same judgeship during the Congress. By contrast, for an accounting of all nominations made to U.S. District and Circuit judgeships (including “resubmitted” nominations), see the preceding **Table 4(a)**.

- a. Includes nominations to the Territorial district courts in the U.S. Virgin Islands, Guam and the Northern Mariana Islands.
- b. Includes 1 district court nominee nominated by President Carter on Jan. 8, 1981, near the end of his presidential term. The nomination was withdrawn by President Reagan on Jan. 21, 1981.
- c. Twenty of the 98 district court nominees were nominated twice during the 107<sup>th</sup> Congress (thereby increasing the number of district court nominations received during the Congress to 118). The 20 nominees saw the Senate return their first nominations at the start of the Senate’s August 2001 recess, but were all re-nominated by President George W. Bush on Sept. 4, 2001.
- d. This number includes 8 circuit court nominees nominated by President William J. Clinton on Jan. 3, 2001 and Jan. 4, 2001, near the end of his presidential term. All 8 of these nominations (not including the nomination of Roger L. Gregory) were withdrawn by President George W. Bush on March 19, 2001. Roger L. Gregory, was nominated by President Clinton as well and renominated by President Bush, but is counted only once in this column — as are 20 other circuit nominees nominated by President Bush twice in the 107<sup>th</sup> Congress.
- e. The percentage of “Nominees Confirmed” is 53.1% if only President Bush’s 32 circuit nominees, including his resubmitted nomination of Roger L. Gregory, are included in the “Number of Nominees” column and the 8 circuit nominees (other than Roger L. Gregory) who were nominated by President Clinton on Jan. 3 and 4, 2001 (see preceding table note) are excluded.
- f. The percentage of “Nominees Confirmed” is 76.9% if only President Bush’s 130 district court nominees are included in the “Number of Nominees” column and 8 nominees nominated by President Clinton on Jan. 3 and 4, 2001 (see preceding table note) are excluded.
- g. Current to Dec. 9, 2003.

**Table 5 (a). U.S. District and Circuit Court Nominations for Each Session of Congress: Number Received, Number Carried Over from First Session to Second Session, Number Confirmed, and Percent Confirmed, 95<sup>th</sup> Congress to 108<sup>th</sup> Congress (1977-December 9, 2003)**

Congress (Session)		Year	District Court Nominations <sup>a</sup>					Circuit Court Nominations					District and Circuit Combined				
			Pending Nominations			Confirmed		Pending Nominations			Confirmed		Pending Nominations			Confirmed	
			Rec'd	Carry-over <sup>b</sup>	Total	No.	%	Rec'd	Carry-over <sup>b</sup>	Total	No.	%	Rec'd	Carry-over <sup>b</sup>	Total	No.	%
95 <sup>th</sup>	1 <sup>st</sup>	1977	24	—	24	21	87.5%	10	—	10	10	100.0%	34	—	34	31	91.2%
	2 <sup>nd</sup>	1978	33	3	36	31	86.1%	2	0	2	2	100.0%	35	3	38	33	86.8%
96 <sup>th</sup>	1 <sup>st</sup>	1979	119	—	119	102	85.7%	39	—	39	34	87.2%	158	—	158	136	86.1%
	2 <sup>nd</sup>	1980	51	15	66	52	78.8%	10	4	14	10	71.4%	61	19	80	62	77.5%
97 <sup>th</sup>	1 <sup>st</sup>	1981	36 <sup>c</sup>	—	36	33	91.7%	9	—	9	8	88.9%	45	—	45	41	91.1%
	2 <sup>nd</sup>	1982	35	2	37	36	97.3%	11	1	12	11	91.7%	46	3	49	47	95.9%
98 <sup>th</sup>	1 <sup>st</sup>	1983	33	—	33	28	84.8%	9	—	9	4	44.4%	42	—	42	32	76.2%
	2 <sup>nd</sup>	1984	46	4	50	33	66.0%	14	5	18	10	55.6%	60	9	68	43	63.2%
99 <sup>th</sup>	1 <sup>st</sup>	1985	70	—	70	62	88.6%	23	—	23	22	95.7%	93	—	93	84	90.3%
	2 <sup>nd</sup>	1986	37	8	45	33	73.3%	11	2	13	11	84.6%	48	10	58	44	75.9%
100 <sup>th</sup>	1 <sup>st</sup>	1987	52	—	52	33	63.5%	19	—	19	10	52.6%	71	—	71	43	60.6%
	2 <sup>nd</sup>	1988	28	19	47	34	72.3%	7	8	15	7	46.7%	35	27	62	41	66.1%
101 <sup>st</sup>	1 <sup>st</sup>	1989	16	—	16	10	62.5%	8	—	8	5	62.5%	24	—	24	15	62.5%
	2 <sup>nd</sup>	1990	36	6	42	38	90.5%	15	3	18	17	94.4%	51	9	60	55	91.7%

Congress (Session)	Year	District Court Nominations <sup>a</sup>						Circuit Court Nominations					District and Circuit Combined				
		Pending Nominations			Confirmed			Pending Nominations			Confirmed		Pending Nominations			Confirmed	
		Rec'd	Carry-over <sup>b</sup>	Total	No.	%	Rec'd	Carry-over <sup>b</sup>	Total	No.	%	Rec'd	Carry-over <sup>b</sup>	Total	No.	%	
102 <sup>nd</sup>	1 <sup>st</sup>	1991	86	—	86	47	54.7%	17	—	17	9	52.9%	103	—	103	56	54.4%
	2 <sup>nd</sup>	1992	61	37	98	54	55.1%	14	7	21	11	52.4%	75	44	119	65	54.6%
103 <sup>rd</sup>	1 <sup>st</sup>	1993	42	—	42	24	57.1%	5	—	5	3	60.0%	47	—	47	27	57.4%
	2 <sup>nd</sup>	1994	77	18	95	84	88.4%	17	2	19	16	84.2%	94	20	114	100	87.7%
104 <sup>th</sup>	1 <sup>st</sup>	1995	68	—	68	44	64.7%	16	—	16	9	56.3%	84	—	84	53	63.1%
	2 <sup>nd</sup>	1996	17	21	38	18	47.4%	4	5	9	2	22.2%	21	26	47	20	42.6%
105 <sup>th</sup>	1 <sup>st</sup>	1997	58	—	58	29	50.0%	21	—	21	7	33.3%	79	—	79	36	45.6%
	2 <sup>nd</sup>	1998	37	29	66	51	77.3%	9	13	22	13	59.1%	46	42	88	64	72.7%
106 <sup>th</sup>	1 <sup>st</sup>	1999	45	—	45	27	60.0%	25	—	25	7	28.0%	70	—	70	34	48.6%
	2 <sup>nd</sup>	2000	37	28	56	31	55.4%	9	18	27	8	29.6%	46	46	83	39	47.0%
107 <sup>th</sup>	1 <sup>st</sup>	2001	56	—	56	22	39.3%	58 <sup>d</sup>	—	58	6	10.3%	114	—	114	28	24.6%
	2 <sup>nd</sup>	2002	62	14	76	61	80.3%	3	23	26	11	42.3%	65	37	102	72	70.6%
108 <sup>th</sup>	1 <sup>st</sup>	2003 <sup>e</sup>	83	—	83	55	66.3%	32	—	32	13	40.6%	115	—	115	68	59.1%

