



Sanders warns against increase in Supreme Court justices and term limits

Andrew O'Reilly
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Sen. Bernie Sanders, I-Vt., diverged from some of his fellow candidates vying for the 2020 Democratic nomination on Monday by arguing against expanding the number of justices on the United States Supreme Court.

Sanders, an independent who caucuses with the Democrats, said he was concerned that if Democrats take the White House in 2020 and decide to add more justices to the Supreme Court, then the Republicans will just do the same the next time they win the presidency.

“My worry is that once the Republicans are in power, they will just do the same thing,” Sanders said while answering a question at the We The People summit in Washington.

Sanders added that he wasn't totally sold on the idea of also issuing term limits to Supreme Court justices, but instead favored rotating justices on and off the bench from the lower appellate courts.

The idea of expanding the number of justices on the Supreme Court has been discussed in Democratic circles since Neil Gorsuch was confirmed after former President Barack Obama's choice -- Judge Merrick Garland -- languished in the Senate without a hearing or vote during the 2016 election year.

But the movement has taken on more of a public face as a number of high-profile 2020 Democratic candidates have embraced the move in the aftermath of Brett Kavanaugh's controversial confirmation process to the court.

Democratic anger over Trump's success filling the range of federal courts with conservative jurists has been fueling much of the recent court expansion talk. A private advocacy group called "Pack the Court" says it's raised a half-million dollars to gin up support among the 2020 contenders. The group is partnering with other like-minded organizations.

"We strongly believe that reforming the court — especially by expanding it — is the cornerstone for re-building American democracy," said Brian Fallon, head of Demand Justice and former Hillary Clinton press secretary. "The Kavanaugh court is a partisan operation, and democracy simply cannot function when stolen courts operate as political shells."

Candidates including Sens. Cory Booker, D-N.J., Elizabeth Warren, D-Mass., Kamala Harris, D-Calif., and Kirsten Gillibrand, D-N.Y., have all signaled an openness to overhauling the court if they become president.

"First they steal a Supreme Court seat, and then they turn around and change the rules on the filibuster on a Supreme Court seat," Warren said in a recent radio interview. "So when it swings back to us, what are we going to do? I think all the options are on the table."

Many constitutional scholars agree with Sanders' assessment that the political implications of expanding the court could be perilous.

"Something this controversial could be bad for Democrats indeed in the 2020 election," said Ilya Shapiro, director of constitutional studies at the libertarian Cato Institute. "Where does it end? If President Kamala Harris adds two justices, then the next Republican president adds two more in a constant cycle, until we end up with 134 people on Supreme Court."

The Constitution does not establish a set number of justices; that is up to Congress. There were initially six members of the high court -- then seven, then nine, then down to eight, then up to ten for a while, then back down to eight, and then at last ticking up to nine more than a century ago, in 1869.