

118TH CONGRESS
1ST SESSION

S. 942

To create a point of order against legislation modifying the number of Justices of the Supreme Court of the United States.

IN THE SENATE OF THE UNITED STATES

MARCH 22, 2023

Mr. CRUZ (for himself, Mr. MARSHALL, Mr. HAGERTY, Mr. GRASSLEY, Mr. LEE, Mr. BROWN, Mr. YOUNG, and Mr. SCHMITT) introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

A BILL

To create a point of order against legislation modifying the number of Justices of the Supreme Court of the United States.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. POINT OF ORDER AGAINST LEGISLATION MODI-**
4 **FYING THE NUMBER OF JUSTICES OF THE**
5 **SUPREME COURT OF THE UNITED STATES.**

6 (a) POINT OF ORDER.—

7 (1) IN GENERAL.—In the Senate, it shall not be
8 in order to consider a provision in a bill, joint resolu-
9 tion, motion, amendment, amendment between the

1 Houses, or conference report amending section 1 of
2 title 28, United States Code, to modify, or that oth-
3 erwise modifies, the total number of Justices of the
4 Supreme Court of the United States.

5 (2) POINT OF ORDER SUSTAINED.—If a point
6 of order is made by a Senator against a provision
7 described in paragraph (1), and the point of order
8 is sustained by the Chair, that provision shall be
9 stricken from the measure and may not be offered
10 as an amendment from the floor.

11 (b) CONFERENCE REPORTS.—When the Senate is
12 considering a conference report on, or an amendment be-
13 tween the Houses in relation to, a bill or joint resolution,
14 upon a point of order being made by any Senator pursuant
15 to subsection (a)(1), and such point of order being sus-
16 tained, such material contained in such conference report
17 or House amendment shall be stricken, and the Senate
18 shall proceed to consider the question of whether the Sen-
19 ate shall recede from its amendment and concur with a
20 further amendment, or concur in the House amendment
21 with a further amendment, as the case may be, which fur-
22 ther amendment shall consist of only that portion of the
23 conference report or House amendment, as the case may
24 be, not so stricken. Any such motion in the Senate shall
25 be debatable. In any case in which such point of order

1 is sustained against a conference report (or Senate amend-
2 ment derived from such conference report by operation of
3 this subsection), no further amendment shall be in order.

4 (c) SUPERMAJORITY WAIVER AND APPEAL.—In the
5 Senate, this section may be waived or suspended only by
6 an affirmative vote of two-thirds of the Members, duly
7 chosen and sworn. An affirmative vote of two-thirds of
8 Members of the Senate, duly chosen and sworn shall be
9 required to sustain an appeal of the ruling of the Chair
10 on a point of order raised under this section.

○