**Note:** The cells in this table account for all instances in which individuals were nominated to U.S. District and Circuit Court judgeships in any given session of Congress. The cells, therefore, count not only the first instances in which individuals were nominated to District or Circuit judgeships during the same session of Congress but also any “re-submitted” nominations made when they were re-nominated to the same judgeship during that session. By contrast, for an accounting only of individuals nominated to U.S. District and Circuit judgeships (excluding the number of “re-submitted” nominations), see the following **Table 5(b)**.

a. Includes nominations to the Territorial district courts in the U.S. Virgin Islands, Guam and the Northern Mariana Islands.



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- b. Counts nominations that were pending at the end of the first session of each Congress, and which the Senate, prior to adjourning for that session, agreed by unanimous consent would remain in “status quo” and thus be carried over into the second session of the Congress as pending nominations.
- c. Includes one district court nomination submitted by President Jimmy Carter on Jan. 8, 1981, near the end of his presidential term, and withdrawn by President Ronald Reagan on Jan. 21, 1981.
- d. Includes nine circuit court nominations submitted by President William J. Clinton on Jan. 3 and 4, 2001, near the end of his presidential term — all of which were withdrawn by President George W. Bush on March 19, 2001.
- e. Current to Dec. 9, 2003.

**Table 5 (b). Nominees to U.S. District and Circuit Court Judgeships During Each Session of Congress: Number Nominated, Number Whose Nominations Were Carried Over from First Session to Second Session, Number Confirmed, and Percent Confirmed, 95<sup>th</sup> Congress to 108<sup>th</sup> Congress (1977-December 9, 2003)**

Congress (Session)	Year	District Court Nominees <sup>a</sup>						Circuit Court Nominees					District and Circuit Combined				
		Pending Nominees			Confirmed		Pending Nominees			Confirmed		Pending Nominees			Confirmed		
		Nom'd	Carry-over <sup>b</sup>	Total	No.	%	Nom'd	Carry-over <sup>b</sup>	Total	No.	%	Nom'd	Carry-over <sup>b</sup>	Total	No.	%	
95 <sup>th</sup>	1 <sup>st</sup>	1977	24	—	24	21	87.5%	10	—	10	10	100.0%	34	—	34	31	91.2%
	2 <sup>nd</sup>	1978	30	3	33	31	93.9%	2	0	2	2	100.0%	32	3	35	33	94.3%
96 <sup>th</sup>	1 <sup>st</sup>	1979	118	—	118	102	86.4%	39	—	39	34	87.2%	157	—	157	136	86.6%
	2 <sup>nd</sup>	1980	51	15	66	52	78.8%	10	4	14	10	71.4%	61	19	80	62	77.5%
97 <sup>th</sup>	1 <sup>st</sup>	1981	36 <sup>c</sup>	—	36	33	91.7%	9	—	9	8	88.9%	45	—	45	41	91.1%
	2 <sup>nd</sup>	1982	35	2	37	36	97.3%	11	1	12	11	91.7%	46	3	49	47	95.9%
98 <sup>th</sup>	1 <sup>st</sup>	1983	33	—	33	28	84.8%	9	—	9	4	44.4%	42	—	42	32	76.2%
	2 <sup>nd</sup>	1984	42	4	46	33	71.7%	10	5	15	10	66.7%	52	9	61	43	70.5%
99 <sup>th</sup>	1 <sup>st</sup>	1985	70	—	70	62	88.6%	23	—	23	22	95.7%	93	—	93	84	90.3%
	2 <sup>nd</sup>	1986	30	8	38	33	86.8%	10	2	12	11	91.7%	40	10	50	44	88.0%
100 <sup>th</sup>	1 <sup>st</sup>	1987	52	—	52	33	63.5%	19	—	19	10	52.6%	71	—	71	43	60.6%
	2 <sup>nd</sup>	1988	27	19	46	34	73.9%	7	8	15	7	46.7%	34	27	61	41	67.2%
101 <sup>st</sup>	1 <sup>st</sup>	1989	16	—	16	10	62.5%	8	—	8	5	62.5%	24	—	24	15	62.5%
	2 <sup>nd</sup>	1990	34	6	40	38	95.0%	15	3	18	17	94.4%	49	9	58	55	94.8%

Congress (Session)	Year	District Court Nominees <sup>a</sup>						Circuit Court Nominees					District and Circuit Combined				
		Pending Nominees			Confirmed			Pending Nominees			Confirmed		Pending Nominees			Confirmed	
		Nom'd	Carry-over <sup>b</sup>	Total	No.	%	Nom'd	Carry-over <sup>b</sup>	Total	No.	%	Nom'd	Carry-over <sup>b</sup>	Total	No.	%	
102 <sup>nd</sup>	1 <sup>st</sup>	1991	86	—	86	47	54.7%	17	—	17	9	52.9%	103	—	103	56	54.4%
	2 <sup>nd</sup>	1992	60	37	97	54	55.7%	14	7	21	11	52.4%	74	44	118	65	55.1%
103 <sup>rd</sup>	1 <sup>st</sup>	1993	42	—	42	24	57.1%	5	—	5	3	60.0%	47	—	47	27	57.4%
	2 <sup>nd</sup>	1994	77	18	95	84	88.4%	17	2	19	16	84.2%	94	20	114	100	87.7%
104 <sup>th</sup>	1 <sup>st</sup>	1995	68	—	68	44	64.7%	16	—	16	9	56.3%	84	—	84	53	63.1%
	2 <sup>nd</sup>	1996	17	21	38	18	47.4%	4	5	9	2	22.2%	21	26	47	20	42.6%
105 <sup>th</sup>	1 <sup>st</sup>	1997	58	—	58	29	50.0%	21	—	21	7	33.3%	79	—	79	36	45.6%
	2 <sup>nd</sup>	1998	37	29	66	51	77.3%	9	13	22	13	59.1%	46	42	88	64	72.7%
106 <sup>th</sup>	1 <sup>st</sup>	1999	45	—	45	27	60.0%	25	—	25	7	28.0%	70	—	70	34	48.6%
	2 <sup>nd</sup>	2000	38	28	56	31	55.4%	9	18	27	8	29.6%	47	46	83	39	47.0%
107 <sup>th</sup>	1 <sup>st</sup>	2001	36	—	36	22	61.1%	37 <sup>d</sup>	—	37	6	16.2%	73	—	73	28	38.4%
	2 <sup>nd</sup>	2002	62	14	76	61	80.3%	3	23	26	11	42.3%	65	37	102	72	70.6%
108 <sup>th</sup>	1 <sup>st</sup>	2003 <sup>e</sup>	83	—	83	55	66.3%	32	—	32	13	40.6%	115	—	115	68	59.1%

