

117TH CONGRESS
1ST SESSION

S. 3294

To obtain and direct the placement in the Capitol or on the Capitol Grounds of a statue to honor Associate Justice of the Supreme Court of the United States Sandra Day O'Connor and a statue to honor Associate Justice of the Supreme Court of the United States Ruth Bader Ginsburg.

IN THE SENATE OF THE UNITED STATES

DECEMBER 1, 2021

Ms. KLOBUCHAR (for herself, Ms. MURKOWSKI, Ms. COLLINS, Ms. SINEMA, Mr. DURBIN, Ms. DUCKWORTH, Mrs. FEINSTEIN, Mr. KING, Mrs. CAPITO, Ms. BALDWIN, Ms. CORTEZ MASTO, Mr. VAN HOLLEN, Mr. BLUMENTHAL, Mr. KELLY, Ms. HIRONO, Mr. LEAHY, Mr. CARDIN, Mr. KAINE, Mr. MERKLEY, Ms. SMITH, and Mrs. SHAHEEN) introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

A BILL

To obtain and direct the placement in the Capitol or on the Capitol Grounds of a statue to honor Associate Justice of the Supreme Court of the United States Sandra Day O'Connor and a statue to honor Associate Justice of the Supreme Court of the United States Ruth Bader Ginsburg.

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

1 **SECTION 1. FINDINGS.**

2 (a) SANDRA DAY O’CONNOR.—Congress finds the
3 following:

4 (1) Sandra Day O’Connor was born in 1930 in
5 El Paso, Texas, and spent her childhood on her fam-
6 ily’s isolated Arizona cattle ranch. She lived with her
7 grandmother in El Paso during the school year,
8 away from her home and parents.

9 (2) O’Connor matriculated to Stanford Univer-
10 sity at the age of 16, and combined her under-
11 graduate and law school curricula, graduating with
12 a bachelor’s degree in economics and a law degree
13 in just 6 years. She was third in her law school
14 class, behind William Rehnquist, her future col-
15 league on the Supreme Court of the United States
16 (in this section referred to as the “Supreme Court”).

17 (3) Despite her qualifications, O’Connor could
18 not find work as an attorney because of bias against
19 women in the law. She ended up negotiating for an
20 unpaid position in the San Mateo County District
21 Attorney’s office at a shared desk, while her hus-
22 band, John, finished at Stanford Law School 1 year
23 later.

24 (4) O’Connor traveled to Frankfurt, Germany,
25 in 1954 with her husband John, who had joined the
26 United States Army Judge Advocate General’s

1 Corps, where she was able to find work as a civilian
2 attorney with the United States Army Quarter-
3 master Corps. In 1957, O'Connor returned to Ari-
4 zona and still could not find work with a traditional
5 law firm due to her gender, so she “hung out a shin-
6 gle” as a sole practitioner.

7 (5) In 1965, O'Connor was hired as an Assist-
8 ant Attorney General for the State of Arizona.

9 (6) Active in Republican Party politics and
10 well-received for her work at the Arizona State Cap-
11 itol, O'Connor was appointed to an Arizona State
12 Senate seat in 1969 when the incumbent, also a
13 woman, was appointed to a Federal position and va-
14 cated the office.

15 (7) In 1970, O'Connor was elected to the Ari-
16 zona State Senate and served 2 consecutive terms.
17 In 1972, she was selected as Majority Leader of the
18 Arizona State Senate, the first time a woman held
19 such a position in any State.

20 (8) In 1974, O'Connor ran for office as a trial
21 court judge. She won and was later appointed to the
22 Arizona Court of Appeals in 1979.

23 (9) On August 19, 1981, President Ronald
24 Reagan nominated O'Connor to be an Associate Jus-
25 tice of the Supreme Court, to fill the seat vacated

1 by Associate Justice Potter Stewart. On September
2 21, 1981, the Senate confirmed O'Connor's nomina-
3 tion by a unanimous vote, making her the first
4 woman to serve on the Supreme Court.

5 (10) O'Connor established herself as a prag-
6 matic, independent voice on the Supreme Court,
7 casting decisive votes during a time when the Court
8 was being asked to resolve politically charged issues.

