

**From:** "Leitch, David G."  
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**Subject:** Fw:  
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Here you go.

-----Original Message-----

**From:** P6/b(6)  
**To:** Leitch, David G. <David\_G\_Leitch@who.eop.gov>  
**Sent:** Sat May 10 10:39:10 2003  
**Subject:**

President Criticizes Filibusters  
Senate Majority Leader Offers Plan to Get Judges Confirmed

By Amy Goldstein and Helen Dewar  
Washington Post Staff Writers  
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President Bush yesterday used the second anniversary of his earliest judicial nominations to deliver a fresh attack on Senate Democrats, saying it was a "disgrace" that they have impeded the confirmation of two of his selections for federal courts. Meanwhile, the Senate's top Republican proposed a plan that would make it easier for the White House to win approval of the judges it wants.

Democrats immediately opposed the idea of changing the way judges are confirmed, saying lawmakers have approved virtually all of Bush's judicial nominees who have come to a vote.

"What's broken is not the Senate confirmation process, it's the White House nomination process," said Sen. Edward M. Kennedy (D-Mass.), a Judiciary Committee member. "The process isn't working now because President Bush is trying to stack the courts with right-wing nominees."

Yesterday's sharp rhetoric, which has become typical of debate over the federal judiciary's makeup, came as the GOP seeks ways to overcome Democrats' opposition to nominees they considers too conservative.

Bush restated his assertion that the Senate has a constitutional duty to guarantee an "up or down vote" by the full Senate to all judicial nominees, regardless of whether the Judiciary Committee supported them. And, in a new proposal, Senate Majority Leader Bill Frist (R-Tenn.) introduced a plan that would essentially guarantee such a vote to any nominee -- for judgeships or other appointive jobs -- as long as at least half the senators agree.

While the president did not explicitly endorse Frist's plan during his speech from the White House Rose Garden, both men's proposals would circumvent a Senate rule that Democrats have used lately to prevent votes on at least two nominees. Through a filibuster, a final vote can be blocked, by means of delay, unless 60 of the 100 senators vote to end debate. Republicans hold 51 Senate seats, and the GOP has been unable recently to break filibusters thwarting confirmation votes on Miguel Estrada, for the U.S Court of Appeals for the District of Columbia, and Patricia R. Owen, for the New Orleans-based 5th Circuit.

Frist, backed by fellow GOP leaders, proposed gradually reducing the 60-vote requirement on successive "cloture"

votes, until a filibuster could eventually be broken by a simple majority of 51 votes. The rule change would apply only to nominations, not to legislation.

"The need to reform the filibuster on nominations is obvious, and it is now urgent," Frist told the Senate. His proposal faces considerable hurdles, because, under the Senate's rules, the change probably would require 67 votes for approval -- which is impossible without substantial Democratic support.

Democrats yesterday did not sound amenable. Senate Minority Leader Thomas A. Daschle (D-S.D.) noted that 124 of Bush's judicial nominees had been confirmed and only two have been filibustered. The confirmation system "ain't broke," he said, and does not need changing.

Sen. Charles E. Schumer (D-N.Y.) was more pointed, saying Frist's plan had "not a snowball's chance in Hades" of getting the two-thirds majority.

Bush couched the dispute in broad terms, saying, "the obstructionist tactics of a small group of senators are setting a pattern that threatens judicial independence."

Bush said the Senate has not voted on 18 of his 42 choices for appeals courts, eight of whom were nominated at least a year ago. He said that has exacerbated what he and other Republicans call a judicial "vacancy crisis."

Democrats countered that the vacancy rate on federal courts is at its lowest in more than a decade, and that the Judiciary Committee has acted on Bush's nominees more swiftly than it had during portions of President Bill Clinton's tenure.

Bush said Democrats were threatening the "design of a separate and independent judicial branch" of government by trying "to force nominees to take positions on controversial issues before they even take the bench." Democrats, meanwhile, have accused the administration of not sending the Judiciary Committee adequate background materials to help the Senate evaluate some of the nominees.