**Note:** The cells in this table account only for the number of individuals who were nominees to U.S. District and Circuit Court judgeships in any given session of Congress. The cells do not count “resubmitted” nominations made when individuals were re-nominated to the same judgeship during the same session. By contrast, for an accounting of all nominations made to U.S. District and Circuit judgeships (including “resubmitted” nominations), see the preceding **Table 5(a)**.

a. Includes nominations to the Territorial district courts in the U.S. Virgin Islands, Guam and the Northern Mariana Islands.

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- b. Counts nominees whose nominations were pending at the end of the first session of each Congress and which the Senate, prior to adjourning for that session, agreed by unanimous consent would remain in “status quo” and thus be carried over into the second session of the Congress as pending nominations.
- c. Includes 1 district court nomination submitted by President Carter on Jan. 8, 1981, near the end of his presidential term, and withdrawn by President Ronald Reagan on Jan. 21, 1981.
- d. Includes 8 circuit court nominations submitted by President Clinton in Jan. 3, 2001 and Jan. 4, 2001, near the end of his presidential term — all of which were withdrawn by President George W. Bush on March 19, 2001.
- e. Current to Dec. 9, 2003.

**Table 6. Number of U.S. District and Circuit Court Nominations, 95<sup>th</sup> Congress to 108<sup>th</sup> Congress (1977-December 9, 2003), Broken Down by Final Action <sup>a</sup>**

Congress	President	District Court Nominations <sup>b</sup>					Circuit Court Nominations				
		Con- firmed	With- drawn	Returned	Rejected <sup>c</sup>	Total	Con- firmed	With- drawn	Returned	Rejected <sup>c</sup>	Total
95 <sup>th</sup> (1977-78)	Jimmy Carter	52	1	4	0	57	12	0	0	0	12
96 <sup>th</sup> (1979-80)		154	3 <sup>d</sup>	13	0	170	44	1	4	0	49
97 <sup>th</sup> (1981-82)	Ronald Reagan	69	1 <sup>e</sup>	1	0	71	19	0	1	0	20
98 <sup>th</sup> (1983-84)		61	1	17	0	79	14	1	7	0	22
99 <sup>th</sup> (1985-86)		95	1	11 <sup>d</sup>	0	107	33	0	1	0	34
100 <sup>th</sup> (1987-88)		67	3	10	0	80	17	2 <sup>d</sup>	7	0	26
101 <sup>st</sup> (1989-90)	George H. W. Bush	48	0	3	0	51	22	0	1	0	23
102 <sup>nd</sup> (1991-92)		101	1	45	0	147	20	0	11 <sup>d</sup>	0	31
103 <sup>rd</sup> (1993-94)	William J. Clinton	108	0	11	0	119	19	0	3	0	22
104 <sup>th</sup> (1995-96)		62	3	20	0	85	11	1	8	0	20
105 <sup>th</sup> (1997-98)		80	4	11	0	95	20	1	9	0	30
106 <sup>th</sup> (1999-2000)		57	1	24	1	83	15	1	18	0	34
107 <sup>th</sup> (2001-02)	George W. Bush	83	0	35	0	118	17	9 <sup>f</sup>	35 <sup>g</sup>	0	61
108 <sup>th</sup> (2003) <sup>h</sup>		55	0	0	0	55 <sup>i</sup>	13	1	1	0	15 <sup>j</sup>

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- a. Final action covers one of four mutually exclusive outcomes: (1) confirmation by the Senate; (2) withdrawal of a nomination by the President; (3) Senate return of the nomination to President (upon a Senate adjournment or recess of more than 30 days); and (4) Senate rejection by a vote disapproving a nomination.
- b. Includes nominations to the Territorial district courts in the U.S. Virgin Islands, Guam and the Northern Mariana Islands.
- c. Counts only rejections voted by the full Senate. Six nominations which, over the 1977-2002 period, were defeated in committee (by Senate Judiciary Committee votes against reporting the nominations to the Senate) are counted either in the “Withdrawn” or “Returned” columns, as indicated in the table notes “d” and “g”.
- d. Includes one nomination defeated in the Senate Judiciary Committee.
- e. The nomination was submitted by President Carter on Jan. 8, 1981, near the end of his presidential term, and withdrawn by President Reagan on Jan. 21, 1981.
- f. The nine nominations were submitted by President Clinton on Jan. 3 and 4, 2001, near the end of his presidential term, and withdrawn by President George W. Bush on Mar. 19, 2001.
- g. Includes two nominations defeated in the Senate Judiciary Committee.
- h. Current to Dec. 9, 2003.
- i. Does not include 28 district court nominations pending as of Dec. 9, 2003 (on which final action was yet to be taken).
- j. Does not include 18 circuit court nominations pending as of Dec. 9, 2003 (on which final action was yet to be taken),

**Table 7. U.S. District Court and Circuit Court Nominations: Number Pending at End of Each Congress,<sup>a</sup> and Their Percentage of All Nominations Received During That Congress, 95<sup>th</sup> Congress to 107<sup>th</sup> Congress (1977-2002)**