9 (11) In the 1982 case of *Mississippi University*
10 *for Women v. Hogan*, O'Connor wrote the majority
11 opinion holding that the State could not prevent
12 men from enrolling in an all-women's nursing school,
13 writing that laws discriminating on the basis of sex
14 would be allowed only if there was an "exceedingly
15 persuasive justification" for them.

16 (12) O'Connor sought, when possible, to find
17 the middle ground between her often-divided col-
18 leagues, frequently joining the majority decision but
19 presenting her views in concurring opinions that es-
20 chewed broad constitutional doctrine in favor of re-
21 solving the cases before the Court.

22 (13) O'Connor put a very public face on the
23 role of the Supreme Court, domestically and around
24 the world. She became the Court's most prolific pub-
25 lic speaker, traveling to all 50 States and to count-

1 less law schools, libraries, and public events to de-
2 scribe how the Court works and its role in our con-
3 stitutional form of government. She traveled world-
4 wide as an ambassador for the Rule of Law and the
5 independence of judiciaries everywhere.

6 (14) After 24 years on the Supreme Court,
7 O'Connor announced her retirement to care for her
8 ailing husband, who had Alzheimer's disease. Presi-
9 dent George W. Bush nominated John Roberts, Jr.,
10 for the vacancy, but before Roberts was confirmed,
11 Chief Justice Rehnquist passed away, creating a sec-
12 ond vacancy. President Bush personally appealed to
13 O'Connor to remain on the Court so he could nomi-
14 nate Roberts for the Chief Justice vacancy and have
15 more time to make a second nomination to the
16 Court. In yet another act of public service, O'Connor
17 agreed to serve until Samuel Alito was confirmed to
18 fill her seat on January 31, 2006.

19 (15) O'Connor began her retirement with 2
20 goals. One was to convince more States to adopt
21 merit selection of judges for filling vacancies in
22 State courts. The second was to educate the public
23 on the importance of an independent judiciary. Her
24 judicial independence work led to her awareness of
25 a national civics education deficit.

1 (16) In 2009, O'Connor created iCivics.org to
2 educate young Americans about civics and what it
3 means to be a citizen. That endeavor grew to become
4 the largest civics education platform in the country,
5 with over 7,000,000 students annually enrolling in
6 the programs. Its popularity was due to a capti-
7 vating online, interactive gaming approach. The pro-
8 gram was free to all and had no advertising. iCivics
9 played a crucial role in Educating for American De-
10 mocracy, a federally funded initiative to improve
11 civics and history education, which released its re-
12 ports in March 2021.

13 (b) RUTH BADER GINSBURG.—Congress finds the
14 following:

15 (1) Ruth Bader Ginsburg was born in 1933 in
16 Brooklyn, New York, and grew up in a low-income,
17 working-class neighborhood.

18 (2) Ginsburg graduated from Cornell University
19 in 1954, finishing first in her class. Following her
20 graduation, Ginsburg enrolled at Harvard Law
21 School in 1956, entering into a class of 552 men
22 and only 8 other women.

23 (3) As a law student, Ginsburg became the first
24 female member of the Harvard Law Review, a pres-
25 tigious legal journal. She also cared for her husband,

1 Martin Ginsburg, who had been diagnosed with can-
2 cer, and their young daughter. Ginsburg finished her
3 legal education at Columbia Law School, where she
4 graduated first in her class in 1959.

5 (4) Ginsburg taught at Rutgers University Law
6 School from 1963 to 1972 and at Columbia Law
7 School from 1972 to 1980, where she became the
8 school's first female tenured professor.

9 (5) During the 1970s, Ginsburg served as the
10 director of the Women's Rights Project of the Amer-
11 ican Civil Liberties Union. In this position, she led
12 the fight against gender discrimination and success-
13 fully argued 6 landmark cases before the Supreme
14 Court.

15 (6) Ginsburg won 5 cases on gender discrimina-
16 tion before the Supreme Court, including the case
17 Weinberger v. Wiesenfeld, which involved a portion
18 of the Social Security Act that favored women over
19 men, because the Act granted certain benefits to
20 widows, but not widowers.

21 (7) In 1980, President Jimmy Carter nomi-
22 nated Ginsburg to a seat on the United States Court
23 of Appeals for the District of Columbia Circuit.

24 (8) On June 22, 1993, President Bill Clinton
25 nominated Ginsburg to be an Associate Justice of

1 the Supreme Court, to fill the seat vacated by Asso-
2 ciate Justice Byron White. On August 3, 1993, the
3 Senate confirmed Ginsburg's nomination to the Su-
4 preme Court by a 96 to 3 vote.