Congress	Years	President	District Court Nominations <sup>b</sup>				Circuit Court Nominations			
			Pending w/o hearing <sup>c</sup>	Other pending <sup>d</sup>	Total pending	% of all received	Pending w/o hearing <sup>c</sup>	Other pending <sup>d</sup>	Total pending	% of all received
95 <sup>th</sup>	1977-78	Jimmy Carter	0	1	1	1.8%	0	0	0	N/A
96 <sup>th</sup>	1979-80		7	6	13	7.7%	0	4	4	8.2%
97 <sup>th</sup>	1981-82	Ronald Reagan	1	0	1	1.4%	1	0	1	5.0%
98 <sup>th</sup>	1983-84		5	8	13	16.5%	1	2	3	13.6%
99 <sup>th</sup>	1985-86		2	1	3	2.8%	0	0	0	N/A
100 <sup>th</sup>	1987-88		4	6	10	12.7%	5	2	7	26.9%
101 <sup>st</sup>	1989-90	George H. W. Bush	3	0	3	5.9%	1	0	1	4.3%
102 <sup>nd</sup>	1991-92		43	0	43	29.3%	9	1	10	32.3%
103 <sup>rd</sup>	1993-94	William J. Clinton	9	2	11	9.2%	2	1	3	13.6%
104 <sup>th</sup>	1995-96		12	8	20	23.5%	3	5	8	40.0%
105 <sup>th</sup>	1997-98		6	5	11	11.6%	6	3	9	30.0%
106 <sup>th</sup>	1999-2000		23	1	24	28.9%	15	2	17	50.0%
107 <sup>th</sup>	2001-02	George W. Bush	15	0	15	12.7%	12	3	15	24.6%
<b>95<sup>th</sup> - 107<sup>th</sup> Totals</b>			<b>130</b>	<b>38</b>	<b>168</b>	<b>28.9%</b>	<b>55</b>	<b>23</b>	<b>78</b>	<b>50.0%</b>

a. Includes, for 97<sup>th</sup> to the 107<sup>th</sup> Congress, all nominations pending and not finally acted upon at the time of the final adjournment of each Congress.

b. Includes nominations to the Territorial district courts in the U.S. Virgin Islands, Guam and the Northern Mariana Islands.

c. Nominations pending at end of Congress which had not received a committee hearing.

d. Nominations pending at end of Congress which had received a committee hearing.

**Table 8. U.S. District Court and Circuit Court Nominations: Average Number of Days Elapsing from Nomination Date to Final Action,<sup>a</sup> 95<sup>th</sup> Congress to 108<sup>th</sup> Congress (1977-December 9, 2003)**

Congress (Years)	District Court nominations <sup>b</sup>			Circuit Court nominations		
	Confirmed <sup>c</sup>	Unconfirmed <sup>d</sup>	Combined <sup>e</sup>	Confirmed <sup>c</sup>	Unconfirmed <sup>d</sup>	Combined <sup>e</sup>
95 <sup>th</sup> (1977-78)	40	35	40	33	N/A	33
96 <sup>th</sup> (1979-80)	79	168	89	79	157	87
97 <sup>th</sup> (1981-82)	33	10	32	34	8	33
98 <sup>th</sup> (1983-84)	31	35	32	51	34	49
99 <sup>th</sup> (1985-86)	42	49	43	49	11	48
100 <sup>th</sup> (1987-88)	122	217	136	119	273	172
101 <sup>st</sup> (1989-90)	77	69	76	79	185	83
102 <sup>nd</sup> (1991-92)	114	172	130	108	296	174
103 <sup>rd</sup> (1993-94)	76	104	77	103	94	102
104 <sup>th</sup> (1995-96)	112	255	149	124	243	194
105 <sup>th</sup> (1997-98)	165	303	185	212	345	262
106 <sup>th</sup> (1999-2000)	133	328	192	227	364	304
107 <sup>th</sup> (2001-2002)	127	39	99	210	160	169
108 <sup>th</sup> (2003) <sup>f</sup>	106	—	—	120	—	—



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- a. Final action covers one of four mutually exclusive outcomes: (1) confirmation by the Senate; (2) withdrawal of a nomination by the President; (3) Senate return of the nomination to President (upon a Senate adjournment or recess of more than 30 days); and (4) Senate rejection by a vote disapproving a nomination.
- b. Includes nominations to the Territorial district courts in the U.S. Virgin Islands, Guam and the Northern Mariana Islands.
- c. Average number of days, rounded to nearest whole number, elapsing from nomination date to confirmation date.
- d. Average number of days, rounded to nearest whole number, elapsing from nomination date to final action date of unconfirmed nominations (i.e., date on which they were returned to the President, withdrawn by the President, or rejected by the Senate).
- e. Average number of days, rounded to nearest whole number, elapsing from nomination date to final action date of both confirmed and unconfirmed nominations.
- f. Current to Dec. 9, 2003. Averages are not provided for unconfirmed nominations in the 108<sup>th</sup> Congress, because as of Dec. 9, 2003 all of the unconfirmed nominations, except for one which was withdrawn by the President, were pending nominations (and thus had yet to receive final action).

**Table 9. Number of U.S. District and Circuit Court Nominations Referred to Senate Judiciary Committee, Receiving Committee Hearings, Committee Vote, and Senate Vote, by Congress, 95<sup>th</sup> Congress to 108<sup>th</sup> Congress (1977-December 9, 2003)**

Congress	President	District Court Nominations <sup>a</sup>				Circuit Court Nominations			
		Referred to Committee	Received Hearing <sup>b</sup>	Voted on by Committee <sup>b</sup>	Voted on by Senate <sup>c</sup>	Referred to Committee	Received Hearing <sup>b</sup>	Voted on by Committee <sup>b</sup>	Voted on by Senate <sup>c</sup>
95 <sup>th</sup> (1977-78)	Jimmy Carter	57	52	53	52	12	12	12	12
96 <sup>th</sup> (1979-80)		170	164	155	154	49	48	44	44
97 <sup>th</sup> (1981-82)	Ronald Reagan	71 <sup>d</sup>	69	69	69	20	19	19	19
98 <sup>th</sup> (1983-84)		79	69	67	61	22	18	15	14
99 <sup>th</sup> (1985-86)		107	93	96	95	34	31	33	33
100 <sup>th</sup> (1987-88)		80	75	68	67	26	20	20	17
101 <sup>st</sup> (1989-90)		52	48	48	48	23	22	22	22
102 <sup>nd</sup> (1991-92)	George H. W. Bush	147	102	102	101	31	22	21	20
103 <sup>rd</sup> (1993-94)	William J. Clinton	119	110	108	108	22	20	19	19
104 <sup>th</sup> (1995-96)		85	70	65	62	20	16	15	11
105 <sup>th</sup> (1997-98)		95	85	83	80	30	24	22	20
106 <sup>th</sup> (1999-2000)		83	57	58	58	34	15	15	15
107 <sup>th</sup> (2001-02)	George W. Bush	118	83	83	83	61 <sup>e</sup>	24	19	17
108 <sup>th</sup> (2003) <sup>f</sup>		83	65	58	55	32	20	19	13

**Note:** In some of the Congresses above, one or more nominees received a hearing on their nominations in one Congress, only to be re-nominated in the next Congress and have a committee vote and Senate vote on their re-submitted nomination. Usually, in these cases, the Judiciary Committee did not hold a hearing on the re-submitted nomination if a hearing had already been held on the nominee in the preceding Congress. This carryover of actions on particular nominees (with a hearing held in one Congress, and votes by the Judiciary Committee and/or the Senate in the next Congress) explains why, in some of the Congresses, the number of nominations receiving a hearing is smaller than the number of nominations voted on by committee and by the Senate.

- a. Includes nominations to the Territorial district courts in the U.S. Virgin Islands, Guam and the Northern Mariana Islands.
- b. A nomination receiving more than one hearing is counted just once in its particular “received hearing” column. Similarly, a nomination receiving more than one committee vote, either on the same day or on different days, is counted just once in its “voted on by committee” column.
- c. Accounts only for Senate votes on whether to confirm; does not account for Senate procedural votes on nominations, such as votes on motions to close debate.
- d. Includes one district court nomination submitted by President Carter on Jan. 8, 1981, near the end of his presidential term, and withdrawn by President Reagan on Jan. 21, 1981.
- e. Includes nine circuit court nominations submitted by President Clinton on Jan. 3 and 4, 2001, at the end of his presidential term — all of which were withdrawn by President George W. Bush on March 19, 2001.
- f. Current to Dec. 9, 2003.

**Table 10. Number of U.S. District and Circuit Court Nominations Referred to Senate Judiciary Committee, Receiving Committee Hearings, Committee Vote, and Senate Vote, by Year, 95<sup>th</sup> Congress to 108<sup>th</sup> Congress (1977-December 9, 2003)**

Congress (President)	Year	District Court Nominations <sup>a</sup>				Circuit Court Nominations			
		Referred to Committee	Received Hearing <sup>b</sup>	Voted on by Committee <sup>b</sup>	Voted on by Senate <sup>c</sup>	Referred to Committee	Received Hearing <sup>b</sup>	Voted on by Committee <sup>b</sup>	Voted on by Senate <sup>c</sup>
95 <sup>th</sup> (Carter)	1977	24	20	21	21	10	10	10	10
	1978	33	32	32	31	2	2	2	2
	<b>Total</b>	<b>57</b>	<b>52</b>	<b>53</b>	<b>52</b>	<b>12</b>	<b>12</b>	<b>12</b>	<b>12</b>
96 <sup>th</sup> (Carter)	1979	119	103	102	102	39	36	34	34
	1980	51	61	53	52	10	12	10	10
	<b>Total</b>	<b>170</b>	<b>164</b>	<b>155</b>	<b>154</b>	<b>49</b>	<b>48</b>	<b>44</b>	<b>44</b>
97 <sup>th</sup> (Reagan)	1981	36 <sup>d</sup>	33	33	33	9	8	8	8
	1982	35	36	36	36	11	11	11	11
	<b>Total</b>	<b>71</b>	<b>69</b>	<b>69</b>	<b>69</b>	<b>20</b>	<b>19</b>	<b>19</b>	<b>19</b>
98 <sup>th</sup> (Reagan)	1983	33	29	29	28	8	6	4	4
	1984	46	40	38	33	14	12	11	10
	<b>Total</b>	<b>79</b>	<b>69</b>	<b>67</b>	<b>61</b>	<b>22</b>	<b>18</b>	<b>15</b>	<b>14</b>

Congress (President)	Year	District Court Nominations <sup>a</sup>				Circuit Court Nominations			
		Referred to Committee	Received Hearing <sup>b</sup>	Voted on by Committee <sup>b</sup>	Voted on by Senate <sup>c</sup>	Referred to Committee	Received Hearing <sup>b</sup>	Voted on by Committee <sup>b</sup>	Voted on by Senate <sup>c</sup>
99 <sup>th</sup> (Reagan)	1985	70	58	62	62	23	20	22	22
	1986	37	35	34	33	11	11	11	11
	<b>Total</b>	<b>107</b>	<b>93</b>	<b>96</b>	<b>95</b>	<b>34</b>	<b>31</b>	<b>33</b>	<b>33</b>
100 <sup>th</sup> (Reagan)	1987	52	35	33	33	19	13	11	10
	1988	28	40	35	34	7	7	9	7
	<b>Total</b>	<b>80</b>	<b>75</b>	<b>68</b>	<b>67</b>	<b>26</b>	<b>20</b>	<b>20</b>	<b>17</b>
101 <sup>st</sup> (Bush, George H. W.)	1989	16	12	12	10	8	5	5	5
	1990	36	36	36	38	15	17	17	17
	<b>Total</b>	<b>52</b>	<b>48</b>	<b>48</b>	<b>48</b>	<b>23</b>	<b>22</b>	<b>22</b>	<b>22</b>
102 <sup>nd</sup> (Bush, George H. W.)	1991	86	47	47	47	17	10	10	9
	1992	61	55	55	54	14	12	11	11
	<b>Total</b>	<b>147</b>	<b>102</b>	<b>102</b>	<b>101</b>	<b>31</b>	<b>22</b>	<b>21</b>	<b>20</b>
103 <sup>rd</sup> (Clinton)	1993	42	26	25	24	5	3	3	3
	1994	77	84	83	84	17	17	16	16
	<b>Total</b>	<b>119</b>	<b>110</b>	<b>108</b>	<b>108</b>	<b>22</b>	<b>20</b>	<b>19</b>	<b>19</b>

Congress (President)	Year	District Court Nominations <sup>a</sup>				Circuit Court Nominations			
		Referred to Committee	Received Hearing <sup>b</sup>	Voted on by Committee <sup>b</sup>	Voted on by Senate <sup>c</sup>	Referred to Committee	Received Hearing <sup>b</sup>	Voted on by Committee <sup>b</sup>	Voted on by Senate <sup>c</sup>
104 <sup>th</sup> (Clinton)	1995	68	45	45	44	16	12	12	9
	1996	17	25	20	18	4	4	3	2
	<b>Total</b>	<b>85</b>	<b>70</b>	<b>65</b>	<b>62</b>	<b>20</b>	<b>16</b>	<b>15</b>	<b>11</b>
105 <sup>th</sup> (Clinton)	1997	58	36	36	29	21	11	8	7
	1998	37	49	47	51	9	13	14	13
	<b>Total</b>	<b>95</b>	<b>85</b>	<b>83</b>	<b>80</b>	<b>30</b>	<b>24</b>	<b>22</b>	<b>20</b>
106 <sup>th</sup> (Clinton)	1999	45	28	29	27	25	10	12	7
	2000	38	29	29	31	9	5	3	8
	<b>Total</b>	<b>83</b>	<b>57</b>	<b>58</b>	<b>58</b>	<b>34</b>	<b>15</b>	<b>15</b>	<b>15</b>
107 <sup>th</sup> (Bush, George W.)	2001	56	27	26	22	58 <sup>e</sup>	7	6	6
	2002	62	56	57	61	3	14	14	11
	<b>Total</b>	<b>118</b>	<b>83</b>	<b>83</b>	<b>83</b>	<b>61</b>	<b>21</b>	<b>20</b>	<b>17</b>
108 <sup>th</sup> (Bush, George W.)	2003 <sup>f</sup>	83	65	58	55	32	20	19	13
	<b>Total</b>	<b>83</b>	<b>65</b>	<b>58</b>	<b>55</b>	<b>32</b>	<b>20</b>	<b>19</b>	<b>13</b>