5 (9) Ginsburg became the second female justice
6 to serve on the Supreme Court, as well as the first
7 Jewish female justice to serve on the Supreme
8 Court.

9 (10) As a justice, Ginsburg presented a strong
10 voice in favor of gender equality, voting rights, the
11 rights of workers, and the separation of church and
12 state.

13 (11) In 1996, Ginsburg wrote the Supreme
14 Court's landmark decision in *United States v. Vir-*
15 *ginia*, which held that the State-supported Virginia
16 Military Institute could not refuse to admit women.

17 (12) Ginsburg famously dissented in *Ledbetter*
18 *v. Goodyear Tire & Rubber Co.*, where the plaintiff,
19 a female worker being paid significantly less than
20 males with her same qualifications, sued under title
21 VII of the Civil Rights Act of 1964 (42 U.S.C.
22 2000e et seq.), but was denied relief under a statute
23 of limitation issue. Ginsburg broke with tradition
24 and wrote a high colloquial version of her dissent to

1 read from the bench. In her dissent, she also called
 2 for Congress to undo this interpretation of the law.

3 (13) Ginsburg’s impactful dissent in *Ledbetter*
 4 *v. Goodyear Tire & Rubber Co.* led to the successful
 5 passage of the Lilly Ledbetter Fair Pay Act of 2009
 6 (Public Law 111–2; 123 Stat. 5), which was the
 7 first piece of legislation signed by President Barack
 8 Obama.

9 (14) Until the 2018 term, Ginsburg had not
 10 missed a day of oral arguments, not even when she
 11 was undergoing chemotherapy for pancreatic cancer,
 12 after surgery for colon cancer, or the day after her
 13 husband passed away in 2010.

14 (15) Ginsburg passed away on September 18,
 15 2020.

16 **SEC. 2. STATUES HONORING JUSTICE SANDRA DAY O’CON-**
 17 **NOR AND JUSTICE RUTH BADER GINSBURG.**

18 (a) OBTAINING OF STATUES.—

19 (1) IN GENERAL.—Not later than 2 years after
 20 the date of the enactment of this Act, in consulta-
 21 tion with the Committee on House Administration of
 22 the House of Representatives and the Committee on
 23 Rules and Administration of the Senate, and under
 24 such terms and conditions as the Joint Committee
 25 of Congress on the Library considers appropriate,

1 consistent with applicable law, the Joint Committee
2 shall—

3 (A) enter into an agreement to obtain a
4 statue honoring Associate Justice of the Su-
5 preme Court of the United States Sandra Day
6 O'Connor; and

7 (B) enter into an agreement to obtain a
8 statue honoring Associate Justice of the Su-
9 preme Court of the United States Ruth Bader
10 Ginsburg.

11 (2) CONSIDERATION.—In selecting one or more
12 artists to make the statues obtained under para-
13 graph (1), the Joint Committee of Congress on the
14 Library shall make the announcement available to,
15 and consider, artists from a variety of backgrounds,
16 including artists from underrepresented demographic
17 groups.

18 (b) INSTALLATION.—

19 (1) IN GENERAL.—The Architect of the Capitol,
20 under the direction of the Joint Committee of Con-
21 gress on the Library, shall permanently install each
22 statue obtained under subsection (a) in a prominent
23 location in the Capitol or on the Capitol Grounds, as
24 described in section 5102 of title 40, United States
25 Code.

1 (2) PRIORITY FOR LOCATION.—In determining
2 the location for the permanent installation of each
3 statue obtained under subsection (a), the Joint Com-
4 mittee of Congress on the Library shall give priority
5 to identifying an appropriate location near the Old
6 Supreme Court Chamber of the United States Cap-
7 itol.

8 (c) FUNDING.—Amounts available in the Capitol
9 Preservation Fund established under section 803 of the
10 Arizona-Idaho Conservation Act of 1988 (2 U.S.C. 2083)
11 may be used by the Joint Committee of Congress on the
12 Library for payments for the costs of creating and install-
13 ing the statues obtained under subsection (a), without re-
14 gard to subsections (b) and (d) of such section, provided
15 that not more than \$500,000 of such amounts may be
16 used for each statue obtained under subsection (a).

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