**Note:** In most of the Congresses above, nominations pending at the end of the first session remained in “status quo” and, by unanimous consent of the Senate, were carried over into the second session as pending nominations. The carryover of nominations into the second session sometimes resulted during the second session in more nominations receiving a hearing, a committee vote, or a Senate vote than those being referred to committee. As well, in a few instances, the carryover of nominations from

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a first session resulted, during a second session, in more nominations receiving a Senate vote than those receiving a committee vote or in more nominations receiving a committee vote than those receiving a committee hearing.

- a. Includes nominations to the Territorial district courts in the U.S. Virgin Islands, Guam and the Northern Mariana Islands.
- b. A nomination receiving more than one hearing is counted just once in its particular “received hearing” column. Similarly, a nomination receiving more than one committee vote, either on the same day or on different days, is counted just once in its “voted on by committee” column.
- c. Accounts only for Senate votes on whether to confirm; does not account for Senate procedural votes on nominations, such as votes on motions to close debate.
- d. Includes one district court nomination submitted by President Carter on Jan. 8, 1981, near the end of his presidential term, and withdrawn by President Reagan on Jan. 21, 1981.
- e. Includes nine circuit court nominations submitted by President William Clinton on Jan. 3 and 4, 2001, at the end of his presidential term — all of which were withdrawn by President George W. Bush on March 19, 2001.
- f. Current to Dec. 9, 2003.

**Table 11. U.S. District Court and Circuit Court Nominations: Average Number of Days Elapsing from Nomination Date to Hearing and Committee Vote, 95<sup>th</sup> Congress to 108<sup>th</sup> Congress (1977-December 9, 2003)**

Congress (Years)	District Court Nominations <sup>a</sup>		Circuit Court Nominations	
	Hearing <sup>b</sup>	Committee Vote <sup>b</sup>	Hearing <sup>b</sup>	Committee Vote <sup>b</sup>
95 <sup>th</sup> (1977-78)	23	37	21	29
96 <sup>th</sup> (1979-80)	57	76	46	74
97 <sup>th</sup> (1981-82)	21	29	23	30
98 <sup>th</sup> (1983-84)	16	26	19	36
99 <sup>th</sup> (1985-86)	24	34	22	35
100 <sup>th</sup> (1987-88)	90	112	92	115
101 <sup>st</sup> (1989-90)	56	71	61	76
102 <sup>nd</sup> (1991-92)	93	110	82	94
103 <sup>rd</sup> (1993-94)	59	72	78	95
104 <sup>th</sup> (1995-96)	80	79	88	105
105 <sup>th</sup> (1997-98)	116	128	171	182
106 <sup>th</sup> (1999-2000)	100	107	131	151
107 <sup>th</sup> (2001-02)	84	104	161	183
108 <sup>th</sup> , 1 <sup>st</sup> sess. (2003) <sup>c</sup>	73	96	81	92

- a. Includes nominations to the Territorial district courts in the U.S. Virgin Islands, Guam and the Northern Mariana Islands.
- b. Average number of days, rounded to nearest whole number, elapsing from nomination date to the procedural action in this column (hearing, committee action or final action). Nominations not receiving a hearing, a committee vote or (in the case of nominations in the 108<sup>th</sup> Congress that were pending as of Aug. 1, 2003) final action, were excluded from the calculations of these respective time lapse averages.
- c. Current to Dec. 9, 2003.



**Table 12. U.S. District and Circuit Court Nominations: Annual Percent Confirmed When One Party Controls Both Presidency and Senate ('Unified Government'), versus When One Party Controls Presidency and Other Controls Senate ('Divided Government'), 95<sup>th</sup> Congress to 108<sup>th</sup> Congress (1977-December 9, 2003)**

President (Party)	Congress (Session)		Year	Government	District Court Nominations <sup>a</sup>			Circuit Court Nominations			District and Circuit Combined			
					Pending <sup>b</sup>	Confirmed		Pending <sup>b</sup>	Confirmed		Pending <sup>b</sup>	Confirmed		
						No.	%		No.	%		No.	%	
Jimmy Carter (D)	95 <sup>th</sup>	1 <sup>st</sup>	1977	Unified	24	21	87.5%	10	10	100.0%	34	31	91.2%	
		2 <sup>nd</sup>	1978		36	31	86.1%	2	2	100.0%	38	33	86.8%	
	96 <sup>th</sup>	1 <sup>st</sup>	1979		119	102	85.7%	39	34	87.0%	158	136	87.0%	
		2 <sup>nd</sup>	1980		66	52	78.8%	14	10	71.4%	80	62	77.5%	
	<b>Totals</b>				<b>244</b>	<b>206</b>	<b>84.4%</b>	<b>65</b>	<b>56</b>	<b>86.2%</b>	<b>310</b>	<b>262</b>	<b>84.5%</b>	
Ronald Reagan (R)	97 <sup>th</sup>	1 <sup>st</sup>	1981	Unified	36 <sup>c</sup>	33	91.7%	9	8	88.9%	45	41	91.1%	
		2 <sup>nd</sup>	1982		37	36	97.3%	12	11	91.7%	49	47	95.9%	
	98 <sup>th</sup>	1 <sup>st</sup>	1983		33	28	84.8%	9	4	44.4%	42	32	76.2%	
		2 <sup>nd</sup>	1984		50	33	66.0%	18	10	55.6%	68	43	63.2%	
	99 <sup>th</sup>	1 <sup>st</sup>	1985		70	62	88.6%	23	22	95.7%	93	84	90.3%	
		2 <sup>nd</sup>	1986		45	33	73.3%	13	11	84.6%	58	44	75.9%	
	<b>Totals</b>				<b>271</b>	<b>225</b>	<b>83.0%</b>	<b>84</b>	<b>66</b>	<b>79.0%</b>	<b>355</b>	<b>291</b>	<b>82.0%</b>	
	100 <sup>th</sup>	1 <sup>st</sup>	1987		Divided	52	33	63.5%	19	10	52.6%	71	43	60.6%
		2 <sup>nd</sup>	1988			47	34	72.3%	15	7	46.7%	62	41	66.1%
	<b>Totals</b>				<b>99</b>	<b>67</b>	<b>67.7%</b>	<b>34</b>	<b>17</b>	<b>50.0%</b>	<b>133</b>	<b>84</b>	<b>63.2%</b>	

President (Party)	Congress (Session)		Year	Government	District Court Nominations <sup>a</sup>			Circuit Court Nominations			District and Circuit Combined		
					Pending <sup>b</sup>	Confirmed		Pending <sup>b</sup>	Confirmed		Pending <sup>b</sup>	Confirmed	
						No.	%		No.	%		No.	%
George H. W. Bush (R)	101 <sup>st</sup>	1 <sup>st</sup>	1989	Divided	16	10	62.5%	8	5	62.5%	24	15	62.5%
		2 <sup>nd</sup>	1990		42	38	90.5%	18	17	94.4%	60	55	91.7%
	102 <sup>nd</sup>	1 <sup>st</sup>	1991		86	47	54.7%	17	9	52.9%	103	56	54.4%
		2 <sup>nd</sup>	1992		98	54	55.1%	21	11	52.4%	119	65	54.6%
	<b>Totals</b>				<b>242</b>	<b>149</b>	<b>61.6%</b>	<b>64</b>	<b>42</b>	<b>65.6%</b>	<b>306</b>	<b>191</b>	<b>62.4%</b>
William J. Clinton (D)	103 <sup>rd</sup>	1 <sup>st</sup>	1993	Unified	42	24	57.1%	5	3	60.0%	47	27	57.4%
		2 <sup>nd</sup>	1994		95	84	88.4%	19	16	84.2%	114	100	87.7%
	<b>Totals</b>				<b>137</b>	<b>108</b>	<b>78.8%</b>	<b>24</b>	<b>19</b>	<b>79.2%</b>	<b>161</b>	<b>127</b>	<b>78.9%</b>
	104 <sup>th</sup>	1 <sup>st</sup>	1995	Divided	68	44	64.7%	16	9	56.3%	84	53	63.1%
		2 <sup>nd</sup>	1996		38	18	47.4%	9	2	22.2%	47	20	42.6%
	105 <sup>th</sup>	1 <sup>st</sup>	1997		58	29	50.0%	21	7	33.3%	79	36	45.6%
		2 <sup>nd</sup>	1998		66	51	77.3%	22	13	59.1%	88	64	72.7%
	106 <sup>th</sup>	1 <sup>st</sup>	1999		45	27	60.0%	25	7	28.0%	70	34	48.6%
		2 <sup>nd</sup>	2000		56	31	55.4%	27	8	29.6%	83	39	47.0%
<b>Totals</b>					<b>331</b>	<b>200</b>	<b>60.4%</b>	<b>120</b>	<b>46</b>	<b>38.3%</b>	<b>451</b>	<b>246</b>	<b>54.5%</b>

President (Party)	Congress (Session)		Year	Government	District Court Nominations <sup>a</sup>			Circuit Court Nominations			District and Circuit Combined		
					Pending <sup>b</sup>	Confirmed		Pending <sup>b</sup>	Confirmed		Pending <sup>b</sup>	Confirmed	
						No.	%		No.	%		No.	%
George W. Bush (R)	107 <sup>th</sup>	1 <sup>st</sup>	2001	Unified	2	0	0.0%	16 <sup>d</sup>	0	0.0%	18	0	0.0%
		<b>Totals</b>				<b>2</b>	<b>0</b>	<b>0.0%</b>	<b>16</b>	<b>0</b>	<b>0.0%</b>	<b>18</b>	<b>0</b>
	1 <sup>st</sup>	2001	Divided <sup>e</sup>	56	22	39.3%	58 <sup>f</sup>	6	10.3%	114	28	24.6%	
		2 <sup>nd</sup>		2002	76	61	80.3%	26	11	42.3%	102	72	70.6%
	<b>Totals</b>				<b>136</b>	<b>83</b>	<b>61.0%</b>	<b>116</b>	<b>17</b>	<b>14.7%</b>	<b>252</b>	<b>100</b>	<b>39.7%</b>
	108 <sup>th</sup>	1 <sup>st</sup>	2003	Unified	83	55	66.3%	32	13	40.6%	115	68	59.1%
<b>Totals</b>				<b>83</b>	<b>55</b>	<b>66.3%</b>	<b>32</b>	<b>13</b>	<b>40.6%</b>	<b>115</b>	<b>68</b>	<b>59.1%</b>	

a. Includes nominations to the Territorial district courts in the U.S. Virgin Islands, Guam and the Northern Mariana Islands.

b. Numbers for first session of a Congress account for all nominations received during that session. Numbers for second session of a Congress account for all nominations received during that session as well as nominations that were pending at the end of the first session and were carried over into the second session. For number of nominations in second session of each Congress broken down between those received in that session and those carried over, see **Table 5 (a)** above.

c. Includes one district court nomination submitted by President Jimmy Carter on Jan. 8, 1981, near the end of his presidential term, and withdrawn by President Ronald Reagan on Jan. 21, 1981.

d. Includes 16 circuit court nominations submitted by President Bush on May 9, 21, 22, and 25, 2001 (before the switch from Republican to Democratic Party control of the Senate on June 5, 2001), which the Senate returned at the start of the August 2001 recess and which the President resubmitted as new nominations on Sept. 4, 2001. Does not include nine circuit court nominations submitted by President William J. Clinton on Jan. 3 and 4, 2001 near the end of his presidential term — all of which were withdrawn by President George W. Bush on March 19, 2001.

e. The switch in party affiliation of Senator James Jeffords of Vermont on June 5, 2001, from Republican to Independent, caused Senate party control in the 107<sup>th</sup> Congress to switch from Republican to Democratic, in turn causing the change from “unified government” to “divided government,” as indicated in this table.

f. Includes 6 circuit court nominations submitted by President Bush on June 21 and 22, July 16, and Aug 2, 2001 (all after the party switch in the Senate) — which the Senate returned at the start of the August 2001 recess and which the President resubmitted as new nominations on Sept. 4, 2001.

**Table 13. Votes by Senate Judiciary Committee on U.S. District and Circuit Court Nominations Other Than Those Agreeing to Report Favorably, 95<sup>th</sup> Congress to the 108<sup>th</sup> Congress (1977-December 9, 2003)**

Congress	Nominee	Court	Motion/Vote	Final Outcome
95 <sup>th</sup>	Robert F. Collins	U.S. District Court, Eastern Louisiana	Report favorably, 5-5, 04/14/78 (subsequent motion to report favorably, on 05/16/78, approved, 13-1)	Confirmed by Senate, voice vote, 05/17/78
96 <sup>th</sup>	Charles B. Winberry, Jr.	U.S. District Court, North Carolina	Report favorably, 6-8, 03/04/80	Nomination withdrawn, 08/06/80
99 <sup>th</sup>	Daniel A. Manion	U.S. Court of Appeals, Seventh Circuit	Report favorably, 9-9; report without recommendation, 11-6, 05/08/86	Confirmed by Senate, 48-46, 06/26/86
99 <sup>th</sup>	Jefferson B. Sessions	U.S. District Court, Southern Alabama	Report favorably, 8-10; report without recommendation, 9-9, 06/05/86	Nomination returned, 12/20/85
100 <sup>th</sup>	Susan W. Liebeler	U.S. Court of Appeals, Federal Circuit	Report favorably, 6-7; report without recommendation, 8-5, 02/23/88	Nomination returned, 10/22/88
100 <sup>th</sup>	Bernard H. Siegan	U.S. Court of Appeals, Ninth Circuit	Report favorably, 6-8; report without recommendation, 7-7, 07/14/88	Nomination withdrawn, 09/16/88
102 <sup>nd</sup>	Kenneth L. Ryskamp	U.S. Court of Appeals, Eleventh Circuit	Report favorably, 6-8; report without recommendation, 7-7, 04/11/91	Nomination returned, 08/02/91
107 <sup>th</sup>	Charles W. Pickering, Sr.	U.S. Court of Appeals, Fifth Circuit	Report favorably 9-10; report without recommendation, 9-10; and report unfavorably, 9-10, 03/14/02	Nomination returned, 11/20/02
107 <sup>th</sup>	Priscilla Richman Owen	U.S. Court of Appeals, Fifth Circuit	Report favorably, 9-10; report without recommendation, 9-10; and report unfavorably, 9-10, 09/05/02	Nomination returned, 11/20/02
108 <sup>th</sup>	J. Leon Holmes	U.S. District Court, Eastern Arkansas	Report without recommendation, 10-9, 05/01/03	Nomination pending <sup>a</sup>

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**Note:** A vote by the Judiciary Committee on a nomination is treated as other than favorable if: (1) a majority of the committee voted against a motion to report the nomination favorably; (2) a motion to report favorably failed on a tie vote; (3) the vote was on a motion to report the nomination without recommendation; or (4) the vote was on a motion to report the nomination unfavorably (i.e., with a recommendation that the Senate not confirm the nomination).

a. As of Dec. 9, 2003.

**Table 14. Number of U.S. District and Circuit Court Nominations Resubmitted in a Succeeding Congress After Nominations of Same Persons in a Previous Congress Failed to Be Confirmed, 95<sup>th</sup> Congress to 108<sup>th</sup> Congress (1977-December 9, 2003)<sup>a</sup>**

President	Congress		Number of Resubmitted Nominations Received and Confirmed by Senate			
	First nomination	Resubmitted nomination	District Court		Circuit Court	
			Received	Confirmed	Received	Confirmed
Jimmy Carter	95 <sup>th</sup>	96 <sup>th</sup>	—	—	—	—
	96 <sup>th</sup>	97 <sup>th</sup>	3	2	—	—
Ronald Reagan	97 <sup>th</sup>	98 <sup>th</sup>	1	1	1	0
	98 <sup>th</sup>	99 <sup>th</sup>	12	12	3	3
	99 <sup>th</sup>	100 <sup>th</sup>	2	2	—	—
	100 <sup>th</sup>	101 <sup>st</sup>	6	4	—	—
George H. W. Bush	101 <sup>st</sup>	102 <sup>nd</sup>	2	1	1	0
	102 <sup>nd</sup>	103 <sup>rd</sup>	3	3	—	—
William J. Clinton	103 <sup>rd</sup>	104 <sup>th</sup>	6	5	3	3
	104 <sup>th</sup>	105 <sup>th</sup>	16	12	7	5
	105 <sup>th</sup>	106 <sup>th</sup>	7	3	5	3
	106 <sup>th</sup>	107 <sup>th</sup>	—	—	9	1
George W. Bush	107 <sup>th</sup>	108 <sup>th</sup>	15	11	14	5

a. At the final adjournment of a Congress, pending nominations not having received Senate confirmation are returned to the President. It is not uncommon, however, for a President, in the case of such returned nominations, to renominate the nominees (or “resubmit” the nomination) during the subsequent Congress. This table accounts for all such resubmissions of district and circuit court nominations during the period from 1977 to Dec. 9, 2003.

**Table 15. Number of U.S. District and Circuit Court Nominations in a Congress That Were Resubmitted Within the Same Congress, 95<sup>th</sup> Congress to 108<sup>th</sup> Congress (1977-December 9, 2003)<sup>a</sup>**

Congress	President	Resubmitted Nominations			
		District Court		Circuit Court	
		Nominations	Confirmed	Nominations	Confirmed
95 <sup>th</sup>	Jimmy Carter	3	3	—	—
96 <sup>th</sup>		1	1	—	—
97 <sup>th</sup>	Ronald Reagan	—	—	—	—
98 <sup>th</sup>		5	4	3	2
99 <sup>th</sup>		8	7	1	1
100 <sup>th</sup>		—	—	—	—
101 <sup>st</sup>	George H. W. Bush	—	—	—	—
102 <sup>nd</sup>		1	1	—	—
103 <sup>rd</sup>	William J. Clinton	—	—	—	—
104 <sup>th</sup>		—	—	—	—
105 <sup>th</sup>		—	—	—	—
106 <sup>th</sup>		—	—	—	—
107 <sup>th</sup>	George W. Bush	20	20	21 <sup>b</sup>	12 <sup>c</sup>
108 <sup>th d</sup>		—	—	—	—

- a. This table accounts for the number of instances in which Presidents from Jimmy Carter to George W. Bush renominated individuals to particular judgeships during the same Congress. These instances typically arose when, prior to the final adjournment of a Congress, the Senate returned a nomination to the President upon a Senate recess or adjournment of more than 30 days, thus affording the President an opportunity to “resubmit” the nomination in the same Congress.
- b. Includes renomination by President George W. Bush on May 9, 2001 of Roger L. Gregory to the Fourth Circuit. Gregory initially had been nominated by President William J. Clinton on Jan 3, 2001, at the start of the 107<sup>th</sup> Congress but near the end of the Clinton presidency. Although the nomination was withdrawn by President Bush on March 19, 2001, he subsequently resubmitted the nomination, which the Senate confirmed on July 19, 2001.
- c. Includes confirmation by the Senate of Roger L. Gregory to the Fourth Circuit on July 19, 2001. See preceding note.
- d. Current to Dec. 9, 2003.